

Mailing Date: DEC 23 2015

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 15-0861C
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W05-495101
v.	:	
	:	
REALCO, INC.	:	PLCB LID No.: 63445
T/A THE GEORGIAN INN OF SOMERSET	:	
800 GEORGIAN PLACE	:	
SOMERSET, PA 15501-1616	:	PLCB License No.: H-AP-SS-EHF-6223
	:	
SOMERSET COUNTY	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Emily L. Gustave, Esquire

LICENSEE: Charles W. Charrie, Jr., Corporate Officer, Stockholder, and Manager

BACKGROUND:

This proceeding arises out of a citation, containing one count that was issued on May 20, 2015, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Realco, 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, twenty (20) years of age, on April 22, 2015.

I presided at an evidentiary hearing on October 29, 2015 at 180 Charlotte Drive, Altoona, Pennsylvania.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on April 22, 2015 and completed it on April 23, 2015. (N.T. 16)

2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on April 29, 2015. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 17)

3. A Bureau Enforcement Officer was trained in the Age Compliance Program. The Officer arrived at the premises at 5:40 p.m., April 22, 2015. (N.T. 17-20)

4. The Officer entered the premises in an undercover capacity as part of an Age Compliance Program detail. The Officer saw an Under Age Buyer (UB) enter the premises at 6:00 p.m. It was the Officer's duty to observe the UB to ensure the UB's safety. The Officer saw the UB order a bottle of beer. The bartender requested identification. The bartender reviewed it and then served the UB a bottle of beer. The UB departed the premises without drinking any of the beer. The Officer departed the premises at about the time a second Bureau Enforcement Officer entered. (N.T. 20-27)

5. The second Bureau Enforcement Officer was also trained in the Age Compliance Program. The Officer remained outside the premises when the first Officer and the UB were in the licensed premises. After the UB came out of the licensed premises, he advised the second Officer that he had made a buy. The second Officer entered the licensed premises at 6:07 p.m. He displayed his credentials to the staff. The Officer notified the staff that a sale of beer to a minor had just occurred. (N.T. 39-48)

6. The Bureau sent Licensee a written notice of non-compliance. (Commonwealth Exhibit No. C-3, N.T. 48-54)

7. The UB was 20 years old on the day in question (born February 19, 1995). The Bureau trained and tested the UB in the Age Compliance Program. After entering the licensed premises, he went to the bar counter where the bartender asked him what he wanted to drink. He asked for a bottle of beer. After retrieving the bottle of beer and placing it on the bar counter, the bartender asked the UB for identification. The UB displayed his true and valid Pennsylvania Driver's License showing him to be under 21 years old. With identification on hand, the bartender looked at it. The bartender remarked in a questioning manner that the UB was either 21 or 22. The UB replied: "Yes, if that's what my identification states." The bartender returned the identification and served the UB beer. (N.T. 81-90; 97)

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 May 7, 2010, and has the following Adjudication history:

In Re Citation No.: 11-0417. Fine \$250.00.

1. Permitted a minor under 18 years of age to perform in the licensed premises during the period June 2010 – December 29, 2010.
2. Fortified, adulterated, and/or contaminated liquor on December 8, 2010.
3. Failed to keep records on the licensed premises on December 8 and 22, 2010.
4. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding December 8, 2010.

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.

Further, Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to responsible alcohol management, mandates that Licensee participate in the Pennsylvania Liquor Control Board's Responsible Alcohol Management Program (RAMP), since this is Licensee's first violation as herein found.

Discretionary Component(s)

The licensed premises is a grandfathered and refurbished hotel. The alcoholic beverage business represents a small part of its income. The customer base is generally older. I trust Licensee will be more careful. I impose a \$1,000.00 fine.

ORDER:

Imposition of Fine

Licensee must pay a \$1,000.00 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.

Mandatory 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; email address: 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 Mandatory 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 10TH day of December, 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. 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

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