

Mailing Date: SEPT 14 2009

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

|                             |   |                         |
|-----------------------------|---|-------------------------|
| PENNSYLVANIA STATE          | : |                         |
| POLICE, BUREAU OF           | : | Citation No. 09-0517    |
| LIQUOR CONTROL ENFORCEMENT  | : |                         |
|                             | : | Incident No. W02-389375 |
| v.                          | : |                         |
|                             | : | LID - 52684             |
| ANNA MARIE DAVIS            | : |                         |
| 338-340 E. NORTHAMPTON ST.  | : |                         |
| WILKES BARRE, PA 18702-5814 | : |                         |
|                             | : |                         |
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|                             | : |                         |
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|                             | : |                         |
| LUZERNE COUNTY              | : |                         |
| LICENSE NO. R-AP-1345       | : |                         |

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL STRONG  
LICENSEE: NO APPEARANCE**

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on March 13, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against ANNA MARIE DAVIS, License Number R-AP-1345 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 471(d) of the Liquor Code [47 P.S. §4-471(d)] in that from December 12, 2008 through February 11, 2009, Licensee failed to comply with the order of the Administrative Law Judge at Citation No. 07-1354C mandating responsible alcohol management training.

The investigation which gave rise to the citation began on February 11, 2009 and was completed on February 11, 2009; and notice of the violation was sent to Licensee by Certified Mail on February 24, 2009. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on July 23, 2009 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at her address of record, 338-340 E. Northampton Street, Wilkes Barre, PA 18702-5814 by certified mail, return receipt requested and by first class mail on June 5, 2009. The notice set forth the date and time of the hearing as July 23, 2009 at 10:30 a.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA 18503.

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 September 12, 2008 the Office of Administrative Law Judge issued an order at Citation No. 07-1354C which required Licensee, inter alia, to receive Responsible Alcohol Management certification within 90 days of the mailing date of the Order (December 12, 2008) (N.T. Exhibit C-5).

2. I hereby take administrative notice that as of February 11, 2009 Licensee had not completed the requirements to obtain RAMP certification.

3. On February 11, 2009 an officer of the Bureau arrived at the licensed premises where he met with Licensee Anna Marie Davis. Davis told the officer that she had completed some parts of the RAMP certification program, but the whole thing had not been completed (N.T. 7-8).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since May 20, 2004, and has had ten prior violations:

Citation No. 04-1035. Fine \$200.00.

1. Used loudspeakers or devices whereby music could be heard outside. October 23, November 5 and 20, 2004.

Citation No. 06-2850X. Fine \$75.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. August 18 and September 28, 2006.

Citation No. 07-0155. Fine \$250.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Used loudspeakers or devices whereby music could be heard outside. December 3, 2006.

Citation No. 07-0734X. Fine \$150.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. February 2, 2007.

Citation No. 07-1354C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. May 10, 2007.

Citation No. 07-2519. Fine \$500.00 and 4 days suspension. Fine not paid and license suspended an additional 1 day and thereafter until fine paid.

1. Sales after the license expired and had not been renewed and/or validated. September 1, 2007.
2. Failed to post in a conspicuous place on the outside of the licensed premises, a notice of suspension. August 27, 28, 29, 30 and 31, 2007.
3. Sales during a time when the license was suspended. August 28, 2007.

Citation No. 08-0545. Fine \$300.00 and 2 days suspension. Fine not paid and license suspended an additional 1 day and thereafter until fine paid.

1. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension. February 4, 5 and 6, 2008.
2. Sales during a time when the license was suspended. February 4 and 6, 2008.

Citation No. 08-1369. Fine \$250.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Operated the licensed establishment without a valid health permit or license. May 5, 2008.

Citation No. 08-1989X. Fine \$225.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 25, 2008.

Citation No. 09-0081X. Fine \$230.00.

1. Issued worthless checks in payment for malt or brewed beverages. November 14, 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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00 and one day suspension and continuing thereafter until Licensee becomes RAMP certified.

ORDER

THEREFORE, it is hereby ordered that Licensee ANNA MARIE DAVIS, pay a fine of \$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's liquor license (including all permits) License No. R-AP-1345 be suspended for a period of one day **BEGINNING** at 7:00 a.m. on Monday, October 5, 2009 and continuing thereafter until Licensee becomes RAMP certified.

Licensee is directed on October 5, 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 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.

IT IS FURTHER ORDERED that if Licensee becomes RAMP certified before the effective date of the one day suspension, the suspension will be vacated.

**LICENSEE MAY NOT RESUME OPERATION OF THE LICENSED PREMISES UNTIL FURTHER ORDER BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE.**

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

Dated this 31<sup>ST</sup> day of August, 2009.



Daniel T. Flaherty, Jr., J.

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**MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.**

**Detach here and submit stub with payment**

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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. 09-0517  
Anna Marie Davis