

Mailing Date: SEP 13 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0366X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-324528
v.	:	
	:	LID - 48878
HP JOINT VENTURE	:	
2600 E. MARKET STREET	:	
YORK, PA 17402-2411	:	
	:	
	:	
	:	
YORK COUNTY	:	
LICENSE NO. H-AP-SS-4576	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Erik S. Shmukler, Esquire

For Licensee
Cheryelona R.S.
Mirchandani, PRO SE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 2, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against HP JOINT VENTURE, License Number H-AP-SS-4576 (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 December 2, 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 December 29, 2005 and was completed on January 23, 2006; and notice of the violation was sent to Licensee by Certified Mail on February 1, 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.

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 December 2, 2005 Licensee purchased malt or brewed beverages from Brewery Products Company (N.T. 11 and Exhibit C-5).
2. In payment therefore, Licensee issued its check in the amount of \$149.47. The check was dishonored by Licensee's bank for insufficient funds (N.T. 13 and Exhibit C-5).
3. A warning letter was sent to Licensee on September 20, 2005 concerning another NSF check issued by Licensee for malt or brewed beverages to Brewery Products Company (N.T. 13 and Exhibit C-6).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since January 14, 2002, and has had two prior violations:

Citation No. 04-2222. Fine \$700.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 28, 2004.
2. Unlawfully possessed liquor obtained from a source other than a Pennsylvania State Store. August 18, 2004.
3. Refilled liquor bottles. August 18, 2004.

Citation No. 05-2087. Fine \$2,000.00 and 3 days suspension with thereafter conditions.

1. Sales after the hotel liquor license expired and had not been renewed. August 15, 2005.
2. Licensed corporation was not the only one pecuniarily interested in the operation of the licensed business. December 2003 through August 22, 2005.
3. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years immediately preceding August 22, 2005.
4. Failed to keep records on the licensed premises. August 22 and 29, 2005.
5. Failed to notify the Board within 15 days of a change of officers. December, 2003.

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 \$150.00.

ORDER

THEREFORE, it is hereby ordered that Licensee HP JOINT VENTURE, pay a fine of \$150.00 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 29th day of August, 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.