

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. 06-1245X   |
| LIQUOR CONTROL ENFORCEMENT | : |                         |
|                            | : | Incident No. W03-330730 |
| v.                         | : |                         |
|                            | : | LID - 49443             |
| NINE IS ENOUGH, INC.       | : |                         |
| T/A THE DRAFT HOUSE        | : |                         |
| 670-672 BAER AVE.          | : |                         |
| HANOVER, PA 17331-2705     | : |                         |
|                            | : |                         |
|                            | : |                         |
| YORK COUNTY                | : |                         |
| LICENSE NO. R-AP-19733     | : |                         |

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 25, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against NINE IS ENOUGH, INC., License Number R-AP-19733 (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 March 22, 2006, 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 April 7, 2006 and was completed on April 24, 2006; and notice of the violation was sent to Licensee by Certified Mail on April 27, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 23, 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, 670-672 Baer Ave., Hanover, PA 17331-2705 by certified mail, return receipt requested and by first class mail on July 7, 2006. The notice set forth the date and time of the hearing as August 23, 2006 at 12:30 pm, 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 March 22, 2006 Licensee purchased malt or brewed beverages from Brewery Products. In payment therefore Licensee issued its check in the amount of \$436.09. The check was dishonored by Licensee's bank for insufficient funds (N.T. 8-11 and Exhibit C-5).
2. The aforementioned NSF check was not made good until replaced with cash on June 2, 2006 (N.T. 10).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since May 21, 2002, and has had three prior violations:

Citation No. 03-0617. Fine \$600.00.

1. Used loudspeakers or devices whereby music could be heard outside.  
September 20 and October 20, 2002.
2. Noisy and/or disorderly operation.  
September 20 and October 20, 2002.
3. Engaged in disorderly conduct.  
October 20, 2002.

4. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (sports pools).  
February 27, 2003.

Citation No. 04-0408. Fine \$2,300.00.

1. Used loudspeakers or devices whereby music could be heard outside.  
April 27, May 11, June 14, 21, July 19, August 10 and 30, 2003.
2. Sales to a visibly intoxicated person.  
June 21, 2003.
3. Noisy and/or disorderly operation.  
On 22 dates from April 27 through October 17, 2003.
4. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
November 26, 2003.
5. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.  
November 26, 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 NINE IS ENOUGH, 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 26<sup>th</sup> day of October, 2006.

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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.**