

Mailing Date: NOV 28 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2738X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W09-339948
v.	:	
	:	LID - 1623
WESTON CLUB, INC.	:	
1317 LEHIGH ST.	:	
EASTON, PA 18042-4017	:	
	:	
	:	
	:	
NORTHAMPTON COUNTY	:	
LICENSE NO. C-3439	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Roy Harkavy, 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 December 1, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Weston Club, Inc. (Licensee), License Number C-3439.

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 August 8, 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 October 19, 2007 at the Lehigh County Courthouse, Room 730, 7<sup>th</sup> Floor, 455 West Hamilton Street, Allentown, Pennsylvania. Licensee did not appear personally or have 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 August 30, 2007 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 returned as being marked: "moved left no address, unable to forward, return to sender." (N.T. 4)
2. On August 31, 2007, I issued a Pre-Hearing Order directing Licensee to submit its pre-hearing memorandum. That Order reiterated the date, time and place of hearing. (N.T. 4)
3. The Bureau began its investigation on September 18, 2006 and completed it on October 25, 2006. (N.T. 6)
4. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on November 3, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, 06-2738X, N.T. 7)
5. Licensee issued Check No. 10357 in the amount of \$285.35 on August 8, 2006 to an Importing Distributor for the purchase of beer. The check was dishonored due to insufficient funds and not made good within ten days. (N.T. 11-12, Commonwealth Exhibit No. C-3, N.T. 13)

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1. Commonwealth Exhibit No. C-2, 06-2738X, N.T. 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.

PRIOR RECORD:

Licensee has been licensed since March 1, 1938, and has had four prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, (Commonwealth Exhibit No. C-4, N.T. 14):

Adjudication No. 91-1035. \$300.00 fine.

Used loudspeakers or devices whereby music could be heard outside.

Adjudication No. 96-0126. \$850.00 fine.

1. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.  
May 1 through October 20, 1995.
2. Failed to adhere to by-laws.  
May 1 through October 20, 1995.
3. Improper admission of members.  
May 1 through October 20, 1995.
4. Operated a club not in conformity with the Liquor Code definition of "club."  
May 1 through October 20, 1995.
5. Purchased malt or brewed beverages on credit.  
On 33 dates between April 29 and October 6, 1995.

Adjudication No. 01-0028. \$600.00 fine.

1. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding September 1, 2000.
2. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.  
Between March 1, 1999 and September 1, 2000.

Adjudication No. 03-0426. Fine \$150.00.  
Failed to maintain records in conformity with  
Title 40 of the Pennsylvania Code.  
April 2002 to January 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.

As Licensee has failed to appear or obey process, I impose a \$1,000.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 16<sup>th</sup> day of November, 2007.

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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.**

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 to:

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

Citation No. 06-2738X