

Mailing Date: JAN 23 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 12-0385
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-439913
	:	
NORTH ON SOUTH LLC	:	
222 SOUTH ST.	:	PLCB LID - 63801
PHILADELPHIA PA 19147-2310	:	
	:	
	:	PLCB License No. R-AP-SS-8503
	:	
PHILADELPHIA 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 March 13, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against North on South, LLC, License Number R-AP-SS-8503 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, September 25, 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 charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), in that on December 15 and 16, 2011, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on February 6, 2012 and ended on February 13, 2012. A notice of violation letter was sent to the licensed premises by certified mail, return receipt requested. That mailing was returned unclaimed. A citation dated March 13, 2012 was sent to the licensed premises by certified mail, return receipt requested. That certified mailing was again returned unclaimed. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on August 5, 2012 by certified mail, return receipt requested. That certified mailing was signed as received on August 2, 2012 at the licensed premises (N.T. 9-12 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement visited the licensed premises on December 15, 2011. The officer arrived outside the premises at approximately 11:30 p.m. The officer was sitting in his vehicle and could hear music emanating from the licensed premises. The officer then walked down to the corner of 3<sup>rd</sup> and South Street and the same music could be heard from that location, which is approximately 250 feet from the entrance of the licensed premises. The officer walked back to the premises and heard the same music. When he entered, the same music that he had heard outside he heard inside (N.T. 6-7).

3. Even though it was December, the officer observed that the doors and windows were open. Inside the premises, there was a disc jockey playing music through electronically amplified speakers. There were approximately six speakers of various sizes throughout the premises (N.T. 7).

4. The premises was open and operating, rendering services of alcohol and mixed beverages to patrons. There were approximately twenty patrons on the premises when the officer entered (N.T. 7-8).

5. The officer exited the premises during the early morning hours of December 16, 2011 at approximately 12:30 a.m. When exiting, the officer could hear music emanating from the premises. He walked back to his vehicle which was approximately 200 feet from the entrance of the premises on the opposite side of the street (N.T. 8-9).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On December 15 and 16, 2011, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside, in violation of Section 5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a).

PRIOR RECORD:

Licensee has been licensed since November 23, 2010, and has no record of prior violations.

DISCUSSION:

Licensee used loudspeakers on the inside of the premises whereby the sound of music and entertainment could be heard outside the boundaries of its own property. This premises was licensed on November 23, 2010 and prior to this violation, had no record of prior violations. Under the circumstances, a \$350.00 fine shall be imposed.

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.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, North on South, LLC, License Number R-AP-SS-8503, pay a fine of Three Hundred Fifty Dollars (\$350.00) 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.

North on South, LLC  
In Re: Citation No. 12-0385

**Jurisdiction of this matter is retained.**

Dated this 17<sup>TH</sup> day of January, 2013.



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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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

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North on South, LLC