

Mailing Date: SEP 13 2006

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0298X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-324105
v.	:	
	:	LID - 54123
6108 CARLISLE PIKE	:	
RESTAURANT, LLC	:	
6108 CARLISLE PIKE	:	
STE. 108-112	:	
MECHANICSBURG, PA 17050-5243	:	
: CUMBERLAND COUNTY	:	
LICENSE NO. R-AP-SS-17150	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Ex-Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 23, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against 6108 Carlisle Pike Restaurant, LLC (Licensee), License Number R-AP-SS-17150.

The citation¹ 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 employees, issued checks or drafts dated November 22, 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.

An evidentiary hearing was conducted on August 1, 2006 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee did not appear at the hearing personally or have representation.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. A citation hearing notice was mailed by the Office of Administrative Law Judge on June 19, 2006 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was signed for by Joshua Stodolak on June 20, 2006.
2. The Bureau began its investigation on December 19, 2005 and completed it on January 9, 2006. (N.T. 13-14)
3. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on December 14, 2005. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 12)
4. Licensee's business records confirmed that on November 22, 2005, Licensee issued a check to an Importing Distributor for the purchase of beer. The check was dishonored due to insufficient funds and was not made good within ten days.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

1. Commonwealth Exhibit No. C-3.

PRIOR RECORD:

Licensee has been licensed since January 18, 2005, and has had no prior violations.

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 am growing increasingly aware of the cost involved in such investigations in relationship to the nature of the violation. Cases such as this are unique in that the facts are rather straight forward. Licensees who fail to appear at hearings and who do not obey any process whatsoever, will be given no consideration in these matters. Moreover, I intend to factor in the penalty a value for cost of investigation and prosecution when Licensees do not obey process. Accordingly, I impose a \$700.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$700.00 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 31st day of August, 2006.

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.