

Mailing Date: NOV 21 2019

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

PENNSYLVANIA STATE POLICE,	:	
BUREAU OF LIQUOR CONTROL	:	<b>IN RE: CITATION NO. 19-0880C</b>
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No. PA 2018-1236935
	:	
v.	:	
	:	
	:	PLCB LID - 69763
DEBORAHWMA, LLC	:	
107 S. HANOVER ST.	:	PLCB License No. R-AP-SS-19760
HERSHEY, PA 17033-2434	:	
	:	
DAUPHIN COUNTY	:	

**ADJUDICATION**

BEFORE: John H. Pietrzak, ALJ  
FOR BLCE: Jessica H. Lathrop, Esquire  
LICENSEE COUNSEL: Steve C. Nicholas, Esquire

**BACKGROUND:**

This proceeding arises out of a citation that was issued on June 6, 2019, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (BLCE) against DEBORAHWMA, LLC, (Licensee).

The citation contains two counts.

The first count charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on April 5, 2019, Licensee, by its 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.

The second count charges Licensee with violation of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)] in that Licensee, by its servants, agents or employees, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two (2) years immediately preceding May 1, 2019.

The investigation which gave rise to the citation began on October 25, 2018 and was completed on May 20, 2019; and notice of the violation was sent to Licensee by Certified Mail on May 29, 2019. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on October 24, 2019 in the Office of Administrative Law Judge Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. At the hearing in this matter, counsel for the Bureau and counsel for Licensee stipulated to the facts establishing a violation in this case.

Upon review of the transcript of this hearing, I make the following Findings of Fact and reach the following Conclusions of Law:

**FINDINGS OF FACT:**

**COUNTS 1 AND 2**

1. The Bureau's investigation was assigned on October 25, 2019 and was completed on May 20, 2019. The Bureau sent the Licensee a notice of violations on May 29, 2019. (N.T. 3; Commonwealth Exhibit C-1)
2. On April 5, 2019, the Bureau conducted an Age Compliance Check at the licensed establishment that consisted of a 19-year old underage buyer and Bureau enforcement officers. (N.T. 3-4)
3. Prior to participation in the age compliance check, the underage buyer and Bureau officers completed all required training and testing. (N.T. 4)
4. At 8:43 p.m. on April 5, 2019, a Bureau enforcement officer entered the licensed establishment in an undercover capacity. (N.T. 4)
5. Shortly thereafter, the underage buyer entered the licensed establishment where he was under the direct supervision of the undercover officer during the entire visit. (N.T. 4)
6. Tending bar during the visit was Licensee's member and Board-approved Manager Deborah Albright. (N.T. 4)
7. The underage buyer ordered a Miller Lite draft beer. Ms. Albright served the underage buyer the beer, for which he paid \$3.50. (N.T. 4)
8. The underage buyer left the licensed establishment without consuming any of the beer. (N.T. 4)
9. Another Bureau enforcement officer entered the licensed establishment and verbally notified Ms. Albright that she had served an underage buyer. (N.T. 4)

10. The Bureau sent the Licensee a written Notice of Noncompliance letter on April 5, 2019. (N.T. 8; Exhibit C-5)

11. On May 1, 2019 a Bureau enforcement officer conducted an inspection at the licensed establishment and determined that the Licensee did not maintain any beer or liquor purchase invoices for the previous two years. (N.T. 4-5)

**CONCLUSIONS OF LAW:**

1. The Bureau complied with the investigatory and notice requirements of Section 471 of the Liquor Code, 47 P.S. §4-471 and Sections 23.21 through 23.23 of the Age Compliance Regulations, 37 Pa. Code §§23.21-23.23.

2. Counts One and Two of the citation are sustained as charged.

**PRIOR RECORD:**

Licensee has been licensed since June 20, 2014 and has no prior violations.

**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 Count 1 of this case. However, if at the time of violation, Licensee was compliant with Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to Responsible Alcohol Management and Licensee had not sold to minors in the previous four years, Liquor Code Section 471(b) [47 P.S. §4-471(b)] provides for a fine structure of \$50.00 to \$1,000.00.

This office takes notice that Licensee was RAMP certified on August 29, 2017.

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.

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 \$50.00 or more than \$1,000.00 or both for violations of the type found in Count 2 of this case.

Counsel for the Bureau and counsel for Licensee recommend a penalty in this case of a \$1,000.00 fine and mandatory RAMP certification. I accept this recommendation.

The penalty imposed shall be as follows:

Count 1 - \$750.00 fine and mandatory RAMP certification  
Count 2 - \$250.00 fine

**ORDER**

THEREFORE, it is hereby ordered that Licensee DEBORAHWMA, LLC, pay a fine of \$1,000.00 within 20 days of the mailing date of this Order. In the event the 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](http://www.lcb.state.pa.us); Email Address: [LBEducation@state.pa.us](mailto: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 20<sup>TH</sup> day of November, 2019.



John H. Pietrzak, ALJ

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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.**

**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 CHIEF COUNSEL'S OFFICE AT 717-783-9454.**

**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 a check drawn on the business or trust 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

**Credit/Debit Cards may be used:** If you have registered with PLCB+ you may pay by Credit/Debit card at [www.lcb.pa.gov](http://www.lcb.pa.gov) by following the PLCB+ link. 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](mailto:RA-LBLICENSINGMOD@pa.gov).

In re: Citation No. 19-0880C  
Deborahwma, LLC