Mailing Date: JUL 13 2007

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

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| PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT | : | Citation No. 07-0387X |
| | : | Incident No. W03-346212 |
| v. | : | |
| | : | LID - 25937 |
| GREEN BRIAR CAFÉ, INC.<br>47 W. NEW ST.<br>LANCASTER, PA 17603-2753 | : | |
| LANCASTER COUNTY<br>LICENSE NO. R-AP-SS-11993 | : | |

**BEFORE**: JUDGE THAU

APPEARANCES:

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

For Licensee
Ex-Parte

## ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 8, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Green Briar Café, Inc. (Licensee), License Number R-AP-SS-11993.

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 December 27, 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 June 6, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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 April 20, 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 and was signed for on April 21, 2007. (N.T. 5)

2. On April 23, 2007, I issued a Pre-Hearing Order by first class mail directing Licensee to submit its pre-hearing memorandum to this Office and to Bureau Counsel. That Order reiterated the date, time and place of hearing. (N.T. 5)

3. The Bureau began its investigation on January 9, 2007 and completed it on January 30, 2007. (N.T. 10-11)

4. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on February 16, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)

5. Licensee's Manager admitted to a Bureau Enforcement Officer that Licensee issued a check for the purchase of beer, to an Importing Distributor, which was dishonored due to insufficient funds. The check was numbered 1179 in the amount of $180.33 and issued on December 27, 2006. Licensee's Manager advised the Officer the dishonored check occurred as the result of a late deposit. The check was not made good within ten days. (N.T. 10-13)

1. Commonwealth Exhibit No. C-2, N.T. 10.

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 June 29, 1990, and has had one prior violation (Commonwealth Exhibit No. C-3):

Adjudication No. 03-0786. Fine $500.00.

1. Used loudspeakers or devices whereby music could be heard outside. On 75 dates between May 6, 2002 and March 15, 2003. (Nine dates between May 6 And November 7, 2002 Withdrawn by Bureau)
2. Noisy and/or disorderly operation. On 75 dates between May 6, 2002 and March 15, 2003 (Nine dates between May 6 and November 7, 2002 Withdrawn by Bureau)

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 at the hearing and/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.

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 3rd day of July, 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**.