

Mailing Date: JUN 27 2016

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

PENNSYLVANIA STATE	:	In re Citation No. 15-1625C
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W02-500361
	:	
v.	:	PLCB LID No. 52288
	:	
NBW COSTAR, INC., T/A WOODY'S COUNTRY HOUSE	:	PLCB License No. R-AP-SS-19609
4775 RTE. 115	:	
BLAKESLEE, PA 18610	:	Monroe County

JUDGE SHENKLE
BLCE COUNSEL: Craig A. Strong, Esq.
LICENSEE: Nathan White

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on September 14, 2015. The citation alleges that Licensee violated the Liquor Code, 47 P.S. §4-493(1), on August 15, 2015, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one minor, twenty years of age.

A hearing was held on Wednesday, May 11, 2016 in Scranton, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On August 15, 2015, a man whose birth date was March 29, 1995, who was participating in the Bureau's age compliance program, entered the licensed premises, sat at the bar, and ordered a bottle of beer. When the bartender asked for identification the man provided his current and valid Pennsylvania Junior Driver's License. The bartender served the beer requested. The man then pretended to receive a phone call and left the premises (N.T. 13-17).

2. After the man left the premises a liquor enforcement officer entered and notified Licensee of the violation (N.T. 9).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

Licensee's president pleads that his bartender's request for identification showed a good faith attempt to comply with the law, and this is true as far as it goes.

The difficulty is that this man's junior driver's license, printed in the portrait orientation, had the conspicuous legend "UNDER 21 until 03/29/2016", something the bartender should have noticed.

PRIOR RECORD:

Licensee has been licensed since January 14, 2004, and has had prior violations as follows:

In re Citation No. 12-0103. \$250.00 fine.

1. Fortified, adulterated, and/or contaminated liquor. December 31, 2011.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$1,000.00 to \$5,000.00 range, or both, for violations of the type found in this case. Mandatory R.A.M.P. – certification is required by 47 P.S. §4-471(d) in these circumstances.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, NBW Costar, Inc., t/a Woody's Country House, License No. R-AP-SS-19609, shall pay a fine of one thousand two hundred fifty dollars (\$1,250.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

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: 1-866-275-8237; 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).

Dated this 21ST day of JUNE, 2016.



David L. Shenkle, J.

NOTICE: 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.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.

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.** If you are paying by guaranteed check, please make it 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

Credit/debit cards may be used: if you have already registered with PLCB+ you should be able to pay by Credit/Debit card; if you have not registered with PLCB+ you may obtain the information on how to register by sending an email message to:

RA-LBLICENSINGMOD@pa.gov