

Mailing Date: SEP 20 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 11-1725
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-435219
	:	
CONCORD TRACE INC.	:	
301-303 W. 3 <sup>RD</sup> ST.	:	PLCB LID - 59688
CHESTER PA 19013-4307	:	
	:	
	:	PLCB License No. H-AP-SS-3938
	:	
DELAWARE COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ANDREW R. BRITT, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 11, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Concord Trace, Inc., License Number H-AP-SS-3938 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, April 26, 2012, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation contains two counts.

The first count charges Licensee with violation of Sections 102 and 461(c) of the Liquor Code, 47 P.S. §§1-102 and 4-461(c), in that on August 24 and 25, 2011, the licensed premises was not a bona fide hotel in that bedrooms maintained for the accommodation of guests were insufficient in number and/or inadequately equipped.

The second count charges Licensee with violation of Section 493(12) of the Liquor Code, 47 P.S. §4-493(12), in that on August 24, 2011, Licensee, by its servants, agents or employes, failed to keep records on the licensed premises.

COUNT NOS. 1 AND 2

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on August 18, 2011 and ended on August 30, 2011. A notice of violation letter dated September 8, 2011 was sent to the licensed premises by certified mail, return receipt requested. The mailing was returned unclaimed. A citation dated October 11, 2011 was sent to the licensed premises by certified mail, return receipt requested. That certified mailing was returned unclaimed. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on March 8, 2012 by certified mail, return receipt requested, and by first class mail. That certified mailing was returned unclaimed (N.T. 9-10 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement visited the licensed premises on August 24, 2011 and August 26, 2011. On August 24, 2011, the officer arrived at approximately 1:45 p.m. Inside the premises was a female bartender. The officer identified himself to the bartender and indicated that Bureau officers were going to conduct a routine inspection of the premises. As a result of the inspection, the officers determined that there were no records for beer or liquor invoices on the premises. There was no register for the hotel and no records with regard to coil cleaning (N.T. 6-7).

3. The bartender was asked if she would contact the owner. One of the officers spoke to the owner on the telephone. He indicated that all of the records were at his residence and that he could not come down to the premises at that time. The owner asked if he could meet the officer on a later date. The officer indicated that he could meet him the next day, August 26, 2011 (N.T. 7).

4. The officer returned the next day and met with Mr. South, who showed him liquor and beer invoices for the past two years. He also showed him coil cleaning records and a register for the hotel (N.T. 8).

5. The register showed that the hotel had six rooms. He indicated that those rooms were unavailable and were booked. The officer informed him that with a hotel license he was required to have twelve rooms (N.T. 8).

6. The investigation was concluded September 8, 2011 (N.T. 8).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Count No. 1 - On August 24 and 25, 2011, the licensed premises was not a bona fide hotel in that bedrooms maintained for the accommodation of guests were insufficient in number and/or inadequately equipped, in violation of Sections 102 and 461(c) of the Liquor Code, 47 P.S. §§1-102 and 4-461(c).

Count No. 2 - On August 24, 2011, Licensee, by its servants, agents or employes, failed to keep records on the licensed premises, in violation of Section 493(12) of the Liquor Code, 47 P.S. §4-493(12).

PRIOR RECORD:

Licensee has been licensed since March 20, 2008, and has a record of prior violations as follows:

**In Re:**

Citation No. 10-1127. \$450.00 fine.

1. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests were insufficient in number and/or inadequately equipped.  
March 13 and April 14, 2010.
2. Permitted smoking in a public place where smoking was prohibited.  
March 12, 13 and April 14, 2010.
3. Failed to post signage required by the Clean Indoor Air Act.  
March 12, 13 and April 14, 2010.

Citation No. 10-1852. \$450.00 fine and Verification conditions corrected.

1. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests were insufficient in number and/or inadequately equipped.  
July 2, 8 and 14, 2010.

Citation No. 11-0542. \$1,000.00 fine.

1. Sales after the license expired and had not been renewed and/or validated.  
February 23, 2011.

DISCUSSION:

The premises is not a bona fide hotel in that the rooms maintained for the accommodation of guests is insufficient in number. The Licensee also failed to keep records on the licensed premises and instead had them at his home, but the officers did have an opportunity to review them on August 25, 2011 and apparently found them to be sufficient.

With regard to the offense of failing to have a bona fide hotel, the Licensee will be required to insure it maintains the required number of rooms in order to reopen and maintain a hotel license. The license should not be renewed without verification of compliance. Bureau officers made visits to the premises and found it locked and not operating. There is no indication that the license has been placed in safekeeping. The license is due to renew November 30, 2012 but should not be renewed unless it provides assurances that it is in compliance.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Therefore, penalties shall be assessed as follows:

- Count No. 1 - \$700.00 and Verification.
- Count No. 2 - \$100.00.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Concord Trace, Inc., License Number H-AP-SS-3938, pay a fine of Eight Hundred Dollars (\$800.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

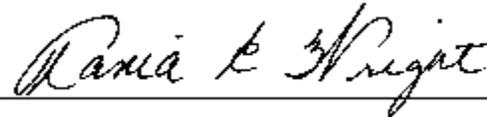
Concord Trace, Inc.  
In Re: Citation No. 11-1725

IT IS ALSO ORDERED that Licensee, Concord Trace, Inc., License Number H-AP-SS-3938, submit a Verification indicating that the premises is a bona fide hotel in that bedrooms maintained for the accommodation of guests are sufficient in number and/or adequately equipped. Said documentation must be submitted within twenty (20) days from the mailing date of this Order, unless the license is submitted for safekeeping prior to the expiration of the twenty (20) days. If said documentation is not submitted within twenty (20) days from the mailing date of this Order, Licensee's license shall be suspended for one day and **continuing thereafter** until such documentation is received.

The Bureau of Licensing is requested to inspect the premises for compliance with its licensing requirements at the time the license is either renewed or released from safekeeping.

**Jurisdiction of this matter is retained.**

Dated this 14<sup>TH</sup> day of September, 2012.



Tania E. Wright, J.

**NOTE:** MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE 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 the Office of the Chief Counsel of the Pennsylvania Liquor Control Board at 717-783-9454.**

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Concord Trace, Inc.  
In Re: Citation No. 11-1725

Detach Here and Return Stub with Payment

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The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, 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. 11-1725  
Concord Trace, Inc.

## VERIFICATION

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I/We, Concord Trace, Inc., License No. H-AP-SS-3938, do hereby affirm that the licensed premises is a bona fide hotel in that bedrooms maintained for the accommodation of guests are sufficient in number and/or adequately equipped as of \_\_\_\_\_ (date).

Subject to the penalties contained in 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, the undersigned officer(s) verifies that I/We are signing and executing this document as the authorized act and deed of the licensee. I/We hereby certify that the foregoing is true and correct.

\_\_\_\_\_  
Corporate Officer's Signature

\_\_\_\_\_  
Corporate Officer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

NOTE: Mail Verification and accompanying documents to:

PLCB – OFFICE OF ADMINISTRATIVE LAW JUDGE  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg, Pennsylvania 17110-9661