

Mailing Date: SEP 17 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0202C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-368237
v.	:	
	:	LID - 48206
JERPDO, INC.	:	
T/A DUTCH'S MARKET	:	
1564 RTE. 507	:	
GREENTOWN, PA 18426	:	
	:	
	:	
PIKE COUNTY	:	
LICENSE NO. R-SS-19891	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Craig A. Strong, Esquire  
Pennsylvania State Police  
7448 Industrial Parkway  
Macungie, PA 18062

For Licensee  
John Otway  
President/Stockholder and  
Director

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on February 19, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against JERPDO, Inc., t/a Dutch's Market (Licensee), License Number R-SS-19891.

The citation<sup>1</sup> charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on January 20, 2008, 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, twenty (20) years of age.

An evidentiary hearing was conducted on August 13, 2008 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee was represented by its President/Stockholder/Director, Mr. John Otway.

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 January 20, 2008 and completed it on January 23, 2008. (N.T. 20)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on January 23, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 15)
3. The Bureau conducted an Age Compliance visit to the subject premises on January 20, 2008. Pursuant to that Program, one Bureau Enforcement Officer was inside the subject premises in an undercover capacity. A short time later, a minor entered the premises, a grocery store that sells beer. (N.T. 16-24)
4. The minor retrieved a forty ounce bottle of beer from a cooler. The cashier required the minor to show identification. The minor presented his legitimate and valid Pennsylvania Photo Driver's license. The cashier looked at the driver's license, returned it to the minor and rang up the beer sale. (N.T. 28-30)
5. After the sale, a Bureau Enforcement Officer entered the premises and advised the employe of the unlawful sale. (N.T. 31-32)

---

1. Commonwealth Exhibit No. C-2, N.T. 15.

6. The minor was twenty years old on the date in question, having been born November 6, 1987. The twenty year old was trained by the Bureau regarding the requirements of the Age Compliance Check program. (N.T. 37-42)

CONCLUSIONS OF LAW:

1. The Bureau complied with the applicable notice requirements of Liquor Code Section 471 [47 P.S. §4-471].

2. The Bureau complied with all statutory and regulatory requirements related to the Age Compliance Check Program.

3. On January 20, 2008, 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, twenty (20) years of age.

PRIOR RECORD:

Licensee has been licensed since August 22, 2001, 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.

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.

As Licensee has taken steps to assure there will be no repeated violation, I will impose the minimum allowable fine of \$1,000.00.

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.

**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 is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: [www.lcb.state.pa.us](http://www.lcb.state.pa.us); Email Address: [LBEducation@state.pa.us](mailto:LBEducation@state.pa.us)), within 30 days of the mailing date of this Adjudication for assistance in the compliance process. Licensee must receive Certification within 90 days of the mailing date of this Adjudication. Licensee must remain in compliance for a period of one year from the date such Certification is issued.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 11th day of September, 2008.

\_\_\_\_\_  
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.**

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, PA 17110-9661