

Mailing Date: MAR 27 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 13-0727
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W06-453838
	:	
	:	
v.	:	
	:	
	:	PLCB LID - 65450
JOSHUA RYAN, INC.	:	
T/A THE CELL BLOCK	:	PLCB LICENSE NO. R-AP-SS-13013
154 W. THIRD ST.	:	
WILLIAMSPORT, PA 17701-6408	:	

ADJUDICATION

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL PIETRZAK
LICENSEE: EVAN C. PAPPAS, ESQUIRE**

BACKGROUND:

This proceeding arises out of a citation that was issued on April 11, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against JOSHUA RYAN, INC., License Number R-AP-SS-13013 (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 February 8, 2013, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one visibly intoxicated patron.

The investigation which gave rise to the citation began on November 29, 2012 and was completed on February 13, 2013; and notice of the violation was sent to Licensee by Certified Mail on February 26, 2013. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 14, 2014 in the Lysock Complex, Suite 2, 542 County Farm Road, Montoursville, 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. On February 8, 2013, two officers of the Bureau entered the licensed premises at approximately 11:00 p.m. (N.T. 12-13).

2. The officers observed three bartenders in the main bar area rendering service to between 80-100 people (N.T. 13-14).

3. At 11:40 p.m. the attention of one of the officers was drawn to a female patron who was entering into the bar area with a male companion thought to be her husband. She was staggering. Her face was red. Her eyes were bloodshot and she was flailing her arms. Her mouth was dropped open, as though it were locked open. She walked leaning over and was being held up by her male companion (N.T. 15-16).

4. Upon reaching the bartender, the male companion of the aforementioned female patron ordered two drinks. The bartender poured Pioneer vodka into two plastic cups and then put orange juice into each cup (N.T. 17-18). Once the bartender had made the drinks, he set them both on the bar counter in front of each of the patrons. The male patron paid for both drinks (N.T. 18). The female patron and her male companion each picked up one of the drinks (N.T. 19).

CONCLUSION OF LAW:

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

DISCUSSION:

The record clearly indicates that an alcoholic beverage containing vodka and orange juice was placed in front of a female patron who clearly exhibited signs of intoxication. The record further reflects that she picked up the drink. Clearly, the alcoholic beverage was furnished or given to the female patron who was very clearly visibly intoxicated. Consequently, I conclude that the charge in the citation is sustained.

PRIOR RECORD:

Licensee has been licensed since October 25, 2011, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], 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. However, if at the time of the violation, the licensee was in compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to Responsible Alcohol Management and the licensee had not sold to a visibly intoxicated person in the previous four years, Liquor Code Section 471(b) [47 P.S. §4-471(b)] provides for a fine structure of \$50.00 to \$1,000.00.

This office takes notice that Licensee became RAMP certified on January 23, 2012 and recertified on January 23, 2014.

Under the circumstances of this case, the penalty imposed shall be a fine of \$750.00 and Licensee must remain RAMP compliant.

ORDER

THEREFORE, it is hereby ordered that Licensee JOSHUA RYAN, INC., pay a fine of \$750.00 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 must remain in compliance for a period of one year from the mailing date of the Order.

Jurisdiction is retained.

Dated this 25TH day of March, 2014.



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 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

IN RE: CITATION NO. 13-0727
JOSHUA RYAN, INC.