

Mailing Date: MAR 19 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1955
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-356667
v.	:	
	:	LID - 48255
PATRICK L. BURKE	:	
T/A THE BASIL LEAF	:	
RR #6 BOX 6021	:	
MONTROSE, PA 18801	:	
	:	
	:	
SUSQUEHANNA COUNTY	:	
LICENSE NO. H-SS-5727	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Craig A. Strong, Esquire  
Pennsylvania State Police  
7448 Industrial Parkway  
Macungie, PA 18062

For Licensee  
Ex-Parte

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on September 4, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Patrick L. Burke, t/a The Basil Leaf (Licensee), License Number H-SS-5727.

This citation<sup>1</sup> contains two counts.

The first count 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 May 12, 2007, 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.

The second count charges Licensee with a violation of Section 305(c) of the Liquor Code [47 P.S. §3-305(c)]. The charge is that Licensee, by servants, agents or employes, issued checks dated May 1, 2007, in payment of liquor purchased from State Store #5802, which checks were returned as dishonored, and failed to pay the face amount and all charges thereon within ten (10) days after demand for payment was made by the Board.

An evidentiary hearing was conducted on February 4, 2008 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or have any representation.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on June 28, 2007 and completed it on July 30, 2007. (N.T. 6)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on July 31, 2007. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1 (07-1955), N.T. 6)

Count No. 1:

3. On May 12, 2007, Licensee issued a check to an Importing Distributor in the amount of \$145.91 for the purchase of beer. The check was dishonored due to insufficient funds. (N.T. 9)

Count No. 2:

4. Licensee issued a check on May 1, 2007, for the purchase of liquor at Pennsylvania State Liquor Store #5802. The check was dishonored due to insufficient funds.

---

1. Commonwealth Exhibit No. C-2 (07-1955), N.T. 6.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. Count Nos. 1 and 2 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since September 20, 2001, and has had two prior violations:

Adjudication No. 07-0056. Fine \$100.00. Fine not paid and license revoked.

Issued worthless checks in payment for malt or brewed beverages.  
November 24, 2006.

Adjudication No. 07-0596. Fine \$500.00. Fine not paid and License revoked.

Issued worthless checks in payment for malt or brewed beverages.  
December 29, 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 Count Nos. 1 and 2 in this case.

I impose revocation of the license.

ORDER:

**Imposition of Revocation**

THEREFORE, it is hereby ordered that the Hotel liquor license (including all permits), License No. H-SS-5727, issued to Patrick L. Burke, t/a The Basil Leaf, be **REVOKED**, effective at 7:00 a.m., on Monday, May 12, 2008. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

Since Licensee's license has already been revoked, there is no license to be returned. Therefore, the Bureau of Licensing of the Pennsylvania Liquor Control Board is hereby directed to mark their records accordingly, that this license is revoked effective at 7:00 a.m., Monday, May 12, 2008.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 6<sup>th</sup> day of March, 2008.

---

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.**