Mailing Date: JAN 26 2009

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

PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT	:	Citation No. 07-2322C
	:	Incident No. W03-359914
v.	:	
	:	LID - 51082
ALKI, INC. T/A VICKY'S PLACE 701 S. PRINCE ST. LANCASTER, PA 17603-5809	:	
LANCASTER COUNTY LICENSE NO. R-AP-SS-EHF-10050	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew Lovette, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 4, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against ALKI, INC., License Number R-AP-SS-EHF-10050 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on August 22, 2007, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one male minor, nineteen years of age.

The investigation which gave rise to the citation began on August 22, 2007 and was completed on August 24, 2007; and notice of the violation was sent to Licensee by Certified Mail on September 20, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 18, 2008 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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, 701 S. Prince Street, Lancaster, PA 17603-5809 by certified mail, return receipt requested and by first class mail on October 2, 2008. The notice set forth the date and time of the hearing as November 18, 2008 at 2:00 p.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

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 22, 2007, pursuant to an age compliance check, a male patron whose date of birth was September 28, 1987, and who was 20 years old at the time entered the licensed premises (N.T. 10-11).

2. The aforementioned minor went to the counter and asked the bartender if he could order a six pack of Coors Light cans of beer. The bartender asked for his identification, and the minor showed his PA Junior Driver's license which stated that he was under 21 years of age until September 28, 2008 (N.T. 12).

3. The bartender bagged the beer and gave it to the minor who then left the premises with the beer (N.T. 12).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since December 8, 2003, and has had four prior violations:

Citation No. 04-1642. Fine $150.00.
1. Issued worthless checks in payment for malt or brewed beverages. July 21, 2004.

Citation No. 05-2008. Fine $200.00.
1. Issued worthless checks in payment for malt or brewed beverages. July 22, 2005.

Citation No. 05-2551. Fine $250.00.
1. Issued worthless checks in payment for malt or brewed beverages. August 26, 2005.

Citation No. 06-2097. Fine $300.00.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. July 13, 14, 15 and 18, 2006.

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.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management when, as in this matter, Licensee has been found to have violated Section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated patron.

This office takes notice that Licensee was RAMP certified effective October 1, 2008.

Under the circumstances of this case, the penalty imposed shall be fine of $1,250.00 and Licensee must remain RAMP compliant.

ORDER

THEREFORE, it is hereby ordered that Licensee ALKI, INC., pay a fine of $1,250.00 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.

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 until **January 16, 2010**.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 21st day of January, 2009.

Daniel T. Flaherty, Jr., J.

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MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.

Detach here and submit stub with payment

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable**. Make 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. 07-2322
Alki, Inc.