

Mailing Date: OCT 08 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2302X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-399626
v.	:	
	:	LID - 28424
MCCARTY'S FINISH LINE, INC.	:	
T/A TAYLOR'S BAR AND GRILL	:	
6021 STATE RT. 42	:	
UNITYVILLE, PA 17774-9000	:	
	:	
	:	
LYCOMING COUNTY	:	
LICENSE NO. R-AP-SS-10961	:	

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL PIETRZAK
LICENSEE: NO APPEARANCE**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 1, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against MCCARTY'S FINISH LINE, INC., License Number R-AP-SS-10961 (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 15, 2009, 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.

The investigation which gave rise to the citation began on August 27, 2009 and was completed on September 15, 2009; and notice of the violation was sent to Licensee by Certified Mail on September 18, 2009. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 12, 2010 in the PA Dept. 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 its address of record, 6021 State Rt. 42, Unityville, PA 17774-9000 by certified mail, return receipt requested and by first class mail on June 29, 2010. The notice set forth the date and time of the hearing as August 12, 2010 at 10:45 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 August 15, 2009 Licensee purchased malt or brewed beverages from The Beer Depot. In payment therefore, Licensee issued its check in the amount of \$448.44. The check was returned by Licensee's bank for insufficient funds (N.T. 7-8 and Exhibit C-5).

2. No warning letter was issued to Licensee in this case because the check in question was not made good within ten days. (N.T. 9).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since October 18, 1991, and has had five prior violations:

Citation No. 04-0667. Fine \$300.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 9, 10 and 12, 2003.
2. Operated the licensed establishment without a valid health permit or license. December 5, 2003, January 2, 30 and February 9, 2004.

Citation No. 04-1470. Fine \$250.00.

1. Used loudspeakers or devices whereby music could be heard outside. July, 31, 2004.

Citation No. 07-2899. Fine \$1,750.00 and RAMP training mandated.

1. Sales to a visibly intoxicated person. August 11, 2007.
2. Issued worthless checks in payment for malt or brewed beverages. June 15 and 22, 2007.

Citation No. 08-1445X. Fine \$300.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 25, 2008.

Citation No. 08-1755X. Fine \$400.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 13, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$600.00

ORDER

THEREFORE, it is hereby ordered that Licensee MCCARTY'S FINISH LINE, INC., pay a fine of \$600.00 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 22ND day of September, 2010.



Daniel T. Flaherty, Jr., J.

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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 submit stub with payment

The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** Make 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

Citation No. 09-2302X
McCarty's Finish Line, Inc.