

Mailing Date: FEB 17 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-1389
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-432827
v.	:	
	:	LID - 60027
GAYATI FOOD, LLC	:	
COR. OF SUNSET DR. & 1515	:	
MAIN ST.	:	
DICKSON CITY	:	
OLYPHANT, PA 18447	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-SS-15333	:	

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL STRONG
LICENSEE: KUMAR PATEL, PRO SE**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 8, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against GAYATI FOOD, LLC, License Number R-SS-15333 (hereinafter "Licensee").

The citation contains two counts.

The first count charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on June 10, 17, 26, 2011, and divers other occasions within the past year, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one minor, twenty years of age.

The second count charges Licensee with violation of Section 493(14) of the Liquor Code [47 P.S. §4-493(14)] in that on June 10, 17, 26, 2011, and divers other occasions within the past year, Licensee, by its servants, agents or employes, permitted one minor, twenty years of age, to frequent the licensed premises.

The investigation which gave rise to the citation began on June 29, 2011 and was completed on July 6, 2011; and notice of the violation was sent to Licensee by Certified Mail on July 19, 2011. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 11, 2012 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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:

COUNTS 1 AND 2

1. T.O. was born on February 16, 1991, and, on June 26, 2011, he was 20 years old (N.T. 18).
2. On June 26, 2011 T.O. went to the licensed premises at 10:00 p.m. (N.T. 18).
3. T.O. entered the licensed premises and picked up a 12-pack of Miller Genuine draft beer. He walked to the counter, asked for a pack of cigarettes and purchased the beer and cigarettes, after which he left the premises (N.T. 19).
4. T.O. paid for the beer and cigarettes with a debit card. He was given a receipt for the purchase (N.T. 20 and Exhibit C-3).
5. T.O. had been on the premises 10-15 times during the previous six months. He purchased alcohol at the licensed premises on most of these occasions (N.T. 23).

CONCLUSIONS OF LAW:

Counts 1 and 2 of the citation are **sustained**.

PRIOR RECORD:

Licensee has been licensed since May 20, 2008, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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.

Counts 1 and 2 of the citation arise from the same facts and address the same enforcement interests. They will, therefore, be merged for purposes of imposing a penalty.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00 and mandatory RAMP training.

ORDER

THEREFORE, it is hereby ordered that Licensee GAYATI FOOD, LLC, 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 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; Email Address: LBEducation@state.pa.us) within 30 days of the mailing date of this Adjudication. 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.

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. §4-471(d)].

Jurisdiction is retained.

Dated this 15TH day of February, 2012.



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.

IF YOU WISH TO APPEAL THE DECISION OF THE ADMINISTRATIVE LAW JUDGE'S ORDER, THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE MAILING DATE OF THE ORDER. PLEASE CONTACT CHIEF COUNSEL'S OFFICE AT 717-783-9454.

Detach here and submit stub with payment

The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** Make 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

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Gayati Food, LLC