

Mailing Date: SEP 9 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-3102X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-365194
v.	:	
	:	LID - 51008
NAK'S BY THE TRACKS, INC.	:	
T/A NAK'S BY THE TRACKS	:	
136 PENN AVE.	:	
EXETER, PA 18643-1921	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-11397	:	

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
Chris Kraynak
Sole Corporate Officer

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 9, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Nak's By The Tracks, Inc., t/a Nak's By The Tracks (Licensee), License Number R-AP-11397.

The citation¹ 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 October 26, 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.

An evidentiary hearing was conducted on July 17, 2008 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee's Sole Corporate Officer Mr. Chris Kraynak appeared at the hearing.

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

FINDINGS OF FACT:

1. Licensee agreed that the Bureau complied with the notice and investigative requirements of the Liquor Code. (N.T. 5)
2. On October 26, 2007, Licensee issued a check in the amount of \$98.00 to Northeast Eagle Distributors, Inc., for payment of beer which was dishonored due to insufficient funds. The check was not made good within ten days. (N.T. 5)

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.

1. Judge's Exhibit No. J-1, N.T. 5.

PRIOR RECORD:

Licensee has been licensed since March 7, 2003, and has had four prior violations (Judge's Exhibit No. J-2):

Adjudication No. 03-1187. Fine \$300.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
June 15, 2003.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.
June 15, 2003.

Adjudication No. 07-0325. Fine \$150.00.

Issued worthless checks in payment for purchases of malt or brewed beverages.
December 29, 2006.

Adjudication No. 07-2140. Fine \$200.00.

Issued worthless checks in payment for purchases of malt or brewed beverages.
June 22, 2007.

Adjudication No. 07-2376. 3 days suspension.

Sales after your license expired and had not been renewed and/or validated.
September 1, 2007.

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.

I impose a \$210.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$210.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 26th day of August, 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.

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

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