

Mailing Date: JUL 21 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1508X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-311142
v.	:	
	:	LID - 52689
NOSTALGIA, INC.	:	
T/A FAT BOB'S CORVETTE BAR & GRILLE	:	
202 W. MAIN STREET	:	
ANNVILLE, PA 17003-1325	:	
	:	
LEBANON COUNTY	:	
LICENSE NO. E-AM-2036	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew Lovette, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 4, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against NOSTALGIA, INC., License Number E-AM-2036 (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 19, May 3, 17 and 24, 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 13, 2005 and was completed on June 24, 2005; and notice of the violation was sent to Licensee by Certified Mail on July 13, 2005. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 9, 2005 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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, 202 W. Main Street, Annville, PA 17003-1325 by certified mail, return receipt requested and by first class mail on September 21, 2005. The notice set forth the date and time of the hearing as November 9, 2005 at 9:30 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110.

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 19, 2005 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$556.99. The check was dishonored by Licensee's bank for insufficient funds (N.T. 9-10 and Exhibit C-6).
2. On May 3, 2005, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$683.01. The check was returned by Licensee's bank for insufficient funds (N.T. 11-12 and Exhibit C-7).
3. On May 17, 2005, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$339.61. The check was returned for insufficient funds by Licensee's bank (N.T. 13-14 and Exhibit C-8).
4. On May 24, 2005, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$442.00. The check was returned by Licensee's bank for insufficient funds (N.T. 14 and Exhibit C-9).
5. A warning letter was sent to Licensee on March 17, 2005 by the Bureau as a result of a check written to W & L Sales Co., Inc. for the purchase of malt or brewed beverages in the amount of \$465.55. The check was returned for insufficient funds.

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since April 20, 2004, and has had two prior violations:

Citation No. 05-0817. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. February 22 and March 1, 2005.

Citation No. 05-0906. Fine \$1,250.00.

1. Sales after the eating place license expired and had not been renewed and/or validated. March 1 through April 3, 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 NOSTALGIA, 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 13th day of July, 2006.

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.