

Mailing Date: JAN 20 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1989X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-377823
v.	:	
	:	LID - 52684
ANNA MARIE DAVIS	:	
338-340 E. NORTHAMPTON ST.	:	
WILKES-BARRE, PA 18702-5814	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-1345	:	

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
Anna Marie Davis
Pro Se

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 5, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Anna Marie Davis (Licensee), License Number R-AP-1345.

The citation¹ 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 June 25, 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 December 17, 2008 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee appeared personally at the hearing.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on July 14, 2008 and completed it on August 4, 2008. (N.T. 6)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on August 5, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)
3. On June 25, 2008, Licensee issued a check to an Importing Distributor/Distributor in the amount of \$186.03 for the purchase of beer. The check was dishonored due to insufficient funds. (N.T. 17)

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.

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

PRIOR RECORD:

Licensee has been licensed since May 20, 2004, and has had eight prior violations:

Adjudication No. 04-1035. Fine \$200.00.

Used loudspeakers or devices whereby music could be heard outside.

October 23, November 5 and 10, 2004.

Adjudication No. 06-2850. Fine \$75.00.

Issued worthless checks in payment for malt or brewed beverages.

August 18 and September 28, 2006.

Adjudication No. 07-0155. Fine \$250.00. Fine not paid and license suspended for 1 day and thereafter until fine paid.

Used loudspeakers or devices whereby music could be heard outside.

December 3, 2006.

Adjudication No. 07-0734. Fine \$150.00. Fine not paid and license suspended for 1 day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages.

February 2, 2007.

Adjudication No. 07-1354C. Fine \$1,250.00.

Sales to a minor.

May 10, 2007.

Adjudication No. 07-2519. Fine \$500.00. Fine not paid and license suspended for one day and thereafter until fine paid.

1. Sales after your license expired and had not been renewed and/or validated.
September 1, 2007.
2. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension.
August 27, 28, 29, 30 and 31, 2007.
3. Sales during a time when your license was suspended.
August 28, 2007.

Adjudication No. 08-0545. Fine \$300.00. Fine not paid and license suspended for one day and thereafter until fine paid.

1. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension.
February 4, 5 and 6, 2008.
2. Sales during a time when your license was suspended.
February 4 and 6, 2008.

Adjudication No. 08-1369. Fine \$250.00. Fine not paid and license suspended for one day and thereafter until fine paid.

Operated the licensed establishment without a valid health permit or license.
May 5, 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.

Licensee explains there were certain automatic withdrawals from her bank account which altered her ability to maintain sufficient funds in the account to cover checks that were used for purchasing beer. Licensee has since separated certain accounts so that this problem will not reoccur. Accordingly, impose a \$225.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$225.00 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 15th day of January, 2009.



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

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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ANNA MARIE DAVIS