

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. 08-0619X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-370172
v.	:	
	:	LID - 51751
KAYMACO ENTERPRISES, INC.	:	
T/A BIANCO'S CAFE	:	
87-89 WYOMING AVE.	:	
WYOMING, PA 18644-1706	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-15416	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

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

For Licensee  
Ex-Parte

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on April 16, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Kaymaco Enterprises, Inc., t/a Bianco's Cafe (Licensee), License Number R-AP-SS-15416.

The citation<sup>1</sup> 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 February 2, 2008, 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 returned as being marked unclaimed. (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 its 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 February 26, 2008 and completed it on March 3, 2008. (N.T. 7)
4. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on March 4, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)
5. On the date charged, Licensee issued a check in the amount of \$186.34 to L.T. Verrastro, Inc., for payment of beer which was dishonored due to insufficient funds. The check was not made good within ten days. (N.T. 9-10)

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1. Commonwealth Exhibit No. C-2, N.T. 8.

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 October 29, 2003, and has had five prior violations (Commonwealth Exhibit No. C-3, N.T. 10):

Adjudication No. 05-0125. Fine \$125.00.  
Operated the licensed establishment without a valid health permit or license.  
January 4, 2005.

Adjudication No. 06-0186. Fine \$150.00.  
Issued worthless checks in payment for malt or brewed beverages.  
November 11, 2005.

Adjudication No. 06-2760. Fine \$200.00.  
Issued worthless checks in payment for malt or brewed beverages.  
September 29, 2006.

Adjudication No. 07-1126. Fine \$300.00.  
Issued worthless checks in payment for malt or brewed beverages.  
March 16, 2007.

Adjudication No. 07-1818X. Fine \$400.00.  
Issued worthless checks in payment for malt or brewed beverages.  
June 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.

As Licensee did not obey process, I impose a \$1,000.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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.

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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

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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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KAYMACO ENTERPRISES, INC.