

Mailing Date: JUN 12 2015

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 14-1372C
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-480804
v.	:	
	:	
BUDDY CLARKE'S TAVERN, INC.	:	PLCB LID No.: 49881
1604 CLAY AVE.	:	
DUNMORE, PA 18509-2106	:	
	:	PLCB License No.: R-AP-SS-13323
LACKAWANNA COUNTY	:	

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Ex Parte

**BACKGROUND:**

This proceeding arises out of a citation, containing one count, that was issued on July 16, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Buddy Clarke's Tavern, Inc. (Licensee).

The citation charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that Licensee, by your servants, agents, or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) minor, nineteen (19) years of age, on June 21, 2014.

I presided at an evidentiary hearing on May 6, 2015 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT:**

1. The Office of Administrative Law Judge sent a notice of hearing on March 18, 2015, by certified mail, return receipt requested and first class mail. The certified mail notice was returned unclaimed. The first class notice was not returned.

2. The Bureau began its investigation on June 21, 2014 and completed it on June 24, 2014. (N.T. 6-7)

3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on June 25, 2014. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

4. Pursuant to the Bureau's Age Compliance Program, on June 21, 2014, an underage buyer (19 years old) purchased a beer after being challenged as to age and showing authentic and valid identification. After the bartender reviewed the underage buyer's identification, he said: "Over 18 is good enough." (N.T. 12-17)

**CONCLUSION(S) OF LAW:**

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. The Bureau complied with the requirements of the Age Compliance Program [18 Pa. C.S.A. §6308(e) and §6310(c); 37 Pa. Code, Chapter 23].

3. I sustain the violation as charged.

**PRIOR ADJUDICATION HISTORY:**

Licensee has been licensed since August 1, 2002, and has the following Adjudication history:

In Re Citation No.: 03-0600. Fine \$400.00 and three days suspension.

1. Sales between 2:00 a.m. and 7:00 a.m. on March 8, 2003.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time on March 8, 2003.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. on March 8, 2003.

In Re Citation No.: 04-0098. Fine \$750.00 and one day suspension.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time on January 10, 2004.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. on January 10, 2004.

In Re Citation No.: 04-0961. Fine \$250.00 and 12 days suspension.

1. Sunday sales after 2:00 a.m. on May 2, 2004.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time on May 2, 2004.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. on May 2, 2004.
4. Sold malt or brewed beverages in excess of 192 fluid ounces for consumption off premises on May 2, 2004.

In Re Citation No.: 06-1992C. Fine \$1,000, one day suspension and RAMP training mandated.

Sales to a minor on July 27, 2006.

In Re Citation No.: 13-0350. Fine \$550.00.

Possessed or operated gambling devices or permitted gambling on the licensed premises (machine) on June 26, 2012.

**PENALTY ASSESSMENT CRITERIA:**

***Mandatory Requirement(s)***

Liquor Code Section 471 [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 the violation found herein.

***Discretionary Component(s)***

Licensee has a lengthy Adjudication history. Further, having stated his intention to commit a crime, the bartender is fortunate he is not behind bars. I cannot recall a case in which the intent to sell to a minor is so blatantly of record. The bartender's comment that 18 years old is good enough warrants a sanction well beyond the normal.

I impose a \$3,000.00 fine. I further order Licensee to become compliant with the Responsible Alcohol Management Program (RAMP).

**ORDER:**

***Imposition of Fine***

Licensee must pay a \$3,000.00 fine within twenty days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

***RAMP Compliance***

I order Licensee to comply with Liquor Code Section 471.1, pertaining to responsible alcohol management, for one year from the date of Bureau of Alcohol Education (BAE) certification.

***Requirement to Contact the BAE of the Pennsylvania Liquor Control Board***

Licensee must contact the BAE, Pennsylvania Liquor Control Board: toll free telephone No.: 1-866-275-8237; web site: [www.lcb.pa.gov](http://www.lcb.pa.gov); email address: [LBEducation@pa.gov](mailto:LBEducation@pa.gov) within thirty days of the mailing date of this Adjudication to effect full RAMP compliance. Licensee has ninety days from the mailing date of this Adjudication to be fully certified by the BAE.

***Consequence of Noncompliance with RAMP***

Failure to comply may cause the Bureau to issue a citation alleging Licensee's noncompliance. Alternatively, the Bureau may request a modification of the penalty imposed in this Adjudication.

***Retaining Jurisdiction***

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 8<sup>TH</sup> day of June, 2015.



Felix Thau, A.L.J.

bc

**General Information**

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. If you have not already done so, it may be prudent for you to consult with an attorney.

**Applying for Reconsideration**

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

### Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us). The full requirements for an appeal can be found in 47 P.S. §4-471.

### **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 an attorney's check who is licensed to practice law 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