

Mailing Date: JAN 14 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1906X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-377060
v.	:	
	:	LID - 50909
PENN HOTEL & SPORTS BAR OF	:	
HERSHEY PA, INC.	:	
600 W. CHOCOLATE AVE.	:	
HERSHEY, PA 17033-1940	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. H-AP-3769	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Andrew Lovette, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on September 4, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against PENN HOTEL & SPORTS BAR OF HERSHEY PA, INC., License Number H-AP-3769 (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 May 28, 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 June 30, 2008 and was completed on July 25, 2008; and notice of the violation was sent to Licensee by Certified Mail on July 31, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 12, 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, 600 W. Chocolate Ave., Hershey, PA 17033-1940 by certified mail, return receipt requested and by first class mail on September 25, 2008. The notice set forth the date and time of the hearing as November 12, 2008 at 9:30 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 May 28, 2008 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued its Check No. 5139, in the amount of \$280.58 which was dishonored by Licensee's bank for insufficient funds (N.T. 8 and Exhibit C-5).

2. No warning letter was issued to Licensee regarding checks written to W & L Sales Co., Inc. Licensee had previously issued a dishonored check to W & L Sales Co., Inc. during the 2008 calendar year which was not satisfied in a timely manner (N.T. 10).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 26, 2003, and has had two prior violations:

Citation No. 04-0980. Fine \$800.00 and 1 day suspension with thereafter conditions.

1. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests are insufficient in number and/or inadequately equipped. April 29, 2004.

2. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (machines). April 29, 2004.

Citation No. 06-0564. Fine \$1,100.00 and 1 day suspension.

1. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests are insufficient in number and inadequately equipped. December 27, 2005, January 12 and 19, 2006.
2. Possessed or operated gambling devices or permitted gambling on the licensed premises (sports pools and sports bets). December 27, 2005.

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 of \$150.00.

ORDER

THEREFORE, it is hereby ordered that Licensee PENN HOTEL & SPORTS BAR OF HERSHEY PA, INC., pay a fine of \$150.00 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 9th day of January, 2009.



Daniel T. Flaherty, Jr., J.

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**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. 08-1906X  
Penn Hotel & Sports Bar  
Of Hershey, PA, Inc.