

Mailing Date: DEC 04 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2431X
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W03-379760
	:	
HEAD'S UP, INC.	:	
T/A LAMP POST INN	:	LID- 25700
101 E. MAIN ST.	:	
MIDDLETOWN, PA 17057-1829	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. H-AP-SS-EHF-2162	:	

ADJUDICATION

BEFORE: JUDGE FLAHERTY

BACKGROUND:

This proceeding arises out of a citation that was issued on October 16, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against HEAD'S UP, INC., License Number H-AP-SS-EHF-2162 (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 August 4, 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.

Licensee has executed a Statement of Waiver, Admission and Authorization in which Licensee: admits to the violation(s) charged in the citation and that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts as provided by the Bureau and prior citation history, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On August 4, 2008 Licensee purchased malt or brewed beverages from W & L Sales Co., Inc. In payment therefore, Licensee issued a check in the amount of \$709.25 which was dishonored due to insufficient funds.

2. On July 17, 2008 Licensee was sent a warning letter with regard to NSF Check No. 1648, dated May 6, 2008, issued to W & L Sales Co., Inc. The check in the amount of \$266.17 was satisfied in a timely manner.

CONCLUSION(S) OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since June 7, 1990, and has had nine prior violations:

Citation No. 90-2096. Fine \$400.00.

1. Sales to visibly intoxicated persons.

Citation No. 90-2434. Fine \$1,250.00.

1. Used loudspeakers or devices whereby music could be heard outside.
2. Sales to a minor.

Citation No. 91-1710. Fine \$300.00.

1. Used loudspeakers or devices whereby music could be heard outside.

Citation No. 04-1243. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. May 24, 2004.

Citation No. 05-2530. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. September 13 and 27, 2005.

Citation No. 06-0072. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. November 8, 2005.

Citation No. 07-0253. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 12, 2006.

Citation No. 07-0739. Fine \$400.00.

1. Issued worthless checks in payment for malt or brewed beverages. January 29 and 30, 2007.

Citation No. 07-2544X. Fine \$500.00.

1. Issued worthless checks in payment for malt or brewed beverages. September 4 and 11, 2007.

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 \$650.00.

ORDER

THEREFORE, it is hereby ordered that Licensee HEAD'S UP, INC., pay a fine of \$650.00 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 19th day of November, 2008.



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 Return Stub with Payment

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. 08-2431X
Head's Up, Inc.