

Mailing Date: NOV 09 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0725X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-327511
v.	:	
	:	LID - 25107
RICHARD L. WOERNER	:	
T/A FRIENDLY GREEK BAR & PIZZA	:	
463 S. PRINCE ST.	:	
LANCASTER, PA 17603-5601	:	
	:	
	:	
LANCASTER COUNTY	:	
LICENSE NO. R-AP-SS-14074	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire

For Licensee
Richard Woerner, PRO SE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 13, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against RICHARD L. WOERNER, License Number R-AP-SS-14074 (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 his servants, agents or employes, issued checks or drafts dated January 17, 2006, in payment for purchases of malt or brewed beverages, when he 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 February 15, 2006 and was completed on March 8, 2006; and notice of the violation was sent to Licensee by Certified Mail on March 17, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on July 18, 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 January 17, 2006, Licensee purchased malt or brewed beverages from Lancaster Beverage (N.T. 10-11 and Exhibit C-5).
2. In payment for the aforementioned purchase, Licensee issued its check in the amount of \$289.86 (N.T. 10 and Exhibit C-5).
3. The aforementioned check was dishonored by Licensee's bank for insufficient funds (N.T. 11 and Exhibit C-5).
4. A warning letter was issued to Licensee on March 17, 2006 for a check dated January 12, 2006 to Lancaster Beverage in the amount of \$457.48 which was returned for insufficient funds (N.T. 12-13 and Exhibit C-6).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since February 7, 1990, and has had fifteen prior violations:

Citation No. 95-1312. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 96-2308. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 97-0874. Fine \$200.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 97-1409. Fine \$225.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 97-2126. Fine \$250.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 97-2372. Fine \$350.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 99-0453. 1 day suspension.

1. Failed to label beer taps properly. March 4, 1999.

Citation No. 00-1351. Fine \$50.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 6 and 16, 2000.

Citation No. 01-0243. Fine \$75.00 and 2 days suspension.

1. Issued worthless checks in payment for malt or brewed beverages. October 10,14, December 5, 22, 2000 and January 2, 2001.

Citation No. 01-0663. Fine \$75.00 and 2 days suspension.

1. Issued worthless checks in payment for malt or brewed beverages. January 23, February 2, 5, 12, March 2 and 5, 2001.

Citation No. 03-0666. Fine \$250.00.

1. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding March 20, 2003.

Citation No. 04-1118. Fine \$250.00.

1. Sold malt or brewed beverages in excess of 192 fluid ounces for consumption off premises. May 27, 2004.

Citation No. 05-1789. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 17 and 28, 2005.

Citation No. 05-2195. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 25, 2005.

Citation No. 05-2390. Fine \$450.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 12, 15 and 19, 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 \$600.00.

ORDER

THEREFORE, it is hereby ordered that Licensee RICHARD L. WOERNER, 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 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 26th day of October, 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.