

Mailing Date: DEC 17 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2983X
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-384652
	:	
J MANCE INC.	:	
T/A DEXTERS ON THE FIVE	:	LID - 56319
3601 CONCORD RD.	:	
ASTON TWP.	:	
ASTON PA 19014-1274	:	
	:	
DELAWARE COUNTY	:	
LICENSE NO. R-AP-SS-EHF-12003	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on December 23, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against J Mance, Inc., t/a Dexters on the Five, License Number R-AP-SS-EHF-12003 (hereinafter "Licensee").

J Mance, Inc.
t/a Dexters on the Five
Citation No. 08-2983X

An Administrative hearing was held on Wednesday, May 27, 2009, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26), in that Licensee, by its servants, agents or employes, issued checks or drafts dated October 22, 2008, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began November 18, 2008 and ended December 1, 2008. Notice of violation was sent to the licensed premises by certified mail on December 9, 2008. It was signed as received at the licensed premises on December 10, 2008. A citation dated December 23, 2008 was sent to the licensed premises by certified mail. It was signed as received at the licensed premises. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on April 8, 2009 by certified mail, return receipt requested, as well as by first class. That mailing was signed as received (N.T. 8-9 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement was assigned to investigate the licensed premises relative to bad checks issued to Origlio Beverage and to Gretz Beer. The check that was issued to Gretz Beer resulted in a warning. The check issued to Origlio Beverage was not made good until twenty days after the check was issued which caused a notice of violation to be sent to the licensed premises (N.T. 5-6).

3. On October 22, 2008, Check No. 1964 was issued to Antonio Origlio, Inc., a beer distributor, for purchases of malt or brewed beverages in the amount of \$448.60. The check was returned for insufficient funds. The check was eventually made good by a money order (N.T. 13-17 and Exhibits B-3 and B-4).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

The citation charges Licensee with violation of Section 493(26) of the Liquor Code, 47 P.S. Section 4-493(26), in that Licensee, by its servants, agents or employes, issued checks or drafts dated October 22, 2008, in payment for purchases of malt or brewed beverages, when they had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

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PRIOR RECORD:

Licensee has been licensed since May 18, 2006, and has a record of prior violations as follows:

Citation No. 07-2469X. \$100.00 fine.

1. Issued worthless checks for malt or brewed beverages.
August 19, 2007.

DISCUSSION:

The Licensee did not appear at the hearing to defend or explain these charges. Under the circumstances, a \$200.00 penalty shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

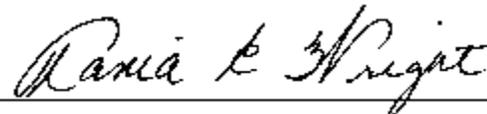
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, J Mance, Inc., t/a Dexters on the Five, License Number R-AP-SS-EHF-12003, pay a fine of Two Hundred Dollars (\$200.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

In order to insure compliance with this Order, jurisdiction of this matter is retained.

Dated this 4TH day of December, 2009.



Tania E. Wright, J.

J Mance, Inc.
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NOTE: 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.

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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, along with any required documentation, to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

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