

Mailing Date: NOV 30 2005

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1366X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-311561
v.	:	
	:	LID - 41398
LEELYNN, INC.	:	
T/A RIVALS	:	
420 RIVER AVENUE	:	
WILLIAMSPORT, PA 17701-3723	:	
	:	
	:	
LYCOMING COUNTY	:	
LICENSE NO. R-AP-SS-18622	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on July 21, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against LEELYNN, INC., License Number R-AP-SS-18622 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)] in that Licensee, by its servants, agents or employes, issued checks or drafts dated April 12 and 18, 2005, in payment for purchases of malt or brewed beverages, when it had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

The investigation which gave rise to the citation began on May 11, 2005 and was completed on June 9, 2005; and notice of the violation was sent to Licensee by Certified Mail on June 14, 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, 420 River Avenue, Williamsport, PA 17701-3723 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 2:30 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 April 12, 2005 Licensee purchased malt or brewed beverages from Edwin H. Kleckner, Inc. In payment therefore, Licensee issued its check in the amount of \$107.33. The check was returned by Licensee's bank for insufficient funds (N.T. 7 and Exhibit C-6).
2. On April 18, 2005 Licensee purchased malt or brewed beverages from Edwin H. Kleckner, Inc. In payment therefore, Licensee issued its check in the amount of \$71.40. The check was returned by Licensee's bank for insufficient funds (N.T. 7 and Exhibit C-7).
3. On March 23, 2005 the Bureau of Enforcement issued a warning letter to Licensee with respect to an NSF check issued to Edwin H. Kleckner, Inc. in the amount of \$169.60 on February 23, 2005. The check was returned by Licensee's bank for insufficient funds (N.T. 8-9 and Exhibit C-8).

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since November 19, 1997, and has had three prior violations:

Citation No. 98-0070. Fine \$250.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.

Citation No. 02-0202. Fine \$50.00.

1. Issued worthless checks in payment for malt or brewed beverages. November 23 and December 1, 2001.

Citation No. 05-0842. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. March 15 and 19, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee LEELYNN, INC., 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 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 22<sup>nd</sup> day of November, 2005.

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Daniel T. Flaherty, Jr., J.

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**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.**