

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

In the Matter of:)	
)	
Jamie T. Carrillo)	License Number: 21925
t/a Don Jamie)	Case Number: 09-CMP-00343
)	Order No.: 2010-051
Holder of a Retailer's Class CR License)	
at premises)	
3209 Mt. Pleasant St., N.W.)	
Washington, D.C. 20010)	

BEFORE: Charles Brodsky, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ALSO PRESENT: Jamie T. Carrillo, Respondent

Louise Phillips, Assistant Attorney General
Office of Attorney General, District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

On September 4, 2009, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated September 3, 2009, on Jamie T. Carrillo, t/a Don Jamie (Respondent), at premises 3209 Mt. Pleasant St., N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent violated item M of the Voluntary Agreement ("VA") signed by the Board on August, 2, 2000, as amended by Board Order 2008-190, in violation of D.C. Official Code § 25-446(e).

- Charge II: The Respondent violated item 10 of the VA signed by the Board on March 6, 2008, as amended by Board Order 2008-190, in violation of D.C. Official Code § 25-446(e).
- Charge III: The Respondent violated item 14 of the VA signed by the Board on March 6, 2008, as amended by Board Order 2008-190, in violation of D.C. Official Code § 25-446(e).
- Charge IV: The Respondent failed to keep a copy of the VA immediately accessible in violation of D.C. Official Code § 25-711.

The matter proceeded to a Show Cause Hearing where the Government and the Respondent presented evidence through the testimony of witnesses and the submission of documentary evidence. The Board, having considered the evidence, the testimony of witnesses, the arguments of counsel, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated September 3, 2009. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 09-CMP-00343). The Respondent holds a Retailer's Class CR License and is located at 3209 Mt. Pleasant St., N.W., Washington D.C. (*See* ABRA Licensing File No. 21925).
2. The Show Cause Hearing in this matter was held on January 13, 2010. The Notice to Show Cause charges the Respondent with four violations enumerated above. (*See* ABRA Show Cause File Number 09-CMP-00343).
3. The Government presented its case through the testimony of one witness, ABRA Investigator Erin Mathieson. *Transcript (Tr.)*, 1/13/10 at 17. In addition, the Government submitted a number of documents, including: the Investigator's case report 09-CMP-00343, ABRA Show Cause File 09-CMP-00343, Exhibit 1, a March 16, 2008, VA signed by the Respondent, Claudia Schlosberg, and Adam Hoey, ABRA Show Cause File 09-CMP-00343 Exhibit 4; a July 18, 2000, VA signed between the Respondent and the Mt. Pleasant Neighborhood Alliance (MPNA) through their representative Laurie Collins, ABRA Show Cause File 09-CMP-00343, Exhibit 2; and a Board Order 2008-190 issued August 2, 2000. (ABRA Show Cause File 09-CMP-00343, Exhibit 3).
4. The July 18, 2000, VA between the Respondent and the MPNA, in pertinent part, states in paragraph M: "That Licensee will post signs in the establishment in both English and Spanish advising its patrons about respecting the community, directions for parking and alcohol awareness." (ABRA Show Cause File Number 09-CMP-00343, Exhibit 2).

5. The March 16, 2008, VA between Respondent, Claudia Schlosberg, and Adam Hoey states in item 10: "The Licensee or the night manager shall be contactable via a telephone number that is posted prominently on the premises next to the Licensee's posted hours of operation. The Licensee agrees to make the point of contact telephone number available to the ANC, to the community organizations and to residents. The Licensee is responsible for ensuring that the posted contact telephone number(s) are current. (ABRA Show Cause File Number 09-CMP-00343, Exhibit 4). In addition, item 14 states: "Licensee shall post signs in English and in Spanish, in not less than 1-inch type, in the public restrooms and in a position prominently visible to patrons exiting, with the following text: "Please be considerate of our neighbors. Keep noise to a minimum when you leave. And please help keep our neighborhood clean and safe." (ABRA Show Cause File Number 09-CMP-00343, Exhibit 4).

