

Mailing Date: JUL 28 2015

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 15-0590C
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W03-489350
v.	:	W03-489567
	:	
RICHARD J. GROSS POST 8896 VFW	:	SPECIAL OCCASION LID – 60631
OF U.S. HOME & CLUB ASSN., INC.	:	SPECIAL OCCASION PERMIT NO. SO-8389
LOCUST ST. EXTENDED	:	
PO BOX 375	:	CATERING CLUB LID – 2355
EAST BERLIN, PA 17316-0375	:	CATERING CLUB LICENSE NO. CC-5095
	:	
ADAMS COUNTY	:	

ADJUDICATION

BEFORE: DANIEL T. FLAHERTY, JR., ALJ
BUREAU COUNSEL: JOHN H. PIETRZAK
LICENSEE: PRO SE

BACKGROUND:

This proceeding arises out of a citation that was issued on April 9, 2015, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter “Bureau”) against RICHARD J. GROSS POST 8896 VFW OF U.S. HOME & CLUB ASSN., INC., (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 December 31, 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 minor, nineteen (19) years of age.

Licensee has executed a Statement of Waiver, Admission and Authorization in which Licensee: admits to the violation(s) charged in the citation and that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts as provided by the Bureau and prior citation history, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

On December 31, 2014, a 19 year old minor entered the licensed premises and ordered a Miller Lite beer from the bartender. The minor was not questioned relative to age or asked for identification. She was served a can of Miller Lite beer, paid \$5.00 and received \$3.00 in change. She then departed the premises without consuming any alcoholic beverages.

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee's Special Occasion Permit was issued on September 17, 2013 and Licensee's Club License was issued on July 19, 1949. Licensee has had five (5) prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

IN RE:

Citation No. 88-1997. Fine \$450.00.

1. Gambling.

Citation No. 03-1152. Fine \$700.00.

1. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years concerning the local option small games of chance act.
2. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period.

Citation No. 03-1908. Fine \$1,000.00 and 5 days suspension.

1. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period.

Citation No. 06-0934. Fine \$1,000.00 and 3 days suspension.

1. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period.
2. Sales to nonmembers.

Citation No. 09-1484. Fine \$1,500.00 and 5 days suspension.

1. Funds derived from the operation of games of chance were used for purposes other than those authorized by law. March 23, 2009.
2. Awarded more than \$5,000.00 in cash or merchandise in any 7-day period. December 29, 2008-January 4, 2009; January 19-25 and February 9-15, 2009.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00 and mandatory RAMP training.

ORDER

THEREFORE, it is hereby ordered that Licensee RICHARD J. GROSS POST 8896 VFW OF U.S. HOME & CLUB ASSN., INC., pay a fine of \$1,250.00 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 is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: www.lcb.state.pa.us; Email Address: LBEducation@state.pa.us) within 30 days of the mailing date of this Adjudication. Licensee must receive Certification within 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.

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. §4-471(d)].

Jurisdiction is retained.

Dated this 23RD day of July, 2015.



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.

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

The fine must be paid by cashier's check, money order or a check drawn on the 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

IN RE: CITATION NO. 15-0590C
RICHARD J. GROSS POST 8896 VFW
OF U.S. HOME & CLUB ASSN., INC.