

Mailing Date: JUL 23 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2756X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-382669
v.	:	
	:	LID - 8562
JOHN R. MARTIN	:	
T/A BLOSSBURG BEVERAGE CO.	:	
334 N. WILLIAMSON RD.	:	
BLOSSBURG, PA 16912-1211	:	
	:	
	:	
TIOGA COUNTY	:	
LICENSE NO. ID-SS-502	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on November 20, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against JOHN R. MARTIN, License Number ID-SS-502 (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 his servants, agents or employes, issued checks or drafts dated September 19 and 22, 2008, in payment for purchases of malt or brewed beverages, when he 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 October 8, 2008 and was completed on October 28, 2008; and notice of the violation was sent to Licensee by Certified Mail on November 6, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on April 28, 2009 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at his address of record, 334 N. Williamson Rd., Blossburg, PA 16912-1211 by certified mail, return receipt requested and by first class mail on March 11, 2009. The notice set forth the date and time of the hearing as April 28, 2009 at 9:30 a.m., and the place of hearing as PA Dept. of Agriculture, 2130 County Farms Road, Montoursville, PA 17754-9685.

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 September 22, 2008 Licensee purchased malt or brewed beverages from Edwin H. Kleckner, Inc. In payment therefore, Licensee issued its check in the amount of \$1,405.25. The check was dishonored by Licensee's bank for insufficient funds (N.T. 8-9 and Exhibit C-5).

2. On September 19, 2008 Licensee purchased malt or brewed beverages from Mid-State Beverage Co. In payment therefore, Licensee issued its check in the amount of \$877.10. The check was dishonored by Licensee's bank for insufficient funds (N.T. 8-10 and Exhibit C-6).

3. Licensee was issued a warning letter on March 11, 2008 with respect to a check dated February 1, 2008 issued to Edwin H. Kleckner, Inc. in payment for malt or brewed beverages. The check was in the amount of \$2,335.30 and was returned by Licensee's bank for insufficient funds (N.T. 10 and Exhibit C-7).

4. On June 2, 2008 a warning letter was sent to Licensee with respect to a check issued to Mid-State Beverage Co. on April 25, 2008 in payment for malt or brewed beverages. The check in the amount of \$462.50 was dishonored by Licensee's bank for insufficient funds (N.T. 11 and Exhibit C-8).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since July 8, 1976, and has had seventeen prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 91-0064. Fine \$1,000.00.

1. Sales to a minor.

Citation No. 93-0758. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 93-1916. Fine \$200.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 93-2331. Fine \$250.00 and 3 days suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 94-1623. 4 days suspension. Common Pleas Court modified penalty to 1 day suspension and \$1,000.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 03-0993. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 14, 2003.

Citation No. 03-1060. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. May 5, 2003.

Citation No. 03-1399. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 23 and 30, 2003.

Citation No. 04-1404. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 29, May 4, 24 and June 28, 2004.

Citation No. 05-1314. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. May 9, 2005.

Citation No. 06-1205. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages. March 6 and 20, 2006.

Citation No. 06-1865. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 26, 2006.

Citation No. 06-2197. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 31, 2006.

Citation No. 06-2892X. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. October 16, 2006.

Citation No. 07-0609X. Fine \$300.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 4, 2006.

Citation No. 07-0640X. Fine \$350.00.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. December 30, 2006 and January 22, 2007.

Citation No. 08-1411X. Fine \$450.00.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. April 28, 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 failed to submit a waiver in this case or to submit a prehearing memorandum. Further, Licensee did not appear at the hearing in this case. In view of the fact that Licensee apparently has contempt for this process, the maximum monetary penalty will be imposed.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,000.00.

ORDER

THEREFORE, it is hereby ordered that Licensee JOHN R. MARTIN, pay a fine of \$1,000.00 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 15<sup>TH</sup> day of July, 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. 08-2756X  
John R. Martin