

Mailing Date: JUL 09 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1768
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-377024
	:	
218 MJG INC.	:	
T/A THE BEVERAGE STORE	:	LID - 42838
218 E. LANCASTER AVE.	:	
RADNOR TWP.	:	
WAYNE PA 19087-4104	:	
	:	
DELAWARE COUNTY	:	
LICENSE NO. D-SS-2745	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 5, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 218 MJG, Inc., t/a The Beverage Store, License Number D-SS-2745 (hereinafter "Licensee").

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An Administrative hearing was held on Tuesday, February 3, 2009, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d), in that from June 10 through 26, 2008, Licensee failed to comply with the order of the Administrative Law Judge at Citation No. 07-1779 mandating responsible alcohol management training.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises on June 26, 2008 and completed that investigation on June 26, 2008. A notice of violation letter was sent to the licensed premises on July 16, 2008 by certified mail, return receipt requested. That mailing was signed as received. A citation was sent to the licensed premises, which was dated August 5, 2008. That mailing was sent by certified mail, return receipt requested and was signed as received at the licensed premises (N.T. 7-9 and Exhibits B-1 and B-2).

2. Officer T. Amato from the Bureau of Enforcement conducted an investigation of the licensed premises pursuant to an Order of the Administrative Law Judge in Citation No. 07-1779 directing the Licensee to comply with an Order for R.A.M.P. Licensee had 90 days in which to comply but failed to do so. Licensee was to comply by June 9, 2008. As of June 26, 2008, Licensee had failed to comply and was therefore cited (N.T. 5-6).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

From June 10 through 26, 2008, Licensee failed to comply with the order of the Administrative Law Judge at Citation No. 07-1779 mandating responsible alcohol management training, in violation of Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

PRIOR RECORD:

Licensee has been licensed since December 16, 1998, and has a record of prior violations as follows:

Citation No. 01-1892. \$250.00 fine.

1. Sold malt or brewed beverages on credit.

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Citation No. 07-1779. \$1,350.00 fine and R.A.M.P. training mandated.

1. Sales to a minor.  
June 23, 2007.
2. Sold 4 or more cases of malt or brewed beverages without preparing a sales invoice.  
June 23, 2007.

DISCUSSION:

Since Licensee is still not R.A.M.P. certified as of this date, a \$350.00 penalty shall be imposed, along with a one day suspension. If R.A.M.P. is not complete at that time, the one day suspension will **continue thereafter** until Licensee complies with the Order for R.A.M.P. certification.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, 218 MJG Inc., License Number D-SS-2745, pay a fine of Three Hundred Fifty Dollars (\$350.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

IT IS FURTHER ORDERED that the Restaurant Liquor License of 218 MJG, Inc., t/a The Beverage Store, License Number D-SS-2745, be suspended for a period of one (1) day **BEGINNING** at 7:00 a.m. on Monday, September 28, 2009 and **continuing thereafter** until Licensee complies with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact 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)) within thirty (30) days of the mailing date of this Adjudication in order to receive assistance in the compliance process. Licensee must receive Certification within ninety (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. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this Adjudication.

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Failure to comply with this Order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

Licensee is directed on Monday, September 28, 2009 at 7:00 a.m. to place the enclosed 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.

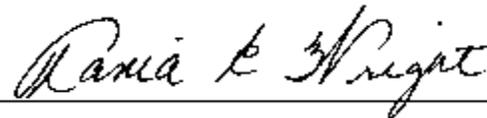
Licensee is advised if a replacement placard is needed for any reason they are available at all State Liquor Stores/Wine and Spirit Shoppes.

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

**THE LICENSEE MAY NOT REOPEN THE LICENSED PREMISES UNTIL FURTHER ORDER FROM THE OFFICE OF ADMINISTRATIVE LAW JUDGE.**

**In order to insure compliance with this Order, jurisdiction of this matter is retained.**

Dated this 26<sup>TH</sup> day of JUNE, 2009.



Tania E. Wright, J.

**NOTE: 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.**

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Detach Here and Return Stub with Payment

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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, along with any required documentation, to:

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

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