

Mailing Date: JAN 27 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0302X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-405598
v.	:	
	:	LID - 59147
4055 CRESSON INC	:	
4055 CRESSON ST	:	
PHILADELPHIA PA 19127-1720	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-EHF-11164	:	

JUDGE SHENKLE
BLCE COUNSEL: James E. Dailey, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on March 2, 2010. The citation alleges that Licensee violated §493(26) of the Liquor Code, 47 P.S. §4-493(26), by issuing checks or drafts dated November 24, 2009, in payment for purchases of malt or brewed beverages, when there were insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

At the hearing scheduled for December 8, 2010, 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 during the period December 22, 2009, through January 26, 2010, and sent it written notice of the results on February 9, 2010 (N.T. 7-8, Ex. B-1).
2. A copy of this citation was mailed to Licensee on March 2, 2010 (N.T. 7-8, Ex. B-2).
3. A Notice of Hearing was mailed Licensee on October 28, 2010.
4. Licensee issued a check to Antonio Origlio, Inc., dated November 24, 2009, in the amount of \$545.46, in payment for the purchase of malt beverages. The check was dishonored due to insufficient funds, but it was later made good. Licensee had previously during the same calendar year issued a check to this distributor which was dishonored for the same reason. The Bureau issued a warning on that occasion (N.T. 4-8, Exhibits B-3 and B-4).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 17, 2008, and has had prior violations as follows:

Citation No. 08-1585. \$350.00 fine and 1 day suspension.

1. Operated without a valid health permit. June 6, 2008.

Citation No. 08-2853X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. September 12, 2008.

Citation No. 09-0008. \$300.00 fine. License suspended 1 day for late payment.

1. Sold and served unlimited alcoholic beverages for a fixed price. October 30, 2008.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 4055 Cresson, Inc., License No. R-AP-SS-EHF-11164, shall pay a fine of two hundred dollars (\$200.00) 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.

Dated this 14TH day of January, 2011.



David L. Shenkle, 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

The fine must be paid by cashier's check, certified check or money order. Personal and business checks are not acceptable unless bank certified. 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