

Mailing Date: AUG 06 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 13-1277
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-460703
	:	
400 KELLY'S KORNER INC.	:	
NW COR. 4 <sup>TH</sup> ST. &	:	PLCB LID - 66949
POWHATTAN AVE.	:	
TINICUM TWP.	:	
LESTER PA 19113	:	PLCB License No. R-AP-7530
	:	
	:	
DELAWARE COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ANDREW R. BRITT, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 25, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 400 Kelly's Korner, Inc., License Number R-AP-7530 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, January 30, 2014, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 471.1(g) of the Liquor Code, 47 P.S. §4-471.1(g), in that during the period April 22 through May 20, 2013, Licensee, by its servants, agents or employees, failed to have the Board-approved manager complete RAMP training within 180 days of the Board's approval of the appointment.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on April 28, 2013 and ended on May 20, 2013. A notice of violation letter dated May 30, 2013 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received at the licensed premises. A citation dated June 25, 2013 was sent to the licensed premises by certified mail, return receipt requested. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises by certified mail, return receipt requested, and by first class mail (N.T. 5, 9-11 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises. As a part of the investigation, he accessed the R.A.M.P. database on May 10, 2013 and the PLCB Imaging System. The officer noted that there were papers on file indicating that letters had been sent to the licensed premises reminding them that they had until April 21, 2013 to complete R.A.M.P. One letter was dated October 23, 2012 and the second January 22, 2013 (N.T. 6-8).

3. On Friday, May 17, 2013 at approximately 6:00 p.m., the officer entered the licensed premises and identified himself to the female bartender. At this time, the officer conducted a routine inspection of the premises. During the course of the inspection, the officer requested to speak with the Board-approved manager, Erin Kelly. At that time, she was not at the premises, but the bartender did contact her. The officer spoke to Ms. Kelly and informed her that he was at the premises and the reason for his visit. She verified that she was aware of the R.A.M.P. training but that had forgotten to obtain it in the proper time. She also informed the officer that she would complete it as soon as she could (N.T. 8-9).

4. Certified records of the Pennsylvania Liquor Control Board indicate that LID 66949, 400 Kelly's Korner, Inc. was not R.A.M.P. certified between April 22, 2013 through May 20, 2013. Erin Kelly was not trained in the Pennsylvania Liquor Control Board's owner/manager training of the Responsible Alcohol Management Program between April 22, 2013 through May 20, 2013 (Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

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During the period April 22 through May 20, 2013, Licensee, by its servants, agents or employees, failed to have the Board-approved manager complete RAMP training within 180 days of the Board's approval of the appointment, in violation of Section 471.1(g) of the Liquor Code, 47 P.S. §4-471.1(g).

PRIOR RECORD:

Licensee has been licensed since October 2, 2012, and has no record of prior violations.

DISCUSSION:

The manager of the licensed premises failed to complete R.A.M.P. training within 180 of the Board's approval of the appointment. The manager was to have completed the training by April 21, 2013, but failed to do so. Under the circumstances, a moderate monetary penalty shall be imposed.

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 \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, 400 Kelly's Korner, Inc., License Number R-AP-7530, pay a fine of Two Hundred Dollars (\$200.00) 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.

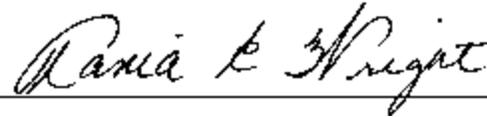
IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in 47 P.S. §471.1(g), pertaining to owner/manager R.A.M.P. training, in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (toll free telephone: 1-866-275-8237; [www.lcb.state.pa.us](http://www.lcb.state.pa.us)) within ten (10) days of the mailing date of this adjudication in order to receive assistance in the compliance process. Licensee must receive certification within sixty (60) days from the mailing date of this adjudication.

The matter will be reviewed seventy (70) days from the mailing date of this adjudication, and if the records of the Board do not show compliance with this requirement, the penalty will be modified to include an indefinite suspension of the license until the delinquency is corrected.

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**Jurisdiction of this matter is retained.**

Dated this 23<sup>RD</sup> day of JULY, 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 - Note Citation Number on Check**

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The fine must be paid by Treasurer's Check, Cashier's Check, Money Order or a check drawn on the business or trust account of an attorney, who must be licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless they are certified by your bank.** If you are paying by guaranteed check, please make it payable to the Commonwealth of Pennsylvania and mail, along with any required documentation, to:

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

**Credit/Debit Cards may be used:** visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us) and look under LEGAL/Office of ALJ for instructions.

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