Mailing Date: JAN 30 2007

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

PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT	:	Citation No. 06-1968X
	:	Incident No. W02-336976
v.	:	
	:	LID - 54095
GREENWAVE, LLC 259 E. STATE ST. LARKSVILLE, PA 18704-1013	:	
LUZERNE COUNTY LICENSE NO. R-AP-SS-17497	:	

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 August 23, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Greenwave, LLC (Licensee), License Number R-AP-SS-17497.

The citation[1] 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 July 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 December 14, 2006 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or have any 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 October 27, 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, was signed for on October 30, 2006. (N.T. 4)

2. The Bureau began its investigation on July 27, 2006 and completed it on July 28, 2006. (N.T. 5)

3. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on August 1, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1)

4. On July 7, 2006, Licensee issued a check for the purchase of beer which was dishonored due to insufficient funds. (N.T. 6-7)

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.

1. Commonwealth Exhibit No. C-2, N.T. 6.

PRIOR RECORD:

Licensee has been licensed since January 21, 2005, and has had two prior violations (Commonwealth Exhibit No. C-3, N.T. 7):

Adjudication No. 05-1531. Fine $150.00.
Failed to return the restaurant liquor license and wholesale liquor purchase permit cards to the Board after the licensed establishment had not been in operation for a period of 15 consecutive days between June 23 and July 8, 2005.

Adjudication No. 06-0893. Fine $300.00.
Discounted the price of alcoholic beverages in excess of 2 hours in a business day.
March 12, 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.

As Licensee has failed to obey process, I impose a $500.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of $500.00 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 22nd day of January, 2007.

_____
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.