

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:	)	
	)	
Makamboo Corp.	)	Case No.: 15-251-00053
t/a Awash	)	License No: 20102
	)	Order No: 2015-583
Holder of a	)	
Retailer's Class CR License	)	
	)	
at premises	)	
2218 18th Street, N.W.	)	
Washington, D.C. 20009	)	

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
Ruthanne Miller, Member  
James Short, Member

**ALSO PRESENT:** Makamboo Corp., t/a Awash, Respondent

Fernando Rivero, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds Makamboo Corp., t/a Awash, (hereinafter "Respondent" or "Awash") in violation of one count of violating District of Columbia (D.C.) Official Code § 25-701 for failing to have a licensed manager or owner present at the establishment on March 8, 2015. The Respondent shall pay a \$1,500 fine for the violation.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on September 9, 2015. *ABRA Show Cause File No., 15-251-00053*, Notice of Status Hearing and Show Cause Hearing, 2 (Sept. 9, 2015). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2218 18th Street, N.W., Washington, D.C., on September 11, 2015, along with the Investigative Report related to this matter. *ABRA Show Cause File No., 15-251-00053*, Service Form. The Notice charges the Respondent with multiple violations, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent's license.

Specifically, the Notice charges the Respondent with the following violations:

Charge I: [On March 8, 2015,] [y]our permitted your establishment to operate after its ABC Board approved hours, in violation of [District of Columbia (D.C.)] § 25-723 . . . .

Charge II: [On March 8, 2015,] [y]our failed to keep a licensed ABC manager on duty at all times, in violation of D.C. Official Code § 25-701 . . . .

*Notice of Status Hearing and Show Cause Hearing, 2.*

The Show Cause Status Hearing occurred on October 14, 2015. The Respondent failed to appear at the Show Cause Hearing on November 18, 2015. The Board permitted the Government to proceed ex parte in accordance with D.C. Official Code § 25-447(e).

### **FINDINGS OF FACT**

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

#### **I. Background**

1. Awash holds a Retailer's Class CR License at 2218 18th Street, N.W., Washington, D.C. *ABRA License No. 20102* .

#### **II. Charge I**

2. The Government dismissed Charge I.

#### **III. Charge II**

3. Based on the presentation of evidence at the hearing, the Board adopts the facts contained in the Notice; specifically,

On Saturday, March 8, 2015, at approximately 3:15 a.m., Metropolitan Police Department (“MPD”) officers arrived at the establishment in response a distress call. The MPD officers observed an altercation outside of the establishment, which they later determined started inside the premises. Upon entering, the MPD officers observed patrons consuming alcoholic beverages. The officers concluded that there was no owner or ABC manager present. An investigation conducted by the Alcoholic Beverage Regulation Administration (“ABRA”) Investigator confirmed that the owner, Azeb Tadesse, had left the establishment [fifteen to twenty minutes] prior to the incident [based on the admission of the owner].

*Notice of Status Hearing and Show Cause Hearing, 2; Transcript, Nov. 18, 2015 at 13, 15-16.*

## CONCLUSIONS OF LAW

4. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia Official Code pursuant to District of Columbia Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2015). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Official Code § 25-447.

### **I. The Respondent operated without an owner or licensed manager present on March 8, 2015.**

5. There is no dispute that the establishment violated the licensed manager requirement. Under § 25-701, “A person designated to manage an establishment shall possess a manager's license.” D.C. Official Code § 25-701(a). On March 8, 2015, officers with MPD observed that Awash lacked an owner or licensed manager present while individuals consumed alcoholic beverages. *Supra*, at ¶ 3. The Board notes that the owner later admitted to an ABRA investigator that she was not present at the establishment while it was in operation. *Id.*

### **II. Penalty**

6. A violation of D.C. Official Code § 25-701 is deemed a secondary tier violation under the law. 23 DCMR § 800 (West Supp. 2015). A fourth secondary tier violation, as is the case here, within a five year period may be fined as a first level primary tier violation, which means the Board may impose a fine ranging from \$1,000 to \$2,000. D.C. Official Code § 25-830(d)(2); *Investigative History*, Awash, ABRA License No. 020102 (last updated Nov. 23, 2015) [*Investigative History*]. In imposing the fine indicated below, the Board considered the fact that this is Awash’s second violation of the licensed manager requirement. *Investigative History* (see Case No. 13-CMP-00579).

## ORDER

Therefore, the Board, on this 9th day of December 2015, finds Awash guilty of the violation described in Charge II.

- (1) The Board notes that Charge I is dismissed.
- (2) For the violation described in Charge II, Awash shall pay a \$1,500 fine.

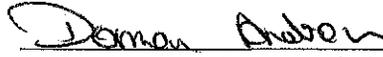
**IT IS FURTHER ORDERED** that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

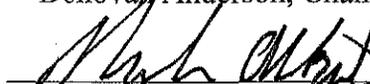
**IT IS FURTHER ORDERED**, in accordance with 23 DCMR § 800.1, the violation found by the Board in this Order shall be deemed a secondary tier violation.

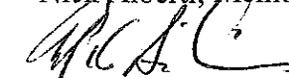
**IT IS FURTHER ORDERED** that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

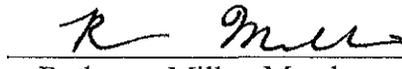
The ABRA shall deliver copies of this Order to the Government and the Respondent.

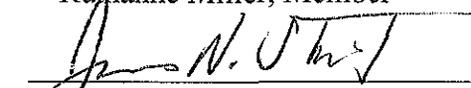
District of Columbia  
Alcoholic Beverage Control Board

  
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Donovan Anderson, Chairperson

  
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Nick Alberti, Member

  
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Mike Silverstein, Member

  
\_\_\_\_\_  
Ruthanne Miller, Member

  
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James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).