

Mailing Date: JUN 06 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2747X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-336921
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 THAU

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Steve C. Nicholas, Esquire
2215 Forest Hills Drive
Harrisburg, PA 17112

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 30, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against William J. Kalde, t/a The Spot (Licensee), License Number E-AM-SS-EHF-986.

The citation¹ charges Licensee with violations 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, 14, 21, August 11, 25, September 1 and 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 May 1, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. This matter was submitted by way of Stipulations of Fact.

After review of the transcript of that proceeding, the following Stipulations of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau complied with the applicable investigatory and notice requirements of the Liquor Code. (N.T. 4)
2. On July 7, 2006, Licensee issued a check in the amount of \$334.38 to an Importing Distributor for the purchase of beer which was dishonored due to insufficient funds. (N.T. 5-6)
3. On July 14, 2006, Licensee issued two checks (\$412.29 and \$643.53) to Importing Distributors for the purchase of beer. The checks were dishonored due to insufficient funds. (N.T. 5-6)
4. On July 21, 2006, Licensee issued two checks (\$668.75 and \$648.67) to Importing Distributors for the purchase of beer. The checks were dishonored due to insufficient funds. (N.T. 5-6)
5. On August 11, 2006, Licensee issued a check in the amount of \$481.88 to an Importing Distributor for the purchase of beer. The check was dishonored due to insufficient funds. (N.T. 5-6)
6. On August 25, 2006, Licensee issued a check in the amount of \$273.22 to an Importing Distributor for the purchase of beer. The check was dishonored due to insufficient funds. (N.T. 5-6)
7. On September 1, 2006, Licensee issued a check in the amount of \$548.18 to an Importing Distributor for the purchase of beer. The check was dishonored due to insufficient funds. (N.T. 5-6)

8. On September 8, 2006, Licensee issued a check in the amount of \$413.77 to an Importing Distributor for the purchase of beer. The check was dishonored due to insufficient funds. (N.T. 5-6)

9. Licensee has been dealing with family problems that ultimately caused Licensee several physical and mental distress. Licensee has since obtained medical attention. His condition is now improved. (N.T. 9-12)

CONCLUSIONS OF LAW:

The citation is **sustained** as charged.

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, (Joint Exhibit No. C-2, N.T. 7):

Adjudication No. 88-0559. Fine \$400.00.
Employed or permitted a minor under 18 years
of age to serve malt or brewed beverages.

Adjudication 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.

I impose a \$100.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$100.00 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 29th day of May, 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.