

Mailing Date: MAR 28 2014

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

PENNSYLVANIA STATE	:	In re Citation No. 13-1124
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-460239
	:	
v.	:	PLCB LID No. 59209
	:	
KYONGJAE ENTERPRISES, INC.	:	PLCB License No. D-SS-2501
309 S. 48 <sup>th</sup> ST.	:	
PHILADELPHIA, PA 19143-1701	:	

JUDGE SHENKLE  
BLCE COUNSEL: Andrew R. Britt, Esq.  
LICENSEE COUNSEL: John J. McCreesh, III, Esq.

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 4, 2013. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on April 19, 2013, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to five minors between 18 and 20 years of age.

A hearing was held on February 6, 2014, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On April 19, 2013, a liquor enforcement officer maintained an outside surveillance at the licensed premises, beginning at about 7:20 p.m. At about 7:25 he saw a man enter the premises. Five minutes later he came out, accompanied by an employee, who carried a case of 40-ounce bottles of malt liquor to the trunk of the other man's car and then returned to the licensed premises. The officer approached the man, identified himself, and requested identification. The man presented a New Jersey driver's license showing him to be 18 years old (N.T. 7-8).

2. While the officer was issuing a citation to the minor, he saw two other young men get out of a car and enter the premises. The officer went to the front door, which was open, and watched the front sales counter. In a couple of minutes, both men approached the sales counter, each carrying a case of beer. They were not questioned as to age. After paying, the men left the premises and the same employee carried the two cases of beer out to their car. The officer approached the men, identified himself, and requested identification. The men presented driver's licenses showing them to be 19 and 20 years old, respectively (N.T. 9).

3. At 7:40 p.m., while he was issuing citations to the two men mentioned above, two men approached the licensed premises on skate boards, each wearing a back pack. They entered the premises, where each of them purchased a case of beer without question as to age. The officer identified himself to these men as they were transferring the beer into their back packs. They were both 19 years old (N.T. 11-12).

4. One of the men described above became licensed to drive on November 20, 2010, when he was issued a Junior Driver's License showing his birth date to be December 1, 1993 (Ex. B-3).

5. Another of the men described above had been born on August 21, 1992 (N.T. 20).

6. Another of the men described above had been born on May 25, 1993 (N.T. 22).

7. Another of the men described above had been born on September 17, 1993 (N.T. 27).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since February 22, 2008, and has had no prior violations.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$1,000.00 to \$5,000.00 range, or both, for violations of the type found in this case. Mandatory R.A.M.P. – certification is required by 47 P.S. §4-471(d) in these circumstances.

The men who testified were obviously youthful, and the photograph on the JNET printout received as B-3 is of a person who might even be a juvenile, under the age of 18. The number of underage customers in a short time and the failure to card any of them, are aggravating factors.

This licensed premises is convenient to a large number of college students, which puts a special burden of increased vigilance on a licensee.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Kyongjae Enterprises, Inc., License No. D-SS-2501, shall pay a fine of two thousand dollars (\$2,000.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

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: 1-866-275-8237; [www.lcb.state.pa.us](http://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).

Dated this 14<sup>TH</sup> day of MARCH, 2014.



David L. Shenkle, J.

jb

**NOTICE: 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.**

**WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.**

**THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.**

**Detach Here and Return Stub with Payment; Note Citation Number on Check**

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The fine must be paid by cashier's check, money order, or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation, to:

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