

Mailing Date: MAR 13 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2050X
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-336791
	:	
RB ADHURIA INC.	:	
701-719 E. GIRARD AVE.	:	LID - 43866
PHILADELPHIA PA 19125	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. D-SS-925	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ERIK S. SHMUKLER, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 5, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against RB Adhuria, Inc., License Number D-SS-925 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, March 8, 2007, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26), in that Licensee, by its servants, agents or employes, issued checks or drafts dated June 23, 2006, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

FINDINGS OF FACT:

1. The Bureau conducted an investigation of the licensed premises which began July 26, 2006 and ended August 7, 2006. A notice of violation letter was sent to the licensed premises on August 15, 2006 by certified mail, return receipt requested. The mailing was signed as received at the licensed premises. A citation was issued to the licensed premises on September 5, 2006 by the Bureau of Enforcement. The mailing was sent by certified mail, return receipt requested. The mailing was signed as received on September 7, 2006 (N.T. 7-10 and Exhibits B-1 and B-2).

2. A citation hearing notice was sent to the licensed premises on January 19, 2007 by certified mail, return receipt requested. The notice was signed as received (Exhibits B-1 and B-2).

3. On March 31, 2006, a warning letter was sent to the Licensee with regard to Check No. 1576 dated February 23, 2006 in the amount of \$1,251.25 (N.T. 8).

4. Bill Conwell, who is employed by the beer distributor, Clement and Muller, Inc., indicates that he handles and processes the invoices and returned checks. He has held this position for approximately ten years (N.T. 11).

5. According to Mr. Conwell, the Licensee submitted Check No. 2092 to Clement and Muller, Inc. on June 23, 2006 in the amount of \$2,325.20 in payment for malt and brewed beverages (N.T. 12-14 and Exhibits B-4 and B-5).

6. Check No. 2092 in the amount of \$2,325.20 dated June 23, 2006 for purchases of malt or brewed beverages from Clement and Muller, Inc was returned for insufficient funds (N.T. 12-13 and Exhibit B-4).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Licensee, by its servants, agents or employes, issued checks or drafts dated June 23, 2006, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks, in violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26).

PRIOR RECORD:

Licensee has been licensed since April 29, 1999, and has a record of prior violations as follows:

Citation No. 01-0412. \$50.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
November 22, 2000.

Citation No. 05-0285X. \$150.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
March 5, 15 and April 9, 2004.

Citation No. 05-0304X. \$200.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
November 5, 19, 24 and 26, 2004.

Citation No. 05-0423. \$1,300.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
December 17, 21, 22 and 23, 2004.
2. Purchased malt or brewed beverages after the Distributor License expired and had not been renewed and/or validated.  
November 5, 19, 22, 24, 26, December 17, 21, 22 and 23, 2004.
3. Sold malt or brewed beverages after the Distributor License expired and had not been renewed and/or validated.  
February 2, 2005.

Citation No. 05-0663. \$200.00 fine. Fine not paid and license suspended for two days and thereafter until fine paid.

1. Purchased malt or brewed beverages from an Importing Distributor after the Distributor License expired on October 31, 2004 and had not been renewed and/or validated.  
January 28, 2005.

Citation No. 05-1056X. \$200.00 fine. Fine not paid and License suspended for two days and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages.  
February 11, March 4 and 18, 2005.

Citation No. 05-1345X. \$400.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
April 14, 2005.

Citation No. 05-1809X. \$600.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
June 24 and 26, 2005.

Citation No. 05-2494. \$600.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
July 29, 2005.

Citation No. 05-2760. \$700.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.  
October 14, 2005.

#### DISCUSSION:

Licensee failed to appear at the time of hearing. In reviewing Licensee's prior history, it is noted that it is replete with violations for issuing worthless checks. Under the circumstances, the Bureau of Enforcement requested a suspension in addition to any monetary penalty because of the repeated nature of the violations. Under the circumstances, a \$500.00 monetary penalty and two day suspension shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, RB Adhuria, Inc., License Number D-SS-925, pay a fine of Five Hundred Dollars (\$500.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

IT IS FURTHER ORDERED that the Distributor License of RB Adhuria, Inc., License Number D-SS-925, be suspended for a period of two (2) days. However, the suspension period is deferred pending the renewal of Licensee's license, at which time the suspension period will be fixed by further Order.

The Bureau of Licensing is directed to notify the Office of Administrative Law Judge of the renewal of the license so that an Order may be entered fixing the dates of suspension.

**In order to insure compliance with this Order, jurisdiction of this matter is retained.**

Dated this 3<sup>rd</sup> day of March, 2008.

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Tania E. Wright, J.

**NOTE:** 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.

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RB Adhuria, Inc.  
Citation No. 06-2050X

Detach Here and Return Stub with Payment

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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, along with any required documentation, to:

PLCB - Office of Administrative Law Judge  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg, PA 17110-9661

Citation No. 06-2050X