

Mailing Date: NOV 18 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0890X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-367150
v.	:	
	:	LID - 55477
GROUP 801 S. FRONT ST., INC.	:	
T/A KOKOMO'S	:	
801 S. FRONT ST.	:	
STEELTON, PA 17113-2918	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. R-AP-SS-11632	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 22, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against GROUP 801 S. FRONT ST., INC., License Number R-AP-SS-11632 (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 its servants, agents or employes, issued checks or drafts dated November 28, December 28 and 31, 2007 and January 11 and 18, 2008, in payment for purchases of malt or brewed beverages, when it had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

The investigation which gave rise to the citation began on January 2, 2008 and was completed on March 19, 2008; and notice of the violation was sent to Licensee by Certified Mail on April 4, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on October 15, 2008 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 801 S. Front St., Steelton, PA 17113-2918 by certified mail, return receipt requested and by first class mail on August 29, 2008. The notice set forth the date and time of the hearing as October 15, 2008 at 11:30 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On November 28, 2007 Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its Check No. 190 in the amount of \$276.34 which was dishonored by Licensee's bank for insufficient funds (N.T. 9-10 and Exhibit C-5).
2. On December 28, 2007 Licensee purchased malt or brewed beverages from W & L Sales Company. In payment therefore, Licensee issued its Check No. 253 in the amount of \$276.18 which was dishonored by Licensee's bank for insufficient funds (N.T. 10 and Exhibit C-6).
3. On December 28, 2007 Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its Check No. 254 in the amount of \$131.81 which was dishonored by Licensee's bank for insufficient funds (N.T. 10 and Exhibit C-7).
4. On December 31, 2007 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its Check No. 256 in the amount of \$398.93 which was dishonored by Licensee's bank for insufficient funds (N.T. 10-11 and Exhibit C-8).
5. On January 11, 2008 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its Check No. 266 in the amount of \$731.35 which was dishonored by Licensee's bank for insufficient funds (N.T. 11 and Exhibit C-9).

6. On January 18, 2008 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its Check No. 269 in the amount of \$744.73 which was dishonored by Licensee's bank for insufficient funds (N.T. 11-12 and Exhibit C-10).

7. On December 18, 2007 Licensee was sent warning letters with regard to NSF checks written to W & L Sales Company, Inc. and to Wilsbach Distributors in the 2007 calendar year (N.T. 15 and Exhibit C-11).

8. On April 4, 2008 Licensee was sent warning letters with regard to NSF checks written to W & L Sales Company, Inc. and to Wilsbach Distributors in the 2008 calendar year (N.T. 15 and Exhibit C-11).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since December 14, 2005, and has had two prior violations:

Citation No. 06-2235C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. August 11, 2006.

Citation No. 07-3085X. Fine \$500.00.

1. Issued worthless checks in payment for malt or brewed beverages. September 17, 21, October 5, 9, 29 and November 9, 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.

Under the circumstances of this case, the penalty imposed shall be a fine in the amount of \$600.00.

ORDER

THEREFORE, it is hereby ordered that Licensee GROUP 801 S. FRONT ST., INC., pay a fine of \$600.00 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.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 6th day of November, 2008.



Daniel T. Flaherty, Jr., J.

an

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 submit stub with payment

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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

Citation No. 08-0890X
Group 801 S. Front St., Inc.