

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

In the Matter of:)	
)	
Barcode Corporation)	
t/a Barcode)	
)	Case No. 16-251-00010
Holder of a)	License No.: ABRA-82039
Retailer's Class CT License)	Order No. 2016-068
)	
at premises)	
1101 17 th Street, N.W.)	
Washington, D.C. 20036)	

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

ALSO PRESENT: Barcode Corporation, t/a Barcode, Respondent

Roderic L. Woodson, Counsel for the Respondent

Amy Schmidt, Assistant Attorney General, on behalf of the
District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER APPROVING THE OFFER-IN-COMPROMISE

The Board has the authority to “summarily revoke, suspend, fine, or restrict” a license to sell alcoholic beverages in the District of Columbia if the Board determines after an investigation that the operations of the licensee present “an imminent danger to the health and safety of the public.” D.C. OFFICIAL CODE § 25-826(A). If properly requested by the licensee, “[t]he Board shall hold a hearing within 48 hours of receipt of a timely request and shall issue a decision within 72 hours after the hearing.” *Id.* AT § 25-826(C).

On February 1, 2016, the Chief of Police for the Metropolitan Police Department for the District of Columbia issued a Notice of Closure against Barcode Corporation, t/a Barcode (hereinafter "Respondent" or "Barcode"), closing the establishment for 96 hours, in accordance with D.C. Official Code § 25-827. *Notice of Closure* (February 1, 2016).

On February 4, 2016, the Board issued a Notice of Summary Suspension against Barcode, in accordance with D.C. Official Code § 25-826(a). *Notice of Summary Suspension* (February 4, 2016).

After receiving a request for a hearing from Barcode, the Board conducted a Summary Suspension Hearing on February 11, 2016. The parties presented an Offer-in-Compromise (OIC), which resolved the allegations raised in the Notice of Summary Suspension filed by the Office of the Attorney General. The terms of the OIC are appended to this Order.

The Board formally accepts this OIC through this Order and determines that Barcode has fulfilled all requirements imposed by the OIC.

Therefore, the Board lifts the summary suspension imposed on Barcode on February 4, 2016, and permits the Respondent to resume operations in accordance with the OIC at 6 p.m. on February 11, 2016.

ORDER

Therefore, the Board, on this 11th day of February 2016, hereby **APPROVES** the Offer-in-Compromise submitted on February 11, 2016, and **ORDERS** Barcode Corporation, t/a Barcode to operate in accordance with the terms of the OIC.

It is further **ORDERED** that the Board will impose the conditions set forth in the OIC which are binding on the Respondent.

It is further **ORDERED** that the Respondent will provide the Board with a revised security plan that incorporates the terms of the OIC by close of business on February 19, 2016.

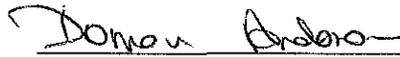
It is further **ORDERED** that the Respondent shall return to the Board for a Summary Suspension Status Hearing on March 16, 2016 at 3:30 p.m., to determine compliance with the terms of this Order.

It is further **ORDERED** that the Respondent shall abide by all laws and regulations of the District of Columbia, shall operate its establishment in a safe and competent manner, and shall refrain from engaging in the type of activity that led to this disciplinary action.

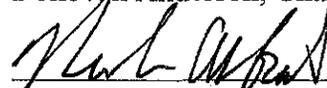
It is further **ORDERED** that this matter shall be referred to the Office of the Attorney General to determine whether a show cause action is appropriate.

A copy of this Order shall be sent to the Respondent and to the Government.

District of Columbia
Alcoholic Beverage Control Board

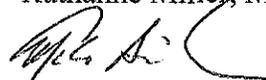


Donovan Anderson, Chairperson

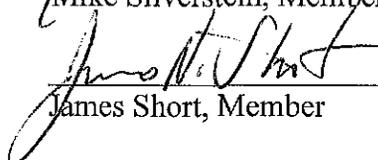


Nick Alberti, Member

Ruthanne Miller, Member



Mike Silverstein, Member



James Short, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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, 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (2008) 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).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

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ATTORNEY GENERAL
KARL A. RACINE



Public Interest Division

OFFER IN COMPROMISE¹

In the Matter of: Barcode Corporation, t/a Barcode

Case number: 16-251-00010. Hearing Date: February 11, 2016.

Incidents occurring on: January 31, 2016.

For the Charge of: Summary Suspension proceeding.

Statutory Authority: D.C. Official Code §25-826(a) (2012 Repl.).

This offer in compromise (OIC) will be presented to the Alcoholic Beverage Control Board (Board) by the Assistant Attorney General (OAG) at the Summary Suspension hearing. Please be advised that this is a proposed compromise. Accordingly, it is the discretion of the Board to accept or reject this offer.

