

Mailing Date: JAN 31 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2066X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-354327
v.	:	
	:	LID - 43866
RB ADHURIA INC	:	
701-719 E GIRARD AVE	:	
PHILADELPHIA PA 19125	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. D-SS-925	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: James Dailey, Esq.
For Licensee: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on September 11, 2007. The citation alleges that Licensee violated §493(26) of the Liquor Code, 47 P.S. §4-493(26), by issuing checks or drafts dated April 13, 20, June 29 and July 2, 2007, in payment for purchases of malt or brewed beverages, when there were insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

At the hearing scheduled for December 6, 2007, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period May 18 through August 6, and sent written notice of the results of its investigation to the licensed premises by certified mail on August 16, 2007 (N.T. 9, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on September 11, 2007 (N.T., Exhibit B-2).

3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on October 18, 2007.

4. Licensee purchased malt or brewed beverages from Muller, Inc., a licensed distributor, on June 29, 2007, and paid with its check #2254 for \$1,727.80 (N.T. 5)

5. This check was dishonored on July 6, 2007, due to insufficient funds (Ex. B-3).
6. This check was redeposited on July 20, 2007, after which it cleared (N.T. 6).
7. Licensee purchased malt or brewed beverages from Muller, Inc., a licensed distributor, on July 2, 2007, and paid with its check #2255 for \$2,434 (N.T. 6-7)
8. This check was dishonored on July 9, 2007, due to insufficient funds (Ex. B-4).
9. This check was redeposited on July 20, 2007, after which it cleared (N.T. 7-8).

CONCLUSIONS OF LAW:

Licensee violated §493(26) of the Liquor Code, 47 P.S. §4-493(26), by issuing checks or drafts dated June 29 and July 2, 2007, in payment for purchases of malt or brewed beverages, when there were insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

PRIOR RECORD:

Licensee has been licensed since April 29, 1999, and has had prior violations as follows:

Citation No. 01-0412. \$50.00 fine.

1. Bad checks for malt or brewed beverages. November 22, 2000.

Citation No. 05-0285. \$150.00 fine.

1. Bad checks for malt or brewed beverages. March 5, 15 and April 19, 2004.

Citation No. 05-0304. \$200.00 fine.

1. Bad checks for malt or brewed beverages. November 5, 19, 24 and 26, 2004.

Citation No. 05-0423. \$1,300.00 fine.

1. Bad checks for malt or brewed beverages. December 17, 21, 22 and 23, 2004.
2. Purchased malt or brewed beverages after distributor license expired. November 5, 19, 22, 24, 26, December 17, 21, 22 and 23, 2004.
3. Sold malt or brewed beverages after distributor license expired. February 2, 2005.

Citation No. 05-0663. \$200.00 fine.

1. Purchased malt or brewed beverages after distributor license expired. January 28, 2005.

Citation No. 05-1056. \$200.00 fine.

1. Bad checks for malt or brewed beverages. February 11, March 4 and 18, 2005.

Citation No. 05-1345. \$400.00 fine.

1. Bad checks for malt or brewed beverages. April 14, 2005.

Citation No. 05-1809. \$600.00 fine.

1. Bad checks for malt or brewed beverages. June 24 and 26, 2005.

Citation No. 05-2494. \$600.00 fine.

1. Bad checks for malt or brewed beverages. July 29, 2005.

Citation No. 05-2760. \$700.00 fine.

1. Bad checks for malt or brewed beverages. October 14, 2005.

Citation No. 07-0843. \$800.00 fine.

1. Bad checks for malt or brewed beverages. December 22, 2006.

Citation No. 07-0880. \$1,250.00 fine.

1. Sales to a minor. February 24, 2007.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of the type found in this case.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, RB Adhuria, Inc., License No. D-SS-925, shall pay a fine of nine hundred dollars (\$900.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 22nd day of January, 2008.

David L. Shenkle, J.

jb

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.

Detach Here and Return Stub with Payment

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