

Mailing Date: JUL 03 2012

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 11-1595X
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-434808
v.	:	
	:	
FJB3 INCORPORATED	:	PLCB LID No.: 58397
415 LACKAWANNA AVE.	:	
OLYPHANT, PA 18447-1523	:	
	:	PLCB License No.: R-AP-2617

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on September 16, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against FJB3 Incorporated (Licensee).

The citation charges Licensee with a violation of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)]. The charge is that Licensee, by your servants, agents, or employees, issued checks or drafts in payment for purchases of malt or brewed beverages, when you had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks, dated July 22, 2011.

I presided at an evidentiary hearing on April 17, 2012 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Office of Administrative Law Judge mailed a notice of hearing on February 28, 2012, by certified mail, return receipt requested. The notice was returned unclaimed. (N.T. 4)

2. The Bureau began its investigation on August 10, 2011 and completed it on August 15, 2011. (N.T. 7)

3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on August 18, 2011. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)

4. On July 22, 2011, Licensee issued a check to an importing distributor to buy beer. The check was dishonored due to insufficient funds. (N.T. 7-8)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. The violation is sustained as charged.

PRIOR RECORD:

Licensee has been licensed since July 2, 2007, and has the following Adjudication history:

In Re Citation No.: 07-2598X. Fine \$150.00.

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

- In Re Citation No.: 07-2904X. Fine \$200.00.
Issued worthless checks in payment for purchases of malt or brewed beverages dated September 28, 2007.
- In Re Citation No.: 08-0199X. Fine \$200.00.
Issued worthless checks in payment for purchases of malt or brewed beverages dated December 7, 2007.
- In Re Citation No.: 08-2220X. Fine \$225.00.
Issued worthless checks in payment for purchases of malt or brewed beverages dated July 10, 2008.
- In Re Citation No.: 09-1100X. Fine \$250.00.
Issued worthless checks in payment for purchases of malt or brewed beverages dated February 11, 2009.
- In Re Citation No.: 09-1328X. Fine \$1,000.00.
Issued worthless checks in payment for purchases of malt or brewed beverages dated April 10, 2009.
- In Re Citation No.: 09-1837C. Fine \$1,250.00 and RAMP training mandated.
Sales to a minor on June 22, 2009.
- In Re Citation No.: 09-2351X. Fine \$350.00.
Issued worthless checks in payment for purchases of malt or brewed beverages dated August 14, 2009.
- In Re Citation No.: 10-0884. Fine \$850.00. Fine not paid and license suspended 2 days and thereafter until fine paid.
1. Issued worthless checks in payment for malt or brewed beverages dated 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 from 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 immediately preceding March 31, 2010.

In Re Citation No.: 10-2771X. Fine \$500.00.
Issued worthless checks in payment for purchases of malt
or brewed beverages dated November 24, 2010.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

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 the violation found herein.

Discretionary Component(s)

As Licensee has failed to appear or obey process, I impose a \$1,000.00 fine.

ORDER:

In Re Citation No.: 11-1595X; Licensee, FJB3 Incorporated; PLCB LID No.: 58397;
PLCB License No.: R-AP-2617

Imposition of Fine

Licensee must pay a \$1,000.00 fine within twenty days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 27TH day of June, 2012.



Felix Thau, A.L.J.

bc

General Information

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. Therefore, you may want to consult with an attorney.

Applying for Reconsideration

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit www.lcb.state.pa.us. The full requirements for an appeal can be found in 47 P.S. §4-471.

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.** 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