

Mailing Date: APR 18 2014

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 13-1478 LIQUOR
CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W03-454088
	:	
v.	:	
	:	
	:	PLCB LID - 61720
BARTLETT TRAYNOR & LONDON	:	
LLC	:	PLCB LICENSE NO. R-AP-SS-4643
T/A HARRISBURG MIDTOWN ARTS	:	
CENTER : 1110 N. 3 <sup>RD</sup> ST. :	:	
HARRISBURG, PA 17102-2018	:	

**ADJUDICATION**

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL PIETRZAK  
LICENSEE: JOHN TRAYNOR**

BACKGROUND:

This proceeding arises out of a citation that was issued on July 25, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter “Bureau”) against BARTLETT TRAYNOR & LONDON, LLC, License Number R-AP-SS-4643 (hereinafter “Licensee”).

The citation charges Licensee with violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(2) of the Clean Indoor Air Act [35 P.S. §637.6(a)(2)] in that on December 2 and 29, 2012, Licensee, by its servants, agents or employees, smoked and/or permitted smoking in a public place where smoking is prohibited.

The investigation which gave rise to the citation began on December 2, 2012 and was completed on February 8, 2013; and notice of the violation was sent to Licensee by Certified Mail on February 28, 2013. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 28, 2014 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

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

FINDINGS OF FACT:

1. On December 2, 2012 at 12:25 a.m., an officer of the Bureau entered the licensed premises (N.T. 9).
2. While on the licensed premises, the officer observed between 10 and 15 people standing in an area designated as an "employee lounge." These people were all smoking cigarettes (N.T. 10-11).
3. On December 29, 2012, the officer again entered the licensed premises. He again saw approximately 15 people in the previously mentioned area smoking (N.T. 12).
4. As of the dates in question, Licensee did not possess an exception from the Pennsylvania Clean Indoor Air Act to permit smoking on the establishment (N.T. Exhibit C-4).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since June 26, 2009, and has had six prior violations:

IN RE:

Citation No. 09-2920. Fine \$250.00.

1. Loudspeakers. November 18 and 21, 2009.

Citation No. 10-0322X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 23, 2009.

Citation No. 10-0458. Fine \$500.00.

1. Loudspeakers. December 5, 2009, January 7, 8, 9, 10 and 14, 2010.
2. Noisy and/or disorderly operation. January 7, 8, 9, 10 and 14, 2010.

Citation No. 10-0984. Fine \$750.00.

1. Noisy and/or disorderly operation. January 30, February 6, 12, 19, 26, 27, 28, March 7 and 14, 2010.
2. Loudspeakers. February 28, 2010.

Citation No. 10-1292X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 9, 2010.

Citation No. 10-1585. Fine \$1,300.00 and Amusement Permit suspended 2 days.

1. Loudspeakers. April 22 and May 8, 2010.
2. Smoked and/or permitted smoking in a public place where smoking was prohibited. May 6, 2010.

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

Under the circumstances of this case, the penalty imposed shall be a fine of \$400.00.

ORDER

THEREFORE, it is hereby ordered that Licensee BARTLETT TRAYNOR & LONDON, LLC, pay a fine of \$400.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

Jurisdiction is retained.

Dated this 8<sup>TH</sup> day of April, 2014.



Daniel T. Flaherty, Jr., J. an

**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 submit stub with payment**

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The fine must be paid by a check drawn on the business or trust account of your attorney, who must be licensed in this Commonwealth, a treasurer's check, cashier's check, or money order. **Personal and business checks are not acceptable unless they are certified by your bank.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, along with any required documentation (please use the Return Stub when mailing payment or write your citation number on the check) to:

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

IN RE: CITATION NO. 13-1478 BARTLETT TRAYNOR AND LONDON, LLC