

The investigation which gave rise to the citation began on June 6, 2005 and was completed on June 8, 2005; and notice of the violation was sent to Licensee by Certified Mail on June 13, 2005. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on September 22, 2005 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. Licensee(s) did not appear at the hearing, nor did anyone appear on its behalf. A citation hearing notice was sent to Licensee(s) at its address of record, 724-726 E. Market Street, Danville, PA by certified mail, return receipt requested and by first class mail on August 4, 2005. The notice set forth the date and time of the hearing as September 22, 2005 at 3:00 p.m., and the place of hearing as PA Department of Agriculture, 2130 County Farms Road, Montoursville, PA 17754-9685.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On May 13, 2005, Licensee purchased malt or brewed beverages from Edwin H. Kleckner, Inc. In payment therefore, Licensee issued its check in the amount of \$337.78. The check was returned by Licensee's bank for insufficient funds. The check was made good by redeposit (N.T. 10-11-12 and Exhibit C-5).

2. A warning letter was sent to Licensee by the Bureau of Enforcement on May 24, 2005 with respect to a check issued by Licensee to Edwin H. Kleckner, Inc. in the amount of \$311.50 for payment of malt or brewed beverages. This check was returned by Licensee's bank for insufficient funds.

CONCLUSIONS OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since December 30, 1999, and has had two prior violations:

Citation No. 01-2153. Fine \$200.00.

1. Discounted the price of alcoholic beverages between 12:00 midnight and 2:00 a.m. July 5, 2001.

Citation No. 04-0962. Fine \$1,250.00.

1. Sales between 2:00 a.m. and 7:00 a.m. January 29 and May 8, 2004.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$150.00.

ORDER

THEREFORE, it is hereby ordered that Licensee T.J. SHOOTERS, INC., pay a fine of \$150.00 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 or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 1st day of December, 2005.

Daniel T. Flaherty, Jr., J.

an

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.