

Mailing Date: SEP 23 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0479X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W08-365186
v.	:	
	:	LID - 55574
TIMOTHY BOBENRIETH	:	
T/A BOBENRIETHS RUNWAY CAFÉ	:	
212 AIRPORT ROAD	:	
LEWIS RUN PA 16738-2006	:	
	:	
	:	
MCKEAN COUNTY	:	
LICENSE NO. AR-SS-103	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

For Bureau of Enforcement  
Nadia Vargo, Esquire

For Licensee  
No Appearance

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on March 17, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Timothy Bobenrieth, t/a Bobenrieths Runway Café, License Number AR-SS-103 (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 his servants, agents or employees, issued checks or drafts dated October 19, 2007, in payment for purchases of malt or brewed beverages, when he had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

An administrative hearing was conducted on August 21, 2008, at 2084 Interchange Road, Erie, Pennsylvania. The Bureau was represented by Nadia Vargo, Esquire. Licensee did not appear personally or through legal counsel.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on November 20, 2007, and completed its investigation on January 30, 2008. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated February 22, 2008, which was sent by certified mail and returned unclaimed, and by first class mail that was not returned. (Exhibit C-2)
3. The citation was issued on March 17, 2008, and was sent by certified mail and received by Licensee on March 19, 2008. (Exhibits C-3, C-4)
4. The notice relative to the date, time and place of the evidentiary hearing was mailed to Licensee's premises on July 2, 2008 by certified mail and first class mail.
5. The aforementioned certified and first class mailings of the notice of hearing were returned unclaimed.
6. Licensee's true and correct address as listed with the Liquor Control Board is Timothy Bobenrieth, t/a Bobenrieths Runway Café, 212 Airport Road, Lewis Run, PA 16738-2006. (Official Notice)
7. An investigation conducted by Liquor Enforcement Officer Patrick O'Neill disclosed that on October 19, 2007, Licensee issued Check No. 1006 to Crescent Beer Distributors, Inc., in the amount of \$135.79 at Invoice Number 80621, in payment for purchases of malt or brewed beverages, which check was dishonored by the drawee bank for nonsufficient funds. (Exs. C-5, C-6, N.T. 9)
8. On November 13, 2007, Licensee's obligation was satisfied with a cash payment. (N.T. 10)
9. The aforementioned "NSF" check was not honored within ten days of the date of issuance. (N.T. 11)

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4-471] have been satisfied.

2. Licensee, by his servants, agents or employees, issued checks or drafts dated October 19, 2007, in payment for purchases of malt or brewed beverages, when he 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.

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court is of the opinion that the Bureau has established the violation as charged by a clear preponderance of the evidence. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982).

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.

Licensee's failure to submit a pre-hearing memorandum as well as its failure to appear at the administrative hearing scheduled in this matter demonstrates a clear lack of interest in this liquor license.

For the foregoing reasons, a penalty shall be imposed in the amount of \$300.00.

ORDER:

THEREFORE, it is hereby ordered that Timothy Bobenrieth, t/a Bobenrieths Runway Café, License Number AR-SS-103, pay a fine of \$300.00 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.

TIMOTHY BOBENRIETH  
Citation Number 08-0479X

Jurisdiction is retained to ensure compliance with this Order.

Dated this 17th day of September, 2008.



Roderick Frisk, J.

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NOTE: 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 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 to:

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

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