

Mailing Date: OCT 20 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1322X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-332027
v.	:	
	:	LID - 55676
JAKES TAVERN, INC.	:	
T/A JAKES	:	
80 S. MAIN ST.	:	
ARCHBALD, PA 18403-1783	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-SS-928	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Craig A. Strong, Esquire  
Pennsylvania State Police  
8320 Schantz Road, Second Floor  
Breinigsville, PA 18031

For Licensee  
Ex-Parte

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 31, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Jakes Tavern, Inc., t/a Jakes (Licensee), License Number R-AP-SS-928.

The citation<sup>1</sup> 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 employes, issued checks or drafts dated April 7, 2006, 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 September 7, 2006 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or by 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 July 21, 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 and signed for by Stephen Krajewski. On July 24, 2006, I issued a Pre-Hearing Order directing Licensee to submit its pre-hearing memorandum. That Order reiterated the date, time and place of hearing.
2. The Bureau began its investigation on May 1, 2006 and completed it on May 3, 2006. (N.T. 7)
3. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on May 10, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)
4. On April 7, 2006, Licensee issued two checks to two separate Importing Distributors for the purchase of beer. Both checks were dishonored due to insufficient funds. Neither check was not made good within ten days. (N.T. 7-8)

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.

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1. Commonwealth Exhibit No. C-2, N.T. 9.

PRIOR RECORD:

Licensee has been licensed since November 8, 2005, and has had one prior violation (Commonwealth Exhibit No. C-3, N.T. 9):

Adjudication No. 06-0320. Fine \$250.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
January 21, 2006.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.  
January 21, 2006.

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.

Although Licensee did not appear at the hearing, there was communication between Bureau counsel and Licensee that it was Licensee's intention to waive but an automobile accident delayed submitting the documentation. Accordingly, I impose a \$200.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$200.00 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 5<sup>th</sup> day of October, 2006.

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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.**