

Mailing Date: DEC 08 2005

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

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|----------------------------|---|-------------------------|
| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 05-2009X |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | Incident No. W03-317105 |
| v. | : | |
| | : | LID - 19667 |
| GINGERBREAD MAN, INC. | : | |
| T/A THE GINGERBREAD MAN | : | |
| FIVE COURT HOUSE AVE. | : | |
| CARLISLE, PA 17013-2902 | : | |
| | : | |
| | : | |
| | : | |
| CUMBERLAND COUNTY | : | |
| LICENSE NO. R-AP-SS-18753 | : | |

ADJUDICATION

BEFORE: JUDGE THAU

BACKGROUND:

This proceeding arises out of a citation that was issued on October 6, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Gingerbread Man, Inc., t/a The Gingerbread Man (Licensee), License Number R-AP-SS-18753.

The citation charges Licensee with a violation 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 July 18, 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.

Licensee has executed a Statement of Waiver, Admission and Authorization in which Licensee: admits to the violation(s) charged in the citation and that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts and prior citation history as provided by the Bureau, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law.

FINDINGS OF FACT:

On the date charged, Licensee issued a check in the amount of \$1,783.46 to an Importing Distributor which was dishonored due to insufficient funds. The check was made good within ten days.

CONCLUSIONS OF LAW:

The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since February 1, 1976, and has had twelve prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Adjudication No. 92-2118. Fine \$1,500.00.

1. Sales to a minor.
2. Minor frequenting.

Adjudication No. 97-0092. Fine \$450.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time. December 28, 1996.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. December 28, 1996.

Adjudication No. 00-0414. Fine \$75.00.

Issued worthless checks in payment for malt or brewed beverages.
On 9 dates between November 5, 1999 and January 12, 2000.

Adjudication No. 00-1347. Fine \$1,100.00 and 1 day suspension.

Sales to a minor.
December 5, 1999.

- Adjudication No. 03-1977. Fine \$150.00.
Issued worthless checks in payment for malt or brewed
beverages.
October 17 and 20, 2003.
- Adjudication No. 04-0256. Fine \$150.00.
Issued worthless checks in payment for malt or brewed
beverages.
November 7, 17 and 21, 2003.
- Adjudication No. 04-2183. Fine \$250.00.
Issued worthless checks in payment for malt or brewed
beverages.
October 25, 2004.
- Adjudication No. 04-2338. Fine \$250.00.
Issued worthless checks in payment for malt or brewed
beverages.
November 8, 2004.
- Adjudication No. 05-0198. Fine \$350.00.
Issued worthless checks in payment for malt or
brewed beverages.
December 6, 2004.
- Adjudication No. 05-0576. Fine \$300.00.
Issued worthless checks in payment for malt or
brewed beverages.
February 2, 2005.
- Adjudication No. 05-0866. Fine \$300.00.
Issued worthless checks in payment for malt
or brewed beverages.
February 28, 2005.
- Adjudication No. 05-1304. Fine \$400.00.
Issued worthless checks in payment for malt
or brewed beverages.
May 2, 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 adopt the jointly recommended penalty of a \$600.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$600.00 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 2nd day of December, 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.