

Mailing Date: JUNE 15 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2564X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-421278
v.	:	
	:	LID - 57882
KBP, INC.	:	
954 MAIN ST.	:	
BLAKELY	:	
PECKVILLE, PA 18452-2159	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. E-AM-SS-EHF-5195	:	

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

**ADJUDICATION**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on December 13, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against KBP, INC., License Number E-AM-SS-EHF-5195 (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 September 17 and October 1, 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 October 25, 2010 and was completed on November 2, 2010; and notice of the violation was sent to Licensee by Certified Mail on November 16, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on April 13, 2011 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, 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, 954 Main Street, Blakely, Peckville, PA 18452-2159 by certified mail on February 22, 2011. The notice set forth the date and time of the hearing as April 13, 2011 at 3:00 p.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA 18503.

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 17, 2010, Licensee purchased malt or brewed beverages from L.T. Verrastro, Inc. In payment therefore, Licensee issued its Check No. 1663 in the amount of \$2,120.21 which was dishonored by Licensee's bank for insufficient funds (N.T. 6-7 and Exhibit C-5 and C-6).

2. On October 1, 2010, Licensee purchased malt or brewed beverages from Northeast Eagle Distributors, Inc. In payment therefore, Licensee issued its Check No. 1661 in the amount of \$1,799.35 which was dishonored by Licensee's bank for insufficient funds (N.T. 7 and Exhibit C-7 and C-8).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 9, 2007, and has had six prior violations:

Citation No. 08-2743. Fine \$1,250.00.

1. Sales after the license expired and had not been renewed and/or validated. October 2, 2008.

Citation No. 09-2137X. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 5, 2009.

Citation No. 09-2701X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. October 2, 2009.

Citation No. 10-1303X. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. May 7, 2010.

Citation No. 10-1728X. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 24, 2010.

Citation No. 10-1925X. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 9 and 23, 2010.

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 \$350.00.

ORDER

THEREFORE, it is hereby ordered that Licensee KBP, INC., pay a fine of \$350.00 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.

Dated this 9<sup>TH</sup> day of June, 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.**

**IF YOU WISH TO APPEAL THE DECISION OF THE ADMINISTRATIVE LAW JUDGE'S ORDER, THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE MAILING DATE OF THE ORDER. PLEASE CONTACT CHIEF COUNSEL'S OFFICE AT 717-783-9454.**

**Detach here and submit stub with payment**

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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. 10-2564X  
KBP, Inc.