

Mailing Date: SEP 20 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0635X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-320990
v.	:	
	:	LID - 53966
SHAKERZ, INC.	:	
T/A ISLAND CLUB	:	
603 RTE. 6	:	
MAYFIELD, PA 18433-1515	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-14967	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig Strong, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 27, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against SHAKERZ, INC., License Number R-AP-14967 (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 September 22, October 7 and 28, 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 October 26, 2005 and was completed on February 1, 2006; and notice of the violation was sent to Licensee by Certified Mail on February 21, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 10, 2006 in the Scranton State Office Building, 100 Lackawanna Avenue, Room 318, Scranton, 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, 603 Rte. 6, Mayfield, PA 18433-1515 by certified mail, return receipt requested and by first class mail on June 27, 2006. The notice set forth the date and time of the hearing as August 10, 2006 at 9:30 a.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA 18503.

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 September 22, 2005, Licensee purchased malt or brewed beverages from L.T. Verrastro, Inc. In payment therefore, Licensee issued its check in the amount of \$716.40. The check was returned by Licensee's bank due to insufficient funds. It was replaced on October 10, 2005 with another check (N.T. 9-10 and Exhibit C-5).
2. On October 7, 2005 Licensee purchased malt or brewed beverages from L.T. Verrastro, Inc. In payment therefore Licensee issued its check in the amount of \$684.60. The check was returned by Licensee's bank for insufficient funds. The check was replaced with cash on October 20, 2005 (N.T. 10 and Exhibit C-6).
3. On October 7, 2005 Licensee purchased malt or brewed beverages from Northeast Eagle Distributors. In payment therefore Licensee issued its check in the amount of \$216.77. This check was returned by Licensee's bank due to insufficient funds. It was replaced with cash on November 3, 2005 (N.T. 12-13 and Exhibit C-7).
4. On October 28, 2005 Licensee purchased malt or brewed beverages from Northeast Eagle Distributors. In payment therefore Licensee issued its check in the amount of \$323.99. The check was returned by Licensee's bank due to insufficient funds. The check was replaced with cash on December 2, 2005 (N.T. 13-14 and Exhibit C-8).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since November 24, 2004, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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 SHAKERZ, INC., 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 18th day of September, 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.