

Mailing Date: JUN 12 2013

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

PENNSYLVANIA STATE	:	In re Citation No. 12-1803
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-452838
	:	
v.	:	PLCB LID No. 59688
	:	
CONCORD TRACE, INC.	:	PLCB License No. H-AP-SS-3938
301-303 W. 3 rd ST.	:	
CHESTER, PA 19013-4307	:	

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on January 8, 2013. There are two counts in the citation.

The first count alleges that Licensee violated §§491(1), 492(2), 492(3), and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2), 4-492(3) and 4-493(16) on November 26, 2012, by selling, furnishing and/or giving alcoholic beverages while its liquor license was suspended.

The second count alleges that Licensee violated §15.62(a) of the Liquor Control Board Regulations, 40 Pa. Code §15.62(a), on November 26, 2012, by failing to post a notice of suspension.

At the hearing scheduled for April 25, 2013, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period October 31 through December 17, 2012, and sent it written notice of the results on December 20, 2012 (N.T. 10-11, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on January 8 2013, and again on February 26, 2013 (N.T. 11-12, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on March 5, 2013.
4. In an order mailed October 31, 2012, the Honorable Tania E. Wright suspended this license indefinitely as of 7:00 a.m. on Monday, November 26, 2012, for nonpayment of a fine imposed regarding Citation No. 11-1725. The order included the the instruction “to place the

enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.”

5. On November 26, 2012, a liquor enforcement officer visited the licensed premises at 7:15 p.m. and found it open and operating. He did not see a suspension placard anywhere on the premises. The officer entered and saw a bartender serving eight patrons; he purchased a six-pack of beer and then identified himself to the president of the licensed corporation, who said that he did not know about the suspension order (N.T. 5-7)

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since March 20, 2008, and has had prior violations as follows:

In re Citation No. 10-1127. \$450.00 fine and verification of compliance.

License suspended one day for late payment.

1. Not a *bona fide* hotel (insufficient and/or inadequately equipped bedrooms).
March 13 and April 14, 2010.
2. Permitted smoking where prohibited. March 12, 13 and April 14, 2010.
3. Failed to post “no smoking” signs. March 12, 13 and April 14, 2010.

In re Citation No. 10-1852. \$400.00 fine and verification conditions corrected.

1. Not a *bona fide* hotel (insufficient and/or inadequately equipped bedrooms).
July 2, 8 and 14, 2010.

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

1. Sales after license expired. February 23, 2011.

In re Citation No. 11-1725. \$800.00 fine and verification of compliance.

License suspended one day for late payment.

1. Not a *bona fide* hotel (insufficient bedrooms available). August 24 and 25, 2011.
2. Failed to keep records on the licensed premises. August 24, 2011.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in Count No. 1 any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in Count No. 2 any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

Count No. 1 – a fine of \$1,250.00.

Count No. 2 – a fine of \$250.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Concord Trace, Inc., License No. H-AP-SS-3938, shall pay a fine of one thousand five hundred dollars (\$1,500.00) 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.

Dated this 7TH day of JUNE, 2013.



David L. Shenkle, J.

jb

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

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 to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661