

Mailing Date: SEP 1 2005

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR THE PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation Nos. 05-0663
LIQUOR CONTROL ENFORCEMENT	:	& 05-1056X
	:	
v.	:	(consolidated for adjudication only)
	:	
RB ADHURIA INC	:	Incident Nos. W01-306328
701-719 E GIRARD AVE	:	W01-308088
PHILADELPHIA PA 19125	:	
	:	LID - 43866
PHILADELPHIA COUNTY	:	
LICENSE NO. D-925	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Sean Farrell, Esq.

For Licensee: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued these citations on April 13 and May 31, 2005. The citations, as consolidated for adjudication only, allege as follows:

CITATION NO. 05-0663

This citation alleges that Licensee violated §102 of the Liquor Code, 47 P.S. §1-102, on January 28, 2005, by purchasing malt or brewed beverages from an importing distributor after its Distributor License expired on October 31, 2004, and had not been renewed and/or validated.

CITATION NO. 05-1056X

This citation alleges that Licensee violated §493(26) of the Liquor Code, 47 P.S. §4-493(26), by issuing checks or drafts dated February 11, March 4 and 18, 2005, in payment for purchases of malt or brewed beverages, when there were insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

At the hearing scheduled for July 21, 2005, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the matters proceeded *ex parte*.

FINDINGS OF FACT:

CITATION NO. 05-0663

1. The Bureau investigated Licensee during the period February 17 through March 11, 2005, and sent written notice of the results of its investigation to the licensed premises by certified mail on March 18, 2005 (N.T. 25-26, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on April 13, 2005 (N.T. 25-26, Exhibit B-2).
3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on June 6, 2005.
4. On January 28, 2005, Licensee purchased malt or brewed beverages from Muller, Inc. (N.T. 23).
5. Licensee did not possess a valid liquor license on January 28, 2005 (Exhibit B-3)

CITATION NO. 05-1056X

1. The Bureau investigated Licensee during the period March 22 through April 21, 2005, and sent written notice of the results of its investigation to the licensed premises by certified mail on May 6, 2005 (N.T. 7, Exhibit B-1).
2. A copy of this citation was mailed to the licensed establishment by certified mail on May 31, 2005 (N.T. 8, Exhibit B-2).
3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on June 6, 2005.
4. Muller, Inc., a licensed distributor, delivered malt or brewed beverages to the licensed premises on February 11, 2005, and rendered an invoice for the net amount due, \$741.05. On the same date, the Licensee issued a check, #1678, to Muller, Inc., in that amount. This check was dishonored because of insufficient funds, but it was then re-deposited and paid (N.T. 9-10, Exhibits B-3 and B-4).
5. Muller, Inc., again delivered malt or brewed beverages to the licensed premises on March 4, 2005, and rendered an invoice for the net amount due, \$1,242.10. On the same date, the Licensee issued a check, #1152, to Muller, Inc., in that amount. This check was dishonored because of insufficient funds, but it was then re-deposited and paid (N.T. 11-12, Exhibits B-5 and B-6).
6. Muller, Inc., again delivered malt or brewed beverages to the licensed premises on March 18, 2005, and rendered an invoice for the net amount due, \$1,365.60. On the same date, the Licensee issued a check, #1191, to Muller, Inc., in that amount. This check was dishonored because of insufficient funds, but it was then re-deposited and paid (N.T. 13-14, Exhibits B-7 and B-8).
7. On February 11, 2005, Penn Distributors, Inc., a licensed distributor, delivered malt or brewed beverages to the licensed premises and accepted a check from Licensee, #1679, for the amount due, \$2,290.10. This check was dishonored because of insufficient funds, but it was then re-deposited and paid (N.T. 16-17, Exhibits B-9 and B-10).
8. Penn Distributors, Inc., again delivered malt or brewed beverages to the licensed premises on March 4, 2005, and accepted a check for the amount due, \$270.50. This check was dishonored because of insufficient funds, but it was then re-deposited and paid (N.T. 18-19, Exhibits B-11 and B-12).

9. On March 18, 2005, the Bureau issued a warning to the Licensee with respect to checks issued by it to both Muller, Inc., and Penn Distributors, Inc. (N.T. 21-22, Exhibit B-13).

CONCLUSIONS OF LAW:

Both citations are sustained as charged.

PRIOR RECORD:

Licensee has been licensed since April 29, 1999, and has had prior violations, as follows:

Citation No. 01-0412. \$50.00 fine.

1. Bad checks for malt or brewed beverages. November 22, 2000.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of the type found in this case. Penalties are allocated as follows:

Citation No. 05-0663 – a fine of \$200.00.

Citation No. 05-1056X – a fine of \$200.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, RB Adhuria, Inc., License No. D-925, pay a fine of four hundred dollars (\$400.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

The fine must be paid by treasurer's check, cashier's check, certified check or money order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661

Dated this 26th day of August, 2005.

David L. Shenkle, J.

jb

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.