

Mailing Date: DEC 16 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation Nos. 07-2963X
LIQUOR CONTROL ENFORCEMENT	:	& 08-0078X
	:	(Consolidated for
	:	Hearing Purposes Only)
	:	
v.	:	Incident Nos. W01-363797
	:	& W01-366192
	:	
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:

**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of citations that were issued on January 2, 2008 and January 29, 2008, 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. 07-2963X & 08-0078X

An Administrative hearing was held on Wednesday, April 2, 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. 07-2963X

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 24, October 1, 12, 17 and 22, 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. 08-0078X

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 October 17 and 22, 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. 07-2963X

FINDINGS OF FACT:

1. The Bureau conducted an inspection of the licensed premises which began on October 25, 2007 and ended on November 14, 2007. A Notice of Violation letter was sent to the premises on November 26, 2007 by first class mail and by certified mail, return receipt requested. That mailing was returned unclaimed. The Bureau sent a Citation to the licensed premises dated January 2, 2008, by first class mail and certified mail, return receipt requested. That mailing was also returned unclaimed. The Office of Administrative Law Judge sent a Citation Hearing Notice to the licensed premises by certified mail, return receipt requested and by first class mail on February 15, 2008. The certified mail was signed as received. The first class mail was returned unclaimed (N.T. 7-8 and Exhibits B-1 and B-2).

2. On November 9, 2007 and November 14, 2007, Officer Clarke contacted Penn Beer Distributors, Inc. and Muller, Inc., respectively, beer distributors who had allegedly received dishonored checks form the Licensee (N.T. 7-8).

3. On November 14, 2007, Officer Clarke contacted Curt Taylor, an employee of the licensed business concerning checks offered in payment for malt or brewed beverages, which were dishonored for insufficient funds. Mr. Taylor indicated that he would pass the message on to Mr. Michael Lyons, the corporate secretary (N.T. 6).

4. Mr. Bill Conwell is employed by Muller, Inc., an importer and distributor of malt and brewed beverages. His duty is process invoices, delivery receipts and returned checks. He presented copies of the following checks offered by Licensee for payment for malt and brewed beverages, which were dishonored for insufficient funds:

<u>Check Date</u>	<u>Check No.</u>	<u>Amount</u>	<u>Vendor</u>	<u>Date Satisfied</u>
09/24/07	1246	\$2,034.50	Clement & Muller, Inc.	Redeposit 10/15/07

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Licensee, by its servants, agents or employees, issued checks or drafts dated September 24, 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. 08-0078X

FINDINGS OF FACT:

1. The Bureau conducted an inspection of the licensed premises which began on December 10, 2007 and ended on December 21, 2007. A Notice of Violation letter was sent to the premises on January 7, 2008 by first class mail and certified mail, return receipt requested. That mailing was signed as received. The Bureau sent a Citation to the licensed premises dated January 29, 2008, by certified mail, return receipt requested. That mailing was also signed as received. The Office of Administrative Law Judge sent a Citation Hearing Notice to the licensed premises by certified, mail return receipt request and by first class mail on February 15, 2008. The certified mail was signed as received. The first class mail was returned unclaimed (N.T. 19-21 and Exhibits B-1 and B-2).

2. Officer McGrath contacted Bill Conwell of Clement & Muller, Inc. concerning the dishonored checks they had received from the licensed business (N.T. 19).

3. Officer McGrath contacted Carlos Rivera, an employee of the licensed business, who stated that he would relay the information to the Licensee (N.T. 18).

4. Mr. Bill Conwell is employed by Muller, Inc., an importer and distributor of malt and brewed beverages. His duty is process invoices, delivery receipts and returned checks. He presented copies of the following checks offered by Licensee for payment for malt and brewed beverages, which were dishonored for insufficient funds:

<u>Check Date</u>	<u>Check No.</u>	<u>Amount</u>	<u>Vendor</u>	<u>Date Satisfied</u>
10/17/07	1270	\$819.00	Clement & Muller, Inc.	Cash 11/08/07
10/22/07	1276	\$1,920.80	Clement & Muller, Inc.	Cash 11/08/07

Ridge 2048 Distributor, Inc.  
Citation Nos. 07-2963X & 08-0078X

5. No warning letter was issued for any checks involved with Clement & Muller, Inc. The Licensee had previously issued a dishonored check to Clement & Muller, Inc. during the 2007 calendar year, which was not satisfied in a timely manner (N.T. 21).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Licensee, by its servants, agents or employees, issued checks or drafts dated October 17 and 22, 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:

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

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

Citation No. 07-2067X. \$150.00 fine.

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

DISCUSSION:

Licensee is advised to take the necessary steps to avoid future enforcement action relative to its financial matters.

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:

Ridge 2048 Distributor, Inc.  
Citation Nos. 07-2963X & 08-0078X

Citation No. 07-2963X  
Count No. 1 - \$200.00.

Citation No. 08-0078X  
Count No. 1 - \$300.00.

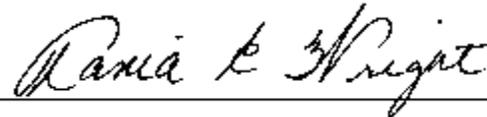
Accordingly, we issue the following

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 9TH day of DECEMBER, 2008.



Tania E. Wright, J.

**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.

mm

Ridge 2048 Distributor, Inc.  
Citation Nos. 07-2963X & 08-0078X

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, along with any required documentation, to:

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

Citation Nos. 07-2963X & 08-0078X  
Ridge 2048 Distributor, Inc.