

Mailing Date: MAR 13 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 12-1677
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-451293
	:	
LAIM ENTERPRISES INC.	:	
516 S. 52 ND ST.	:	PLCB LID - 31720
PHILADELPHIA PA 19143-1509	:	
	:	
	:	PLCB License No. R-SS-8087
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW R. BRITT, ESQ.

FOR THE LICENSEE:

LORI J. HAHN MASLIN, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 8, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Laim Enterprises, Inc., License Number R-SS-8087 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, April 23, 2013, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 493(1) of the Liquor Code, 47 P.S. §4-493(1), in that on August 25, 2012, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) minor, fifteen (15) years of age.

FINDINGS OF FACT:

1. C.M. is employed by the Bureau of Enforcement as an Enforcement Officer and has been so employed for approximately six years. She has conducted an investigation of the licensed premises relative to a complaint for sales to minors received from the Millbourne Township Police Department (N.T. 6-7).

2. During the investigation of the licensed premises, Officer C.M. spoke with an officer, Michael Fiocca, who had cited three minors for possession of alcoholic beverages (N.T. 7-8).

3. After speaking to Officer Fiocca, Officer C.M. received information from him after which Officer C.M. made visits to the premises looking for underage buyers of alcoholic beverages. Subsequently, Officer C.M. contacted a minor who was allegedly served inside the premises and then conducted a routine inspection of the licensed premises, where Officer C.M. spoke to a Mr. Laim with regard to a complaint that three minors were served at the licensed premises (N.T. 8).

4. The officer made an attempt to contact two other minors, a brother and a sister, who allegedly purchased alcoholic beverages at the licensed premises (N.T. 9-10).

5. The complainant alleged that the sales of alcoholic beverages occurred on August 24, 2012 (N.T. 10).

6. The officer conducted a routine inspection of the licensed premises on October 31, 2012 (N.T. 11-12).

7. Officer Michael Fiocca is employed with the Milbourne Police Department as a patrolman and at the time of this hearing had been employed for approximately two years. Officer Fiocca was on duty on August 26, 2012 working the 3:00 p.m. to 11:00 p.m. shift (N.T. 14-15).

8. As Officer Fiocca was on patrol in a marked vehicle, he observed a light sedan travelling at a high rate of speed northbound on Market Street and made a traffic stop. He requested identification and noticed that the driver appeared to be nervous. He questioned the driver and was told that there were alcoholic beverages in the trunk. The driver subsequently showed him the beverages which consisted of eight forty ounce bottles of Hurricane liquor. The officer questioned them as to where they obtained the alcoholic beverages (N.T. 15-16).

9. After receiving the information, the officer contacted the Bureau of Liquor Control Enforcement and issued citations to three minors in the vehicle (N.T. 17).

10. The officer indicated he heard conflicting stories as to which of the minors purchased the alcoholic beverages (N.T. 19-20).

11. J.L. was born May 1, 1997 and on August 26, 2012 was fifteen years of age. She and an underage friend went inside the licensed premises and each of them asked for four bottles of an alcoholic beverage (N.T. 27-28).

12. The minors paid approximately twenty dollars, for the four forty ounce bottles of malt liquor (N.T. 30).

13. The sales clerk placed four bottles in black bags. Each of the two underage buyers walked out carrying four bottles each (N.T. 30-31).

14. Neither underage patron was requested to provide identification (N.T. 31).

15. The minors placed the alcoholic beverages inside the car and while driving home, the driver was stopped and ticketed for speeding (N.T. 31-32).

16. During the traffic stop, the officer indicated he was going to search the car and they admitted that there was alcohol in the car (N.T. 32).

17. Cahay Laim is the owner of the licensed premises, along with his wife. He indicates that he cards anyone who appears to be under thirty and he doesn't serve anyone who is intoxicated. He also indicated that he has a swipe machine for identification of persons to insure that they are twenty-one years of age (N.T. 42-43).

18. The Licensee also has a camera above his register that lasts for thirty days (N.T. 45-46).

CONCLUSIONS OF LAW:

On August 25, 2012, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) minor, fifteen (15) years of age, in violation of Section 493(1) of the Liquor Code, 47 P.S. §4-493(1).

PRIOR RECORD:

Licensee has been licensed since April 28, 1993, and has a record of prior violations as follows:

In Re:

Citation No. 96-1838. \$200.00 fine and Verification conditions corrected.

1. Not a bona fide restaurant in that chairs and tables were insufficient.

Citation No. 07-2470. \$300.00 fine and Verification conditions corrected.

1. Not a bona fide restaurant in that seating was insufficient.
August 9, 2007.

DISCUSSION:

On August 25, 2012, three minors were pulled over by the police, on a traffic stop, and were found to have alcoholic beverages in the trunk of the vehicle. Upon questioning the minors stated that they purchased the alcoholic beverages at the licensed premises. One minor, age fifteen, was present and testified at the hearing. The minor was able to describe the inside of the premises and stated she participated in the purchase of alcoholic beverages at the licensed premises.

Licensee has been licensed since 1993 and has no prior violations of this nature. At the time, Licensee retained its film from its surveillance camera for a period of thirty days but once notified of the incident, November 16, 2012, had no evidence to refute the minor's claim.

This testimony tends to show that the very youthful individual purchased alcoholic beverages at the licensed premises. The Licensee does have a camera installed and indicates that he uses it properly and trains his helpers as well to do the same. The Licensee will be required to become R.A.M.P. certified in order to assist him in deterring and detecting minors, and so as to avoid sales to minors in the future.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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. Section 4-471, 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.

Accordingly, we issue the following

ORDER:

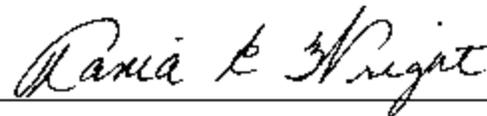
THEREFORE, it is hereby Ordered that Licensee, Laim Enterprises, Inc., License Number R-SS-8087, pay a fine of One Thousand Five Hundred Dollars (\$1,500.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing 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. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: www.lcb.state.pa.us) within thirty (30) days of the mailing date of this Adjudication in order to receive assistance in the compliance process. Licensee must receive Certification within ninety (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. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this Adjudication.

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. Section 4-471(d).

Jurisdiction of this matter is retained.

Dated this 25TH day of February, 2014.



Tania E. Wright, J.

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE 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 the Office of the Chief Counsel of the Pennsylvania Liquor Control Board at 717-783-9454.

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Laim Enterprises, Inc.
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Detach Here and Return Stub with Payment

The fine must be paid by a check drawn on the business or trust account of your attorney, who must be licensed in this Commonwealth, a Treasurer's Check, Cashier's Check or Money Order. **Personal and business checks are not acceptable unless they are certified by your bank.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, along with any required documentation (please use the Return Stub when mailing payment or write your citation number on the check) to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

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Laim Enterprises, Inc.