

Mailing Date: NOV 12 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1539X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W09-375211
v.	:	
	:	LID - 7176
GAIL A MITCHELL	:	
T/A GYPSY ROSE HOTEL	:	
505 BRIDGE RD	:	
RAHNS PA 19426	:	
	:	
MONTGOMERY COUNTY	:	
LICENSE NO. H-AP-SS-4426	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: James Dailey, Esq.
For Licensee: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 16, 2008. The citation alleges that Licensee violated §493(26) of the Liquor Code, 47 P.S. §4-493(26), by issuing checks or drafts dated November 9, 2007, in payment for purchases of malt or brewed beverages, when there were insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

At the hearing scheduled for October 9, 2008, Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period May 29 through June 10, 2008, and sent written notice of the results of its investigation to the licensed premises by certified mail on June 18, 2008 (N.T. 9, Exhibit B-1).
2. A copy of this citation was mailed to the licensed establishment by certified mail on July 16, 2008 (N.T. 9-10, Exhibit B-2).
3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on August 21, 2008.
4. Licensee issued a check to Epps Beverages, dated November 9, 2007, in the amount of \$361.27, in payment for the purchase of malt or brewed beverages (N.T. 5-7, Exhibit B-3).

5. The check was dishonored due to insufficient funds, but it was later made good. No warning letter was required because the check was not made good within ten days (N.T. 7).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since August 27, 1980, and has had one prior violations:

Citation No. 08-1027X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. December 14, 2007.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of the type found in this case.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Gail A. Mitchell, t/a Gypsy Rose Hotel, License No. H-AP-SS-4426, shall pay a fine of two hundred dollars (\$200.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 5th day of November, 2008.



David L. Shenle, J.

jb

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.

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 to:

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