

Mailing Date: MAY 23 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 13-0089
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-454283
	:	
4300 DK INC.	:	
4300 WALNUT ST.	:	PLCB LID - 59805
PHILADELPHIA PA 19104-5239	:	
	:	
	:	PLCB License No. D-SS-1725
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW R. BRITT, ESQ.

FOR THE LICENSEE:

JOHN J. McCREESH, III, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 5, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 4300 DK, Inc., License Number D-SS-1725 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, July 18, 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 December 6, 2012 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 two (2) minors, eighteen (18) and nineteen (19) years of age.

FINDINGS OF FACT:

1. On Thursday, December 6, 2012, two officers from the Bureau of Enforcement arrived at the licensed premises at approximately 5:30 p.m. After being in the location for a short time, the officers saw a youthful appearing white male enter the licensed premises. The officers, at that time, were parked across the street from the establishment. Once they saw the youthful appearing individual, they walked to the front of the premises (N.T. 7-8).

2. Shortly thereafter, a youthful appearing white male patron departed the premises in possession of a case of Corona beer twenty-four twelve ounce bottles. The officers stopped the individual and identified themselves. The individual quickly admitted that he was under twenty-one years of age and was issued a non-traffic citation for possession of alcoholic beverages (N.T. 8).

3. The officer took the minor inside the premises and informed the Licensee that the patron was a minor. While inside, he asked if the premises had a scanner, which they did have, but no age declaration cards were being utilized on the premises. There is a photocopier on the premises. The identification scanner had not been used to scan this minor's identification card (N.T. 9).

4. T.A. was born December 20, 1993 and was eighteen years old on December 6, 2012. On December 6, 2012, T.A. went to the licensed premises and purchased a twenty-four pack of Corona beer in glass bottles. He did not show any identification and did not complete a declaration of age card. He paid for the beer and left the premises and an officer in plainclothes stopped him outside (N.T. 12-15).

CONCLUSIONS OF LAW:

On December 6, 2012 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 a minor, eighteen (18) years of age, in violation of Section 493(1) of the Liquor Code, 47 P.S. §4-493(1).

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PRIOR RECORD:

Licensee has been licensed since March 20, 2008, and has a record of prior violations as follows:

In Re:

Citation No. 08-1074. \$1,000.00 fine and R.A.M.P. training mandated.

1. Sales to a minor.
April 12, 2008.

Citation No. 11-2051. \$1,500.00 fine.

1. Sales to a minor.
October 20, 2011.

DISCUSSION:

Licensee sold alcoholic beverages to a minor on December 6, 2012. Licensee had a scanner on the premises but did not utilize the scanner nor request identification from the individual. Licensee was cited for sales to minors in 2008 and 2011. Under the circumstances, a monetary penalty shall be imposed and Licensee will be required to be certified by the Responsible Alcohol Management Program. However, if Licensee is again cited for sales to minors, a suspension shall be imposed in addition to any other penalties.

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.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, 4300 DK, Inc., License Number D-SS-1725, pay a fine of Two Thousand Dollars (\$2,000.00) 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.

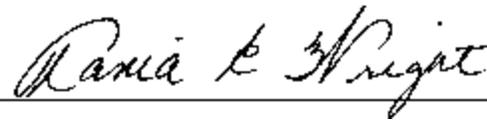
4300 DK, Inc.
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IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol 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 16TH day of MAY, 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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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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