

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. 10-2771X   |
| LIQUOR CONTROL ENFORCEMENT | : |                         |
|                            | : | Incident No. W02-423647 |
| v.                         | : |                         |
|                            | : | LID - 58397             |
| FJB3 INCORPORATED          | : |                         |
| 415 LACKAWANNA AVE.        | : |                         |
| OLYPHANT, PA 18447-1523    | : |                         |
|                            | : |                         |
|                            | : |                         |
|                            | : |                         |
| LACKAWANNA COUNTY          | : |                         |
| LICENSE NO. R-AP-2617      | : |                         |

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

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on January 10, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against FJB3 INCORPORATED, License Number R-AP-2617 (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 employees, issued checks or drafts dated November 24, 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 December 14, 2010 and was completed on December 15, 2010; and notice of the violation was sent to Licensee by Certified Mail on December 20, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on April 14, 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, 415 Lackawanna Avenue, Olyphant, PA 18447-1523 by certified mail on February 24, 2011. The notice set forth the date and time of the hearing as April 14, 2011 at 2:15 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 November 24, 2010, Licensee purchased malt or brewed beverages from L.T. Verrastro, Inc. In payment therefore, Licensee issued its Check No. 210, in the amount of \$714.30 which was dishonored by Licensee's bank for insufficient funds (N.T. 6-7 and Exhibit C-6 and C-7).
2. The aforementioned check was not made good in a timely manner (N.T. 7).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since July 2, 2007, and has had nine prior violations:

Citation No. 07-2598X. Fine \$150.00.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. August 4, 10 and 17, 2007.

Citation No. 07-2904X. Fine \$200.00.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. September 28, 2007.

Citation No. 08-0199X. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 7, 2007.

Citation No. 08-2220X. Fine \$225.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 10, 2008.

Citation No. 09-1100X. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. February 11, 2009.

Citation No. 09-1328X. Fine \$1,000.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 10, 2009.

Citation No. 09-1837C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. June 22, 2009.

Citation No. 09-2351X. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 14, 2009.

Citation No. 10-0884. Fine \$850.00. Fine not paid license suspended 2 days and until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. October 16, 30, November 20, December 23, 2009, January 28 and February 19, 2010.
2. Failed to comply with the Order of the Administrative Law Judge mandating RAMP training. January 28 through March 31, 2010.
3. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years. March 31, 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 \$500.00.

ORDER

THEREFORE, it is hereby ordered that Licensee FJB3 INCORPORATED, pay a fine of \$500.00 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.

an

**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**

-----  
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. 10-2771X  
FJB3 Incorporated