

Mailing Date: NOV 22 2005

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1305X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-310325
v.	:	
	:	LID – 49621
BHJH, INC.	:	
T/A THE RITZ ON MAIN	:	
132-138 E. MAIN ST.	:	
NEW HOLLAND, PA 17557-1228	:	
	:	
	:	
LANCASTER COUNTY	:	
LICENSE NO. R-AP-SS-2746	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Beth Heinbach
Sole Corporate Officer

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on July 14, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against BHJH, Inc., t/a The Ritz On Main (Licensee), License Number R-AP-SS-2746.

This citation charges Licensee with violations of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)]. The charge is that Licensee, by servants, agents or employes, issued checks or drafts dated April 20 and 27, 2005, in payment for purchases of malt or brewed beverages, when Licensee had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

An evidentiary hearing was conducted on October 11, 2005 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee was represented by its Sole Corporate Officer, Beth Heinbach.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on April 28, 2005 and completed it on June 1, 2005. (N.T. 28)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on June 16, 2005. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, 05-1305X, N.T. 11)
3. On April 20, 2005, Licensee issued a check for the purchase of beer to an Importing Distributor which was dishonored due to insufficient funds. On April 27, 2005, Licensee issued two checks for the purchase of beer to an Importing Distributor which were dishonored due to insufficient funds. None of the checks were made good within ten days. (N.T. 12-20)

1. Commonwealth Exhibit No. C-2, 05-1305X, N.T. 11.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since May 8, 2003, and has had three prior violations (Commonwealth Exhibit No. C-3, N.T. 85):

Adjudication No. 04-0617. Fine \$150.00.

Issued worthless checks in payment for malt or brewed beverages.
December 16, 2003.

Adjudication No. 04-1120. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages.
March 31, April 6, 13 and 14, 2004.
2. Paid for purchases of malt or brewed beverages with other than cash or Licensee's check.
March 31, April 13 and 14, 2004.

Adjudication No. 04-2094 and 04-2227, Consolidated.

Fine \$1,500.00.

1. Sales to a visibly intoxicated person.
May 29, 2004.
2. Noisy and/or disorderly operation.
February 28, May 29 and July 4, 2004.
3. Engaged in unlawful discrimination in that you admitted female patrons free of charge while charging an admission fee to male patrons.
November 28, 2005.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

I impose a \$250.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$250.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

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, Pennsylvania 17110-9661

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 16th day of November, 2005.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.