The offer in compromise consists of the following terms:

- (1) Barcode Corporation t/a Barcode ("Respondent") shall submit a revised security plan to ABRA and OAG by no later than 5:00 p.m. on Thursday, February 11, 2016. The revised security plan shall be reviewed and accepted by the Board prior to the reopening of the establishment. The security plan shall be in full compliance with all applicable laws and regulations including all requirements for a security plan under Title 25 of the D.C. Official Code, and which incorporates all of the matters set forth below. The security plan will also address additional conditions not set forth in Title 25 which are also described below.
- (2) The Respondent shall be responsible for designating an individual during its hours of operation, in addition to the owner, that is responsible for assisting MPD with its investigation. The security plan shall indicate the individuals that are responsible for assisting MPD with its investigation during all of its hours of operation.
- (3) The Respondent shall document and submit to the Board the name and employment status of all security personnel by no later than 5 p.m. on Thursday, February 11, 2016. The respondent shall document and submit to the Board by no later than 5 p.m. on Thursday, February 11, the number of security personnel that will wear identifiable clothing with the word "Security" during the

¹ Authorized under 23 DCMR 1604.5 (2012 Repl.).

establishment's hours of operation as well as the names of the security personnel that will wear identifiable clothing with the word "Security".

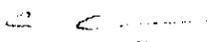
- (4) The revised security plan shall detail the minimum number of security personnel that will be on-duty each day that there is a promotion and their specific duty hours. The security plan shall define a promoter to mean an outside promoter who provides entertainment or music. The procedures in the security plan for outside promoters or in this offer in compromise does not apply to private office parties.
- (5) The Respondent shall utilize a minimum of two (2) MPD Reimbursable Detail Officers (RDO) on Sunday night and any other night it uses a promoter to provide entertainment from 11:30 p.m. until half an hour after closing time.
- (6) The revised security plan shall contain detailed procedures on how the Respondent's security personnel are to handle violent altercations in the establishment, including appropriate methods for separating and handling victims and aggressors, detaining and controlling aggressive patrons, and handing victims and aggressive patrons over to MPD RDO.
- (7) The Respondent shall escort violent aggressors to the MPD Reimbursable Detail officer or officers customarily posted immediately in front of the establishment when such Detail is utilized.
- (8) The Respondent shall not clean up a crime scene under any circumstances, nor authorize anyone to clean up the crime scene, without the prior consent of MPD. The revised security plan shall address the establishment's procedure for preserving a crime scene.
- (9) The revised security plan shall indicate that the Respondent shall be responsible for turning on its lights and turning off its music within one minute of a violent incident occurring. The revised security plan shall detail the establishment's procedures for ensuring that lights are turned on and music is turned off within the one minute requirement.
- (10) The Respondent shall maintain an incident log recording all violent incidents that occur inside of and in front of the establishment. The licensee's security plan shall address the proper protocol for drafting and maintaining incident log entries, to include the names and contact information of any victims and witnesses to an incident. The Respondent shall make the incident log available to MPD and ABRA investigators upon request.
- (11) The Respondent shall utilize barring notices to prevent the return or re-entry of violent or aggressive patrons. The respondent's revised security plan shall document the Respondent's procedures for getting a barring notice issued.
- (12) All patrons entering the establishment on Sundays after 4 p.m or other days when an outside promoter is utilized shall be wanded and patted down.
- (13) The revised security plan shall indicate the hours and days as well as the circumstances such as an outside promoter, when the establishment will utilize wands on all patrons prior to the patrons' entry into the establishment. The purpose of wandling will be for the detection of metal objects, including weapons, that may be carried by patrons. The wands will be used on every patron who enters the establishment and will be used in conjunction with physical "pat down" searches to be specified in the Respondent's security plan.

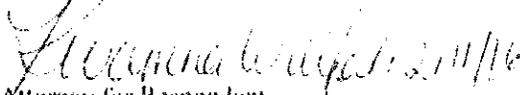
- (14) The revised security plan shall state that cameras utilized by the establishment will be operational. The security plan shall also state that any footage of a crime of violence or a crime involving a weapon will be maintained for 30 days and that any security footage will be made available within 48 hours upon request from ABRA or MPD.
- (15) The revised security plan shall set forth what disciplinary actions will apply for any security personnel who does not comply with the security plan.
- (16) The Respondent shall utilize a counting clicker on Sundays or other days when promotions are held to track the number of patrons inside of the establishment. Under no circumstances shall the number of patrons inside of the establishment exceed the Respondent's approved Certificate of Occupancy.
- (17) All personnel shall be trained on the terms of the revised security plan prior to the reopening of the establishment.
- (18) The summary suspension proceeding will be recessed for 30 days after which the proceeding will reconvene to allow the Board to determine if Barcode has complied with the terms of the updated security plan.

CONSENT

By this settlement agreement I agree to accept and perform its terms. I acknowledge the validity of the settlement and waive a hearing to which I would have a right under D.C. Official Code § 25-826 (2012 Repl.). I also recognize that I am waiving any right to appeal an adverse ruling of the Board that might have followed any such hearing. By this settlement, I waive all such rights. I sign this settlement agreement without reservation, and I fully understand its meaning and my rights.


Andy Schmidt
Assistant Attorney General


Respondent


Attorney for Respondent