6. Board Order 2008-190 denied the Respondent's request to invalidate the July 18, 2000, VA between the Respondent and the MPNA. (ABRA Show Cause File Number 09-CMP-00343, Exhibit 3). Board Order 2008-190 granted Respondent's request for an entertainment endorsement and renewed Respondent's Class "CR" License. (ABRA Show Cause File Number 09-CMP-00343, Exhibit 3). Furthermore, the Order deleted paragraphs B and H in the July 18, 2000, VA and deleted paragraphs 6 and 23 in the March 16, 2008, VA. The Order subsequently approved the July 18, 2000, VA and March 16, 2008, VA as amended. (ABRA Show Cause File Number 09-CMP-00343, Exhibit 3).

7. Investigator Mathieson testified that on April 9, 2009, at 3:59 p.m. she visited Respondent's establishment to conduct a regulatory inspection and VA compliance check. *Tr.*, 1/13/10 at 19. Upon her arrival, Investigator Mathieson asked the Respondent if he had a copy of the VA in his premises. *Tr.*, 1/13/10 at 22. Investigator Mathieson stated that the Respondent did not have a copy of the VA in his premises. *Tr.*, 1/13/10 at 22

8. Investigator Mathieson attempted to review the July, 18, 2000, VA with the Respondent but the Respondent refused. *Tr.*, 1/13/10 at 26. Furthermore, the Respondent refused to go down to his office to look for copies of the VA or the Board Order. *Tr.*, 1/13/10 at 30. Finally, the Respondent refused to sign the regulatory inspection form. *Tr.*, 1/13/10 at 30.

9. Investigator Mathieson testified that on April 9, 2009, she also reviewed the Respondent's license. *Tr.*, 1/13/10 at 27. The Investigator found that it lacked an entertainment endorsement and failed to display the Respondent's entertainment hours. *Tr.*, 1/13/10 at 27.

10. Investigator Mathieson testified that on April 9, 2009, she checked ABRA's records regarding the Respondent's establishment. *Tr.*, 1/13/10 at 32. Based on her review, she determined that there are two VAs and a Board Order that applied to the establishment. *Tr.*, 1/13/10 at 32.

11. Investigator Mathieson testified that on April 10, 2009, she returned to the Respondent's establishment. *Tr.*, 1/13/10 at 20, 35. Investigator Mathieson brought a copy

of both VAs and a copy of the Board Order. *Tr.*, 1/13/10at 35-6. Upon entering the establishment, she met the Respondent. *Tr.*, 1/13/10at 36. The Respondent had a copy of the March 16, 2008, VA and the Board Order in a binder but did not have the July 18, 2000, VA. *Tr.*, 1/13/10at 36. Investigator Mathieson provided the Respondent with a copy of the July 18, 2000, VA. *Tr.*, 1/13/10at 36. She then explained to the Respondent that the Board Order nullified paragraphs B and H of the July 18, 2000, VA and paragraphs 6 and 23 of the March 16, 2008. *Tr.*, 1/13/10at 36.

12. During her investigation on April 10, 2009, Investigator Mathieson found that the Respondent failed to have any of the signs he was required to have posted in both English and Spanish. *Tr.*, 1/13/10at 37. Furthermore, she found that the Respondent did not have a contactable telephone number posted. *Tr.*, 1/13/10at 37. Investigator Mathieson stated that she did not cite the Respondent for failing to have his entertainment hours printed on his license. *Tr.*, 1/13/10at 38. Instead, Investigator Mathieson advised the Respondent to obtain a new copy of his license. *Tr.*, 1/13/10at 50.

13. The Respondent presented his case through the testimony of the Respondent and Jack McKay. *Tr.*, 1/13/10at 55. Furthermore, the Respondent submitted a number of documents, including: a letter from Claudia Schlosberg and a transcript featuring the Respondent's testimony from a prior ABC Board hearing. (*See* ABRA Show Cause File Number 09-CMP-00343).

14. The Respondent testified that he previously attempted to void the July 18, 2000, VA. *Tr.*, 1/13/10at 56. The Respondent admitted that he could not void the July 18, 2000, VA and that both the July 18, 2000, VA and the March 16, 2008 VA applied to his establishment. *Tr.*, 1/13/10at 56. The Respondent further testified that he did not put up the signs required in the VAs because at the end of the hearing that resulted in the Board Order he was told that they would work on creating one VA rather than two. *Tr.*, 1/13/10 at 65.

