

Mailing Date: MAY 29 2009

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1135
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-371991
	:	
v.	:	LID - 58487
	:	
TRAILSIDE INN, LLC	:	
RR 3 BOX 3249 AA	:	
FACTORYVILLE, PA 18419-9301	:	
	:	
	:	
	:	
WYOMING COUNTY	:	
LICENSE NO. R-AP-SS-EHF-13406	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Craig A. Strong, Esquire

For Licensee  
Joseph Watkins, PRO SE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 3, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against TRAILSIDE INN, LLC, License Number R-AP-SS-EHF-13406 (hereinafter "Licensee").

The citation contains two counts.

The first count charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations [40 Pa. Code §5.32(a)] in that on April 27, 2008, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The second count 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 March 29, 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 March 31, 2008 and was completed on April 30, 2008; and notice of the violation was sent to Licensee by Certified Mail on May 1, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on March 19, 2009 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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:

COUNT 1

1. On April 26, 2008 at 9:30 p.m. an officer of the Bureau entered the licensed premises (N.T. 8).
2. At 11:30 p.m. a band consisting of one drummer and two guitar players began providing vocal and instrument music which was electronically amplified through two speakers (N.T. 8-9).
3. At 12:05 a.m., now April 27, 2008, the officer departed the premises and could hear the music emanating from inside the premises at a distance of approximately 400 feet across Route 11 and 100 feet to the rear of the premises (N.T. 9).

COUNT 2

4. On March 29, 2008 Licensee purchased malt or brewed beverages from Nicholson Distributing Co., Inc. In payment therefore, Licensee issued its Check No. 1042, in the amount of \$1,159.50 which was dishonored by Licensee's bank for insufficient funds. The

aforementioned check was still outstanding as of April 30, 2008 and made good on May 1, 2008 (N.T. 10).

CONCLUSIONS OF LAW:

Counts 1 and 2 of the citation are **sustained**.

DISCUSSION:

At the hearing in this matter, Licensee handed up a properly executed Waiver, Admission and Authorization form.

PRIOR RECORD:

Licensee has been licensed since July 9, 2007, and has had three prior violations:

Citation No. 07-2830X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. September 26, 2007.

Citation No. 08-0329X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. October 25, December 1 and 14, 2007.

Citation No. 08-0563X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. January 28, 2008.

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 as follows:

Count 1 - \$250.00 fine

Count 2 - \$250.00 fine

ORDER

THEREFORE, it is hereby ordered that Licensee TRAILSIDE INN, LLC, pay a fine of \$500.00 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 15<sup>TH</sup> day of May, 2009.



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 -----**

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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. 08-1135  
Trailside Inn, LLC