

Mailing Date: JAN 20 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1627X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-415513
v.	:	
	:	LID - 46513
ROBERT J. VIA, INC.	:	
T/A HUNTER'S INN	:	
36 S. QUEEN ST.	:	
LITTLESTOWN, PA 17340-1602	:	
	:	
	:	
ADAMS COUNTY	:	
LICENSE NO. R-AP-SS-12680	:	

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

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 19, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against ROBERT J. VIA, INC., License Number R-AP-SS-12680 (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 June 10 and 17, 2010, 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 June 24, 2010 and was completed on July 15, 2010; and notice of the violation was sent to Licensee by Certified Mail on July 27, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on December 14, 2010 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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, 36 S. Queen Street, Littlestown, PA 17340-1602 by certified mail, return receipt requested on October 28, 2010. The notice set forth the date and time of the hearing as December 14, 2010 at 2:00 p.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania 17110-9661.

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 June 10, 2010, Licensee purchased malt or brewed beverages from Brewery Products Company. In payment therefore, Licensee issued Check No. 1585 in the amount of \$727.53 which was dishonored by Licensee's bank for insufficient funds (N.T. 8-9 and Exhibit C-5).

2. On June 17, 2010, Licensee purchased malt or brewed beverages from Brewery Products Company. In payment therefore, Licensee issued Check No. 1590 in the amount of \$813.39 which was dishonored by Licensee's bank for insufficient funds (N.T. 9 and Exhibit C-6).

3. On June 17, 2010, Licensee purchased malt or brewed beverages from Universal Projects, Inc. In payment therefore, Licensee issued Check No. 1591 in the amount of \$761.51 which was dishonored by Licensee's bank for insufficient funds (N.T. 9-10 and Exhibit C-7).

4. No warning letter was issued in the 2010 calendar year for Brewery Products Company. These checks were actionable because the initial check was not made good in a timely manner (N.T. 11).

On July 27, 2010, Licensee was issued a warning letter with regard to NSF Check No. 1587, dated June 10, 2010, issued to Universal Projects, Inc. The check in the amount \$914.97 was not satisfied in a timely manner (N.T. 11-12 and Exhibit C-8).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since August 8, 2000, and has had three prior violations:

Citation No. 01-0603. Fine \$1,000.00.

1. Sales to a minor.
2. Minor frequenting.

Citation No. 03-0021X. Fine \$100.00.

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

Citation No. 09-1659. Fine \$1,500.00 and RAMP training mandated.

1. Used loudspeakers or devices whereby music could be heard outside. January 17, February 7 and March 1, 2009.
2. Sales to a visibly intoxicated person. March 14, 2009.

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 \$150.00.

ORDER

THEREFORE, it is hereby ordered that Licensee ROBERT J. VIA, INC., pay a fine of \$150.00 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 6TH day of January, 2011.



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. 10-1627X
Robert J. Via, Inc.