

Mailing Date: APR 03 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2525
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-340486
v.	:	
	:	LID - 46564
GO BLUE, INC.	:	
401 E. MAIN ST.	:	
HUMMELSTOWN, PA 17036-1810	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. R-AP-SS-17411	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Frank C. Sluzis, Esquire
2148 Deodate Road
Elizabethtown, PA 17022

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 2, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Go Blue, Inc. (Licensee), License Number R-AP-SS-17411.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on September 24, 2006, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) male minor, nineteen (19) years of age.

An evidentiary hearing was conducted on March 8, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on September 24, 2006 and completed it on September 27, 2006. (N.T. 12)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 16, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)
3. On the date charged, a nineteen year old was able to purchase a six pack of beer to go without question relative to age. The nineteen year old was acting as an agent for the Bureau of Liquor Control Enforcement as part of their Age Compliance Check Program. (N.T. 16-20)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

1. Commonwealth Exhibit No. C-2, N.T. 10.

PRIOR RECORD:

Licensee has been licensed since August 8, 2000, and has had no prior violations.

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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

However, if at the time of violation, the licensee was in compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to Responsible Alcohol Management and the licensee had not sold to minors in the previous four years, Liquor Code Section 471(b) [47 P.S. §4-471(b)] provides for a fine structure of \$50.00 to \$1,000.00.

The Bureau further argued Licensee should be required to remain R.A.M.P. certified. At the hearing, I responded such a mandate was not necessary as Licensee was already R.A.M.P. certified. After more careful thought, I must back off from that stance a bit.

Liquor Code Section 471(d) [47 P.S. §4-471(d)] imposes the mandate upon me to require a licensee to become R.A.M.P. compliant where, as here, the violation is the first of this type. I am authorized to require such compliance for a period up to one year.

As Licensee has voluntarily complied with Liquor Code Section 471.1 [47 P.S. §4-471.1] relating to R.A.M.P. and has been certified effective January 17, 2006 for a period of two years, I now order Licensee to remain in compliance for the remainder of the term, i.e., up to January 16, 2008.

As Licensee was R.A.M.P. compliant, effective January 17, 2006, and remained in compliance at the time of the violation, and further has demonstrated a serious ongoing commitment to insure that minors do not get served on the premises, I impose a \$300.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$300.00 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.

The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, Pennsylvania 17110-9661

R.A.M.P. Requirements

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1 pertaining to Responsible Alcohol Management in the following manner. Licensee must remain in compliance for the remainder of the term, i.e., up to January 17, 2008.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 27th day of March, 2007.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.