

Mailing Date: JUN 07 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0082X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-344667
v.	:	
	:	LID - 24134
JACK'S DRAFT HOUSE, INC.	:	
802 PRESCOTT AVE.	:	
SCRANTON, PA 18510-1410	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-SS-13214	:	

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 January 31, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Jack's Draft House, Inc. (Licensee), License Number R-AP-SS-13214.

The citation¹ 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 November 3, 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 17, 2007 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or by 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 March 28, 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 unclaimed. (N.T. 5)
2. On April 3, 2007, I issued by first class mail a Pre-Hearing Order directing Licensee to submit its pre-hearing memorandum. That Order reiterated the date, time and place of hearing. (N.T. 5)
3. The Bureau began its investigation on December 11, 2006 and completed it on December 13, 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 January 2, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1)
5. On November 3, 2006, Licensee issued a check to an Importing Distributor in the amount of \$300.71 for the purchase of beer. The check was dishonored due to insufficient funds and was made good by cash on November 10, 2006. (N.T. 8)

1. Commonwealth Exhibit No. C-2.

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 December 21, 1989, and has had five prior violations (Commonwealth Exhibit No. C-3):

Adjudication No. 90-1130. Fine \$75.00.

Discounted the price of alcoholic beverages in excess of 2 hours in a business day.

Adjudication No. 95-3014. Fine \$1,000.00.

Sales to a minor.

Adjudication No. 04-1643. Fine \$250.00.

Failed to require patrons to vacate the premises not later than one-half hour after the required time.
August 28, 2004.

Adjudication No. 06-0342. Fine \$400.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
January 15, 2006.
2. Permitted patrons to enter that portion of the premises habitually used for the service of alcoholic beverages between 2:30 A.M. and 7:00 A.M. when you did not possess an Extended Hours Food Permit.
January 15, 2006.

Adjudication No. 06-2083. Fine \$1,250.00 and R.A.M.P. Training mandated. Fine not paid and licensed suspended 1 day and thereafter until fine paid.

Sales to a minor.
July 27, 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 failed to appear at the hearing and 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.

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 31st 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.