

Mailing Date: SEP 21 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1468X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-329587
v.	:	
	:	LID - 5410
WILLIAM J. KALDES	:	
T/A THE SPOT	:	
100 N. SECOND ST.	:	
102 N. SECOND ST. REAR	:	
HARRISBURG, PA 17101-1401	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. E-AM-SS-EHF-986	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire

For Licensee  
Steve C. Nicholas, Esquire

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 22, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against WILLIAM J. KALDES, License Number E-AM-SS-EHF-986 (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 March 3, 24, 31, April 5, 14, 18, 21, 22, 26 and 27, 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 March 22, 2006 and was completed on May 19, 2006; and notice of the violation was sent to Licensee by Certified Mail on June 2, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 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 March 3, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$784.40. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 6-7).

2. On March 24, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$587.13. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 7).

3. On March 31, 2006 Licensee purchased malt or brewed beverages from W & L Sales Company, Inc. In payment therefore, Licensee issued its check in the amount of \$510.71. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 7).

4. On March 31, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$258.57. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 7).

5. On April 5, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$941.68. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 8).

6. On April 14, 2006 Licensee purchased malt or brewed beverages from W & L Sales Company, Inc. In payment therefore, Licensee issued its check in the amount of \$381.82. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 8).

7. On April 14, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$829.45. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 8).

8. On April 18, 2006 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$264.05. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 8).

9. On April 21, 2006 Licensee purchased malt or brewed beverages from W & L Sales Company, Inc. In payment therefore, Licensee issued its check in the amount of \$410.91. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 8).

10. On April 22, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$256.10. The check was returned by Licensee's bank for insufficient funds (Stipulation N.T. 8).

11. On April 26, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$424.27. The check was dishonored by Licensee's bank for insufficient funds (Stipulation N.T. 9).

12. On April 27, 2006 Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore, Licensee issued its check in the amount of \$304.64. The check was dishonored by Licensee's bank for insufficient funds (Stipulation N.T. 9).

13. Licensee was warned concerning the issuance of dishonored checks to Wilsbach Distributors in the 2006 calendar year by letter dated February 23, 2006. The letter was issued relative to an earlier check dated January 17, 2006 in the amount of \$342.52 (Stipulation N.T. 9-10).

14. Licensee was also warned concerning the issuance of dishonored checks to W & L Sales Company, Inc. in the 2006 calendar year. This warning was set forth in a letter dated June 2, 2006 relating to Check No. 594 which was dated March 14, 2006 in the amount of \$318.74 (Stipulation N.T. 10).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since June 11, 1980, and has had two prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 88-0559. Fine \$400.00.

1. Employed or permitted a minor under 18 years of age to serve malt or brewed beverages.

Citation No. 94-0983. Fine \$1,000.00.

1. Sales to a minor.
2. Minors frequenting.

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.

At the hearing in this case Licensee testified that the reason these checks were returned NSF is that he had three accounts with a particular bank in the Harrisburg area. Apparently the bank did not place money deposited in the proper account causing Licensee to write checks on an account which did not have the funds in it which he expected it to have. Further, Licensee was stricken with severe depression due to the fact that his daughter suffers with cerebral palsy. Under these circumstances, and since Licensee accepts full responsibility for the situation the penalty imposed shall be the minimum. Counsel for the Bureau of Enforcement has requested that this be done.

Under the circumstances of this case, the penalty imposed shall be a fine of \$50.00.

ORDER

THEREFORE, it is hereby ordered that Licensee WILLIAM KALDES, pay a fine of \$50.00 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 7<sup>th</sup> day of September, 2007.

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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.**