

Mailing Date: AUG 17 2012

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 12-0230
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-435443
v.	:	
	:	
523 LINDEN TAVERN, INC.	:	PLCB LID No.: 60688
523 LINDEN ST.	:	
SCRANTON, PA 18503-1605	:	
	:	PLCB License No.: R-AP-SS-3683

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

FOR LICENSEE: Anthony Piazza, III, Esquire

**BACKGROUND:**

This proceeding arises out of a citation, containing one count, that was issued on February 17, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against 523 Linden Tavern, Inc. (Licensee).

The citation charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that Licensee, by your servants, agents, or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) visibly intoxicated patron, on January 7, 2012.

I presided at an evidentiary hearing on June 28, 2012 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Bureau began its investigation on August 24, 2011 and completed it on January 15, 2012. (N.T. 9)

2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on January 25, 2012. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)

3. On January 7, 2012, an undercover Bureau Enforcement Officer entered the premises at approximately 12:40 a.m. While making his way through the premises, the Officer noticed a patron who was very unsteady and relying on another individual for balance. The patron was in a party of four people. At approximately 12:58 a.m., the Officer noticed the very unstable patron order alcoholic beverages for all four in the party. The bartender served thirty mixed drinks at once which he lined up on the bar. (N.T. 12-15; 67-68)

4. The targeted patron asked the bartender to begin a tab. Between 1:00 and 1:27 a.m., the patron drank five alcoholic beverages. He spilled the sixth drink. (N.T. 16-17)

5. He leaned on the bar and held on chairs in front of the bar for support. His eyes were bloodshot. His speech was so slurred to the point that the Officer could barely understand him. (N.T. 17-18)

6. The Officer visited the premises on six other occasions during the investigation, finding no violations. (N.T. 60)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. I sustain the violation as charged.

PRIOR RECORD:

Licensee has been licensed since October 31, 2008, and has no prior Adjudications.

PENALTY ASSESSMENT CRITERIA:

**Mandatory Requirement(s)**

Liquor Code Section 471 [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 the violation found herein as Licensee was RAMP certified at the time of the violation and has no previous Adjudications for sales to a minor or visibly intoxicated patrons.

Further, Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to responsible alcohol management, mandates that Licensee participate in the Pennsylvania Liquor Control Board's Responsible Alcohol Management Program (RAMP), since this is Licensee's first violation as herein found.

**Discretionary Component(s)**

As the hearing progressed, it became very clear that Mr. Nasser, Licensee's President and Stockholder, has a deep concern for Licensee's reputation as a law abiding business. I told Mr. Nasser that I have great respect for the manner in which he has taken on the privilege of selling alcoholic beverages. In most cases, I would have imposed a \$500.00 fine. However, since the Bureau visited the premises on six additional occasions finding no violations, and Mr. Nasser has demonstrated a sincere and abiding concern to operate within the law, I impose a \$200.00 fine.

ORDER:

In Re Citation No.: 12-0230; Licensee, 523 Linden Tavern, Inc.; PLCB LID No.: 60688;  
PLCB License No.: R-AP-SS-3683

**Imposition of Fine**

Licensee must pay a \$200.00 fine within twenty days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

### **Mandatory RAMP Compliance**

I order Licensee to continue compliance with Liquor Code Section 471.1, pertaining to responsible alcohol management, for one year from the mailing date of this order.

### **Retaining Jurisdiction**

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 14<sup>TH</sup> day of August, 2012.



Felix Thau, A.L.J.

bc

### **General Information**

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. Therefore, you may want to consult with an attorney.

### **Applying for Reconsideration**

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

### Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us). The full requirements for an appeal can be found in 47 P.S. §4-471.

### Detach Here and Return Stub with Payment

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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