

Mailing Date: FEB 11 2009

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1248C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-372920
	:	
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 July 3, 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 April 16, 2008, 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 April 16, 2008 and was completed on April 17, 2008; and notice of the violation was sent to Licensee by Certified Mail on May 15, 2008. 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 April 16, 2008, pursuant to an Age Compliance Check, a minor entered the licensed premises (N.T. 10-11).
2. The aforementioned minor approached an employe in the take out area and asked him if the cooler behind him was for carryout. The employe said it was and asked the aforementioned minor for identification. The minor showed his driver's license, and asked the employe if he could have a bottle of Corona beer (N.T. 9 and 11).
3. The employe handed the driver's license back to the minor, obtained a 24 ounce bottle of Corona beer and rang up the purchase (N.T. 11-12).
4. The minor handed the employe a \$5.00 bill, and the employe gave the minor \$2.00 in change (N.T. 12).
5. The employe bagged the beer and gave it to the minor who took the beer and exited the premises (N.T. 12).
6. The driver's license shown by the minor showed the minor's date of birth as September 22, 1989. It also contained a red bar that very clearly said, "Under 21 until September 22, 2010." (N.T. 12-13 and Exhibit C-5).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since December 8, 2003, and has had five 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.

Citation No. 08-0420C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. January 24, 2008.

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.

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

Under the circumstances of this case, the penalty imposed shall be a fine of \$4,500.00.

ORDER

THEREFORE, it is hereby ordered that Licensee ALKI, INC., pay a fine of \$4,500.00 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.

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

Dated this 3rd day of February, 2009.



Daniel T. Flaherty, Jr., J. an

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. 08-1248C Alki,
Inc.