

Mailing Date: SEP 15 2006

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0219X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-323970
	:	
v.	:	LID - 52314
	:	
QUANTUM FOODS, INC.	:	
T/A MICHAEL'S CASUAL DINING & SPIRITS	:	
6147 YORK ROAD	:	
SPRING GROVE, PA 17362-9120	:	
	:	
YORK COUNTY	:	
LICENSE NO. R-AP-SS-17956	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Erik S. Shmukler, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 16, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against QUANTUM FOODS, INC., License Number R-AP-SS-17956 (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 employees, issued checks or drafts dated November 23, 25 and December 8, 2005, in payment for purchases of malt or brewed beverages,

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when it had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

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The investigation which gave rise to the citation began on December 16, 2005 and was completed on January 6, 2006; and notice of the violation was sent to Licensee by Certified Mail on January 20, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on May 9, 2006 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, 6147 York Road, Spring Grove, PA 17362-9120 by certified mail, return receipt requested and by first class mail on March 24, 2006. The notice set forth the date and time of the hearing as May 9, 2006 at 11:30 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

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 November 25, 2005 Licensee purchased malt or brewed beverages from Brewery Products Company. In payment therefore Licensee issued its check in the amount of \$229.33. The check was returned by Licensee's bank for insufficient funds (N.T. 11-13 and Exhibit C-6).
2. On November 23, 2005 Licensee purchased malt or brewed beverages from Sheffer Beer Distributing Co. In payment therefore Licensee issued its check in the amount of \$233.20. The check was returned by Licensee's bank for insufficient funds (N.T. 14-15 and Exhibit C-7).
3. On December 8, 2005 Licensee purchased malt or brewed beverages from Sheffer Beer Distributing Co. In payment therefore Licensee issued its check in the amount of \$457.09. The check was returned by Licensee's bank for insufficient funds (N.T. 15-17 and Exhibit C-8).
4. On June 7, 2005 a warning letter was sent to Licensee by the Bureau of Enforcement with respect to a check issued to Brewery Products Company which was returned by Licensee's bank for insufficient funds. The date of the check was April 8, 2005 and was written in the amount of \$189.99 (N.T. 9).
5. No warning was necessary for the NSF checks presented to Sheffer Beer Distributing Co. because the first check, written on November 23, 2005 was not made good in a timely manner (N.T. 18).

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CONCLUSION OF LAW:

The charge in the citation is **sustained**.
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PRIOR RECORD:

Licensee has been licensed since January 8, 2004, and has had one prior violation:

Citation No. 05-1527. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages.
May 13, 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 \$200.00.

ORDER

THEREFORE, it is hereby ordered that Licensee QUANTUM FOODS, INC., pay a fine of \$200.00 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 5th day of September.

QUANTUM FOODS, INC.

Daniel T. Flaherty, Jr., J. an

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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.