

Mailing Date: MAY 02 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-1532
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-433340
v.	:	
	:	LID - 30030
BB&K, INC.	:	
T/A CONVENIENT FOOD MART	:	
51 W. JUNIPER ST.	:	
HAZLETON, PA 18201	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-SS-4553	:	

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

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 7, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against BB&K, INC., License Number R-SS-4553 (hereinafter "Licensee").

The citation contains two counts.

The first count charges Licensee with violation of Section 471(d) of the Liquor Code [47 P.S. §4-471(d)] in that during the period June 16 through July 13, 2011, you failed to comply with the order of the Administrative Law Judge at Citation No. 10-1966C mandating responsible alcohol management training.

The second count charges Licensee with violation of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)] in that Licensee, by its servants, agents or employees, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding July 13, 2011.

The investigation which gave rise to the citation began on July 11, 2011 and was completed on August 2, 2011; and notice of the violation was sent to Licensee by Certified Mail on August 9, 2011. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on February 16, 2012 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 its address of record, 51 W. Juniper St., Hazleton, PA 18201 by certified mail on December 30, 2011. The notice set forth the date and time of the hearing as February 16, 2012 at 9:30 am, and the place of hearing as Scranton State Office Building, 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:

COUNTS 1 AND 2

1. On March 17, 2011, the Office of Administrative Law Judge issued an Order at Citation No. 10-1966C which required Licensee to obtain Responsible Alcohol Management certification within 90 days of the mailing date of the Order (Certification by June 15, 2011). (N.T. 7 and Exhibit C-5).

2. On July 13, 2011, two officers of the Bureau entered the licensed premises and spoke to a Mr. Judge who claimed to be the manager of the licensed premises. Mr. Judge told the officers that he had completed RAMP training but that no one else had at that time completed the RAMP training (N.T. 8).

3. Mr. Judge also indicated that he did not have the staff roster required for RAMP filled out for anyone other than himself (N.T. 8).

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since November 10, 1993, and has had one prior violation:

Citation No. 10-1966C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. August 25, 2010.

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.

This office takes notice that Licensee became RAMP certified effective September 6, 2011.

Under the circumstances of this case, the penalty imposed shall be as follows:

Count 1 - \$250.00 fine

Count 2 - \$250.00 fine

ORDER

THEREFORE, it is hereby ordered that Licensee BB&K, INC., pay a fine of \$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.

Dated this 19TH day of April, 2012.



Daniel T. Flaherty, Jr., J.

an

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

Citation No. 11-1532
BB&K, Inc.