

Mailing Date: SEP 09 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2601X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-415449
v.	:	
	:	LID - 61148
CHAPPELLS EMPIRE LLC	:	
1 E. MARKET	:	
PO BOX 152	:	
FREEBURG, PA 17827-0152	:	
	:	
	:	
SNYDER COUNTY	:	
LICENSE NO. H-AP-SS-3399	:	

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

**ADJUDICATION**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on December 23, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against CHAPPELLS EMPIRE LLC, License Number H-AP-SS-3399 (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 13, 27, September 10 and 11, 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 30, 2010 and was completed on October 19, 2010; and notice of the violation was sent to Licensee by Certified Mail on October 27, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on June 23, 2011 in the PA Department 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 Les Chappell at 1278 Sawmill Road, Liver Pool, PA 17045, by certified mail on May 5, 2011. The notice set forth the date and time of the hearing as June 23, 2011 at 3:00 p.m., and the place of hearing as PA Department 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 13, 2010, Licensee purchased malt or brewed beverages from Durdach Brothers, Inc. In payment therefore, Licensee issued its check in the amount of \$94.54. The check was returned by Licensee's bank for insufficient funds (N.T. Exhibit C-6).

2. On September 11, 2010, Licensee purchased malt or brewed beverages from Durdach Brothers, Inc. In payment for the aforementioned malt or brewed beverages plus charges for a prior NSF check and amount of \$16.00 applied to credit, Licensee issued its check in the amount of \$302.14. The check was returned by Licensee's bank for insufficient funds (N.T. Exhibit C-7).

3. On August 27, 2010, Licensee purchased malt or brewed beverages from Durdach Brothers, Inc. In payment therefore, Licensee issued its check in the amount of \$208.67. The check was returned by Licensees' bank for insufficient funds (N.T. Exhibit C-8).

4. On September 10, 2010, Licensee purchased malt or brewed beverages from Keller's Beer. In payment therefore, Licensee issued its check in the amount of \$101.44. The check was returned by Licensee's bank for insufficient funds (N.T. Exhibit C-9).

5. Licensee was warned by the Bureau of Enforcement by letter dated October 27, 2010 concerning Check No. 461 issued by Licensee to Durdach Brothers, Inc. on July 16, 2010 in payment for malt or brewed beverages. The check was returned for insufficient funds (N.T. Exhibit C-5).

6. As of October 19, 2010, the check written to Keller's Beer had not been made good by Licensee. Consequently, no warning letter needed to be issued.

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 25, 2009, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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 CHAPPELLE'S EMPIRE LLC, 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.

Dated this 30<sup>TH</sup> day of August, 2011.

A handwritten signature in cursive script, reading "Daniel T. Flaherty, Jr.", written over a horizontal line.

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. 10-2601X  
Chappells Empire LLC