

Mailing Date: SEP 12 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-3085X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-362836
v.	:	
	:	LID - 55477
GROUP 801 S. FRONT ST., INC.	:	
T/A KOKOMO'S	:	
801 S. FRONT ST.	:	
STEELTON, PA 17113-2918	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. R-AP-SS-11632	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew Lovette, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 17, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against GROUP 801 S. FRONT ST., INC., License Number R-AP-SS-11632 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)] in that Licensee, by its servants, agents or employes, issued checks or drafts dated September 17, 21, October 5, 9, 29 and November 9, 2007, in payment for purchases of malt or brewed beverages, when it had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

The investigation which gave rise to the citation began on October 11, 2007 and was completed on December 7, 2007; and notice of the violation was sent to Licensee by Certified Mail on December 18, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on May 13, 2008 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 801 S. Front St., Steelton, PA 17113 by certified mail, return receipt requested and by first class mail on March 28, 2008. The notice set forth the date and time of the hearing as May 13, 2008 at 11:30 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On September 17, 2007, Licensee purchased malt or brewed beverages from Wilsbach Distributors. In payment therefore Licensee issued its check in the amount of \$263.09. The check was returned by Licensee's bank for insufficient funds (N.T. 9-10 and Exhibit C-5).
2. On September 17, 2007, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$497.28. The check was returned by Licensee's bank for insufficient funds (N.T. 10 and Exhibit C-6).
3. On September 21, 2007, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$763.70. The check was returned by Licensee's bank for insufficient funds (N.T. 11 and Exhibit C-7).
4. On September 21, 2007, Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its check in the amount of \$515.85. The check was returned by Licensee's bank for insufficient funds (N.T. 11-12 and Exhibit C-8).
5. On October 9, 2007, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$543.76. The check was returned by Licensee's bank for insufficient funds (N.T. 12 and Exhibit C-9).
6. On October 5, 2007, Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its check in the amount of \$377.87. The check was returned by Licensee's bank for insufficient funds (N.T. 12-13 and Exhibit C-10).

7. On October 9, 2007, Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its check in the amount of \$197.03. The check was returned by Licensee's bank for insufficient funds (N.T. 13 and Exhibit C-11).

8. On October 29, 2007, Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its check in the amount of \$194.92. The check was returned by Licensee's bank for insufficient funds (N.T. 13-14 and Exhibit C-12).

9. On October 29, 2007, Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its check in the amount of \$328.39. The check was returned by Licensee's bank for insufficient funds (N.T. 14 and Exhibit C-13).

10. On November 9, 2007, Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its check in the amount of \$404.69. The check was returned by Licensee's bank for insufficient funds (N.T. 14-15 and Exhibit C-14).

11. Licensee was issued a warning letter on December 18, 2007 for a single check issued to W & L Sales Co. and also a single check issued to Wilsbach Distributors. Both checks were issued on September 14, 2007 (N.T. 16 and Exhibit C-15).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since December 14, 2005, and has had one prior violation:

Citation No. 06-2235C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. August 11, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$500.00.

ORDER

THEREFORE, it is hereby ordered that Licensee GROUP 801 S. FRONT ST., INC., pay a fine of \$500.00 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.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 2nd day of September, 2008.

Daniel T. Flaherty, Jr., J.

an

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.

Detach here and submit stub with payment

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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

Citation No. 07-3085X