

Mailing Date: APR 9 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1729
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-356297
v.	:	
	:	LID - 35305
SAE K. KIM	:	
YOUNG O. KIM	:	
T/A WEST GOSHEN DELICATESSEN	:	
& REST.	:	
105 WESTTOWN RD.	:	
WEST CHESTER, PA 19382-4941	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. E-SS-4988	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
James E. Dailey, Esquire
Pennsylvania State Police
6901 Woodland Avenue
Philadelphia, PA 19142

For Licensee
Mary Lou Hogan, Esquire
230 South Broad Street
Suite 903
Philadelphia, PA 19102

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 14, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Sae K. Kim & Young O. Kim, t/a West Goshen Delicatessen & Rest. (Licensee), License Number E-SS-4988.

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 June 21, 2007, 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, eighteen (18) years of age.

An evidentiary hearing was conducted on February 25, 2008 at the Philadelphia State Office Building, 1400 Spring Garden Street, 13th Floor, Room #2, Philadelphia, 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 and ended its investigation on June 21, 2007. (Commonwealth Exhibit No. B-1, N.T. 6)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on July 3, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 6)

3. On June 21, 2007, at approximately 9:05 p.m., a Bureau Enforcement Officer noticed a youthful appearing patron depart the subject premises with a twelve pack of beer. (N.T. 7-8)

4. The purchaser was born on July 14, 1988 making him eighteen years of age on the date in question. He entered the premises and retrieved a twelve pack of beer from the cooler. He displayed identification issued by a nongovernmental authority with false information on it. The sales person looked at both sides of the identification card and sold the minor the beer. (N.T. 16-18, 25-27)

1. Commonwealth Exhibit No. B-2, N.T. 6.

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.

PRIOR RECORD:

Licensee has been licensed since May 1, 1995, and has had one prior violation:

Adjudication No. 07-0668. Fine \$1,000.00 and R.A.M.P.
Training mandated.
Sales to a minor.
February 20, 2007.

Adjudication No. 07-2057. Fine \$1,500.00.
Sales to a minor.
July 19, 2007.

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.

Further, Section 471(c) of the Liquor Code [47 P.S. §4-471(c)] requires that the penalty imposed include license revocation or suspension where the violation in question is the third or subsequent violation of any of the offenses referred to in subsection 471(b) of the Liquor Code [47 P.S. §4-471(b)] and/or the Crimes Code within a four year period. The following Adjudications (07-0474 and 07-2057), in combination with the charge in this citation, requires that license revocation or suspension must be included as part of the penalty.

I impose a \$1,000.00 fine and a two days suspension. I also order Licensee to comply with the requirements set forth in Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management, for a period of one year from the mailing date of this Adjudication.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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.

Imposition of Suspension

IT IS FURTHER ORDERED that the Retail Dispenser Eating Place license (including all permits) of Sae K. Kim & Young O. Kim, t/a West Goshen Delicatessen & Rest., License No. E-SS-4988, be suspended for a period of two days, **BEGINNING** at 7:00 a.m., on Monday, June 2, 2008, and **ENDING** at 7:00 a.m., on Wednesday, June 4, 2008.

Licensee is directed, on Monday, June 2, 2008 at 7:00 a.m., to place a placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised, if replacement placards are needed for any reason, they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

Licensee is authorized, on Wednesday, June 4, 2008, at 7:00 a.m., to remove the placard of suspension and return their license to its original wall location.

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 a period of one year from the mailing date of this Adjudication.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 28th day of March, 2008.

Felix Thau, A.L.J.

pm

Detach Here and Return Stub with Payment

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

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