

Mailing Date: OCT 12 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 12-0319C
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W03-442399
	:	
v.	:	
	:	
	:	PLCB LID - 51019
EPKP, INC.	:	
T/A THE TOPS BAR & GRILL	:	PLCB LICENSE NO. R-AP-SS-16962
3791 DERRY STREET	:	
PAXTANG	:	
HARRISBURG, PA 17111-1922	:	

ADJUDICATION

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL PIETRZAK
LICENSEE: JAMES PETRASCU, ESQUIRE**

BACKGROUND:

This proceeding arises out of a citation that was issued on March 1, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against EPKP, INC., License Number R-AP-SS-16962 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on January 30, 2012, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing of alcoholic beverages to one minor, twenty (20) years of age.

The investigation which gave rise to the citation began on January 30, 2012 and was completed on February 3, 2012; and notice of the violation was sent to Licensee by Certified Mail on February 16, 2012. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 29, 2012 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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:

1. J.U. was born on December 6, 1991, and, on January 30, 2012, he was under the age of 21 years (N.T. Exhibit C-3).
2. As part of an Age Compliance Check J.U., acting as an underage buyer entered the licensed premises under the supervision of an officer of the Bureau of Enforcement (N.T. 10-11).
3. While on the licensed premises, J.U. purchased a six-pack of Bud Light beer from a bartender without question relative to his age (N.T. 12).
4. After paying for the beer, J.U. left the premises with the beer (N.T. 12).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since April 9, 2002, and has had three prior violations:

IN RE:

Citation No. 05-2685C. Fine \$1,250.00.

1. Sales to a minor.

Citation No. 06-0484C. Fine \$2,500.00 and RAMP training mandated.

1. Sales to a minor. January 29, 2006.

Citation No. 08-1231. Fine \$450.00 and 1 day suspension.

1. Gambling (sports pool). March 24, 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 \$1,000.00 or more than \$5,000.00 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 \$1,500.00 and RAMP training.

ORDER

THEREFORE, it is hereby ordered that Licensee EPKP, INC., pay a fine of \$1,500.00 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.

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 4th day of October, 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

IN RE: CITATION NO. 12-0319C
EPKP, INC.