

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. 08-0052X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-365163
v.	:	
	:	LID - 53450
SHARON M. ROBERTS	:	
T/A SHARON'S SUBS	:	
123 N. MOUNTAIN BLVD.	:	
MOUNTAIN TOP, PA 18707-1148	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-SS-15088	:	

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 January 30, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Sharon M. Roberts, t/a Sharon's Subs (Licensee), License Number R-SS-15088.

The citation¹ charges Licensee with violations 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 25, 26 and November 28, 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 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. A citation hearing notice was mailed by the Office of Administrative Law Judge on June 2, 2008 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was signed for by Sharon Roberts, on June 4, 2008. (N.T. 4)
2. On June 2, 2008, I issued a Pre-Hearing Order by first-class mail to the licensed premises directing Licensee to submit her pre-hearing memorandum to this Office and to Bureau Counsel. That Order reiterated the date, time and place of hearing. (N.T. 4)
3. The Bureau began its investigation on November 19, 2007 and completed it on December 17, 2007. (N.T. 6)
4. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on January 2, 2008. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)
5. On the dates charged, Licensee issued three checks totaling \$858.76 to Importing Distributors for the payment of beer which were dishonored due to insufficient funds. The three checks were not made good within ten days. (N.T. 7-8)

1. Commonwealth Exhibit No. C-2, N.T. 6.

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.

PRIOR RECORD:

Licensee has been licensed since August 31, 2004, and has had four prior violations (Commonwealth Exhibit No. C-3, N.T. 9):

Adjudication No. 06-1643X. Fine \$150.00.
Issued worthless checks in payment for purchases of
malt or brewed beverages.
March 24, April 20 and 21, 2006.

Adjudication No. 07-2120X. Fine \$200.00.
Issued worthless checks in payment for purchases of
malt or brewed beverages.
July 19, 2007.

Adjudication No. 07-2338. Fine \$1,250.00 and 3 days suspension
and continuing thereafter.
Sales after your license expired and had not been
renewed and/or validated.
September 1, 2007.

Adjudication No. 07-2901X. Fine \$350.00. Fine not paid and
license revoked.
Issued worthless checks in payment for purchases of
malt or brewed beverages.
August 23, 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.

As this license has already been revoked under a previous citation, I impose revocation of the license.

ORDER:

Imposition of Revocation

THEREFORE, it is hereby ordered that Restaurant liquor license (including all permits) No. R-SS-15088, issued to Sharon M. Roberts, t/a Sharon's Subs, be **REVOKED**, effective at 7:00 a.m., on Monday, September 29, 2008. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

As this license has already been revoked, there is no license to be returned. Therefore, the Bureau of Licensing is hereby directed to mark their records accordingly, that this license is revoked, effective at 7:00 a.m., Monday, September 29, 2008.

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.