

Mailing Date: APR 2 2009

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

PENNSYLVANIA STATE :  
POLICE, BUREAU OF : Citation No. 08-2005  
LIQUOR CONTROL ENFORCEMENT :  
 : Incident No. W01-378190  
 :  
 v. :  
 : LID - 50513  
 :  
 J WOLFROM COMPANY INC :  
T/A HARLAN BEVERAGE :  
147 WEST KING ST :  
MALVERN PA 19355-2411 :  
 :  
 :  
CHESTER COUNTY :  
LICENSE NO. D-SS-1176 : BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.  
For Licensee: no appearance

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on September 2, 2008. There are two counts in the citation.

The first count alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on July 18, 2008, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one male minor, seventeen years of age.

The second count alleges that Licensee violated §9.106(c) of the Liquor Control Board Regulations, 40 Pa. Code §9.106(c), on July 18, 2008, by selling four or more cases of malt or brewed beverages without preparing a sales invoice.

At the hearing scheduled for February 4, 2009, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the matter was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee on July 18, 2008, and sent it written notice of the result of the investigation on August 7, 2008 (N.T. 9-10, Exhibit B-1).
2. Licensee was served with this citation on September 4, 2008 (N.T. 10, Exhibit B-2).

3. A Notice of Hearing was mailed to Licensee by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on December 19, 2008.

4. On July 18, 2008, a man whose birth date was November 25, 1990, purchased four cases of beer in the licensed premises. His age was not questioned (N.T. 12-13).

5. Licensee did not prepare a sales invoice for this transaction (N.T. 8).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since December 12, 2002, and has had two prior violations:

Citation No. 06-0111X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. November 17, 2005.

Citation No. 06-1515X. \$150.00 fine.

1. Bad checks for malt or brewed beverages. April 7, 2006.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in Count No. 1 any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in Count No. 2 any fine must be in the \$50.00 to \$1,000.00 range. Mandatory R.A.M.P. – certification is required by 47 P.S. §4-471(d) in these circumstances. Penalties are assessed as follows:

Count 1 – a fine of \$1,250.00 plus mandatory R.A.M.P. – certification.

Count 2 – a fine \$100.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, J. Wolfrom Company, Inc. t/a Harlan Beverage, License No. D-SS-1176, shall pay a fine of one thousand three hundred fifty dollars (\$1,350.00) 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.

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (toll free telephone: 1-866-275-8237; [www.lcb.state.pa.us](http://www.lcb.state.pa.us)) within thirty (30) days of the mailing date of this adjudication in order to receive assistance in the compliance process. Licensee must receive certification within ninety (90) days of the mailing date of this adjudication. Licensee must remain in compliance for a period of one year from the date such certification is issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this adjudication.

Failure to comply with this order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

Dated this 31st day of March, 2009.

  
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

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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