

Mailing Date: APR 24 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation Nos. 07-2532X
LIQUOR CONTROL ENFORCEMENT	:	& 07-2652X
	:	(Consolidated for
	:	Hearing Purposes Only)
	:	
v.	:	Incident Nos. W01-360160
	:	& W01-362953
	:	
RIDGE 2048 DISTRIBUTOR INC.	:	
2048 RIDGE AVE.	:	LID - 56667
PHILADELPHIA PA 19121-3910	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. D-SS-3309	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ERIK S. SHMUKLER, ESQ.**  
**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of citations that were issued on October 30, 2007 and November 13, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Ridge 2048 Distributor, Inc., License Number D-SS-3309 (hereinafter "Licensee").

Ridge 2048 Distributor, Inc.  
Citation Nos. 07-2532X & 07-2652X

An Administrative hearing was held on Tuesday, January 22, 2008, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citations are as follows:

Citation No. 07-2532X

The citation charges Licensee with violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26), in that Licensee, by its servants, agents or employes, issued checks or drafts dated July 17, 23 and September 5, 2007, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

Citation No. 07-2652X

The citation charges Licensee with violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26), in that Licensee, by its servants, agents or employes, issued checks or drafts dated September 5, 2007, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

CITATION NO. 07-2532X

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began August 28, 2007 and ended September 27, 2007. The Bureau sent a notice of violation letter to the licensed premises which was returned unclaimed. A citation hearing notice was issued to the licensed premises on October 30, 2007. That mailing was also returned unclaimed. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on December 6, 2007 by certified mail, return receipt requested. That mailing was returned unclaimed (N.T. 12-14 and Exhibits B-1 and B-2).

2. Bill Conwell is employed by Muller, Incorporated, a wholesale beer distributor. Muller's received a check dated July 17, 2007, Check No. 1159, in the amount of \$1,189.20 for purchases of malt and brewed beverages. These purchases of beer and/or malt beverages were made relative to Invoice No. 93767 dated July 17, 2007. The check in the amount of \$1,189.20 was returned from the bank for nonsufficient funds. The amount of the invoice is \$1,009.20, plus adjustments from previous transactions (N.T. 9-11 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Licensee, by its servants, agents or employes, issued checks or drafts dated July 17, 23 and September 5, 2007, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks, in violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26).

CITATION NO. 07-2652X

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began October 12, 2007 and ended October 16, 2007. The Bureau sent a notice of violation letter dated October 19, 2007 to the licensed premises by certified mail. That mailing was signed as received. A citation hearing notice was issued to the licensed premises dated November 13, 2007 by certified mailing and was signed as received. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on December 6, 2007 by certified mail, return receipt requested. That mailing was returned unclaimed (N.T. 23-24 and Exhibits B-1 and B-2).

2. Mr. Bill Conwell is employed by Muller, Incorporated, an importer of malt and brewed beverages. He handles the accounts receivable and insufficient fund invoices relative to returned checks. Licensee issued Check No. 1222 in the amount of \$1,463.35 on September 5, 2007. This was for purchases of malt and brewed beverages. The purchase was made relative to Invoice No. 966481. The goods were delivered on September 5, 2007. An adjustment was made on the bill for previously returned merchandise. Therefore, the invoice was \$1,463.35 (N.T. 18-19).

3. Check No. 1222 dated September 5, 2007 from the Licensee in the amount of \$1,463.35. That check was returned for insufficient funds. There was also an indication that the name on the check, "Clement 21 Beer Distributors" did not match the name of the client, which was Ridge 2048 Beer Distributors. The check was made good by redeposit on September 20, 2007 (N.T. 20 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Licensee, by its servants, agents or employes, issued checks or drafts dated September 5, 2007, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks, in violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26).

PRIOR RECORD:

Licensee has been licensed since September 11, 2006, and has a record of prior violations as follows:

Ridge 2048 Distributor, Inc.  
Citation Nos. 07-2532X & 07-2652X

Citation No. 07-1917. \$250.00 fine.

1. Issued worthless checks in payment for purchases of malt or brewed beverages.  
May 15, 2007.

Citation No. 07-1917. \$150.00 fine.

1. Issued worthless checks in payment for purchases of malt or brewed beverages.  
July 11, 2007.

DISCUSSION:

Licensee did not appear to address or contest these charges. The prior record indicates that Licensee has two prior violations for issuing worthless. Under the circumstances, a monetary penalty shall be imposed. Licensee is warned that they need to take some immediate remedial action that no future enforcement action is necessary.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Therefore, penalties shall be assessed as follows:

Citation No. 07-2532X  
Count No. 1 - \$250.00.

Citation No. 07-2652X  
Count No. 1 - \$250.00.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Ridge 2048 Distributor, Inc., License Number D-SS-3309, pay a fine of Five Hundred Dollars (\$500.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

**In order to insure compliance with this Order, jurisdiction of this matter is retained.**

Dated this 18th day of April, 2008.

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Tania E. Wright, J.

Ridge 2048 Distributor, Inc.  
Citation Nos. 07-2532X & 07-2652X

**NOTE:** 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.

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Detach Here and Return Stub with Payment

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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, along with any required documentation, to:

PLCB - Office of Administrative Law Judge  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg, PA 17110-9661

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