

Mailing Date: NOV 24 2015

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-1276C
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-479512
	:	
996 BALTIMORE, INC.	:	
996 BALTIMORE PIKE	:	PLCB LID - 37213
PO BOX 509	:	
CONCORD TWP.	:	
CONCORDVILLE, PA 19331	:	PLCB License No. R-AP-SS-15619
	:	
DELAWARE 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 July 8, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 996 Baltimore, Inc., License Number R-AP-SS-15619 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, March 17, 2015, 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 May 23, 2014, 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, twenty (20) years of age.

FINDINGS OF FACT:

1. A former officer of the Bureau, who was employed with the Bureau in May of 2014, visited the licensed premises in an undercover capacity to conduct an age compliance check. On Friday, May 23, 2014, he arrived at the licensed premises at approximately 6:40 p.m. At the time that he entered the licensed premises, no employees were checking identification at the door (N.T. 5-7).

2. An Underage Buyer with the Bureau Compliance program was thirty to forty feet behind the officer. The officer walked to the main bar and observed the Underage Buyer come in. He also observed several employees, including a male bartender, Scott Vassil (N.T. 8).

3. When the Underage Buyer came into the premises, he immediately approached the bar squeezing in between patrons. He sat there for a couple of moments until he could get the attention of the bartender. The officer observed the Underage Buyer speak to the bartender. He then observed the bartender walk over to a tap labeled Miller Lite beer and filled a glass with the amber colored liquid and gave it to the Underage Buyer. The Underage Buyer gave him currency. The bartender went to the cash register and returned with change (N.T. 9).

4. The Underage Buyer took possession of the big glass of beer wrapping his hand around it. He then smiled at the undercover officer, sat for a couple of seconds and then departed the premises with beer still on the bar (N.T. 9-10).

5. The Underage Buyer did not present any identification to the bartender or any employee on the premises (N.T. 10).

6. The officer remained on the premises for a short period of time and then departed. He met the Underage Buyer outside where they were greeted by their supervisor (N.T. 10-11).

7. S.F. is part of the underage program and was under twenty-one on the date that he purchased alcoholic beverages from the Licensee (N.T. 12-13).

8. A supervisor from the Bureau testified that he spoke to the Underage Buyer immediately after the buy and went in there to notify the person who had served him. He notified the bartender, Scott Vassil, and explained that they were conducting a compliance check in the area and that one of the minors, who was under twenty-one, had entered the bar and was served an alcoholic beverage. There was a draft beer still on the bar. Mr. Vassil acknowledged that he did not card the person and retrieved the manager, Tim Slachta (N.T. 15-18).

9. A supervisor spoke with Tim Slachta and he also explained the circumstances to him (N.T. 18-19).

10. The Underage Buyer was trained to be a part of the compliance program and was under supervision. He has now reached the maximum age for participation in the program which is six months before his twenty-first birthday (N.T. 19).

CONCLUSIONS OF LAW:

On May 23, 2014, 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, twenty (20) 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 December 22, 1995, and has a record of prior violations as follows:

In Re:

Citation No. 01-0047. \$600.00 fine.

1. Unlawfully possessed liquor obtained from a source other than a Pennsylvania State Store.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding December 1, 2000.
3. Permitted the price of alcoholic beverages to change within the designated discount pricing period.

Citation No. 01-1970. \$200.00 fine.

1. Used loudspeakers or devices whereby music could be heard outside.

Citation No. 01-2070. \$100.00 fine.

1. Purchased malt or brewed beverages on credit.

Citation No. 01-2382. \$300.00 fine.

1. Used loudspeakers or devices whereby music could be heard outside.
2. Maintained on the licensed premises a patio used by a band which entertainment produced thereon was visible from the outside.

Citation No. 11-0675. \$250.00 fine and Verification conditions corrected.

1. Operated the licensed establishment without a valid health permit or license.  
February 16, 2011.

DISCUSSION:

The Licensee sold, furnished or gave or permitted such sale, furnishing or giving of liquor or alcoholic beverages to a minor who was participating in the compliance program. The Licensee has no prior violations of this nature. 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 \$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, 996 Baltimore, Inc., License Number R-AP-SS-15619, pay a fine of One Thousand Four Hundred Dollars (\$1,400.00) 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.

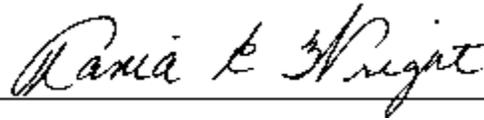
996 Baltimore, Inc.  
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IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: [www.lcb.state.pa.us](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).

**Jurisdiction of this matter is retained.**

Dated this 3<sup>RD</sup> day of November, 2015.



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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996 Baltimore, Inc.  
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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

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