15. The Respondent testified that during Investigator Mathieson's April 9, 2009, investigation, when she only brought the July 18, 2000, VA, the Respondent told her that he had a second VA and had an entertainment endorsement. *Tr.*, 1/13/10at 57-8. The Respondent testified that he did not sign the inspection form because both VAs were not presented to him by Investigator Mathieson. *Tr.*, 1/13/10 at 59. The Respondent stated that he "made some signs in Spanish and English, but they were according to me, not according to the Voluntary Agreement in there." *Tr.*, 1/13/10 at 59.

16. Respondent stated that he received both VAs and the Board Order from Claudia Schlosberg before the April 10, 2009, investigation performed by Investigator Mathieson. *Tr.*, 1/13/10 at 59-60. Furthermore, Respondent stated that he had the Board Order and both VAs available in his establishment. *Tr.*, 1/13/10 at 97-100.

17. Respondent stated that after his conversation with Investigator Mathieson, and based on her advice, he obtained an entertainment endorsement on his license. *Tr.*, 1/13/10 at 60.

18. Respondent stated that he refused to sign the inspection report because he had never been asked to show his VAs by an Investigator before and Investigator Mathieson only gave him ten minutes to produce the documents. *Tr.*, 1/13/10 at 62. He also stated that he did not comply with Investigator Mathieson's requests because he believed that she was an agent of the MPNA. *Tr.*, 1/13/10 at 96.

19. Respondent testified that after the investigations on April 9, 2009, and April 10, 2009, he put up two signs about being considerate in the restroom. *Tr.*, 1/13/10 at 64. Respondent stated that patrons often take down his signs. *Tr.*, 1/13/10 at 65. Respondent also stated that he placed a handwritten sign with a contactable phone number after Investigator Mathieson's first visit. *Tr.*, 1/13/10 at 93. However, the Respondent testified that he did not show it to Investigator Mathieson. *Tr.*, 1/13/10 at 94. The Respondent also admitted that he did not have a sign in accordance with item 14 from the March 16, 2008, VA posted in his establishment during Investigator Mathieson's visit to the Respondent's establishment on April 10, 2009. *Tr.*, 1/13/10 at 94.

20. Respondent argued that the July 18, 2000, VA is fraudulent. *Tr.*, 1/13/10 at 74. However, the Board found that the July 18, 2000, VA, as amended by Board Order 2008-190, was valid. *Tr.*, 1/13/10 at 81.

21. Jack McKay, an ANC commissioner, testified that he has known the Respondent for approximately ten years. *Tr.*, 1/13/10 at 105. He testified that the ANC felt that the appropriate remedy was to advise the Respondent to "do things correctly in the future." *Tr.*, 1/13/10 at 114. Jack McKay also testified that the ANC was not a party to either VA. *Tr.*, 1/13/10 at 116, 120.

22. The Respondent, through his representative, admitted that he was in violation of item 10 and item 14 of the March 16, 2008, VA. *Tr.*, 1/13/10 at 123.

CONCLUSIONS OF LAW

23. The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1)(2001). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 D.C.M.R. 800, *et seq.*

24. The Board finds that the Government has proven that the Respondent violated D.C. Official Code § 25-446 (2009) and D.C. Official Code § 25-711 (2009) by failing to adhere to the July 18, 2000, VA and the March 16, 2008, VA, as amended in Board Order 2008-190 and failing to make those agreements accessible to an ABRA Investigator when requested.

25. The Board finds that the July 18, 2000, VA and the March 16, 2008, VA, as amended by Board Order 2008-190, are valid. The Board finds that the Respondent had an

obligation to comply with paragraph M of the July 18, 2000, VA and item 10 and item 14 contained in the March 16, 2008, VA. Specifically, under item M, the Respondent was obligated to post signs in English and Spanish advising patrons to respect the community, give parking directions, and promote alcohol awareness. Furthermore, under item 10, the Respondent was obligated to post a sign advertising a contactable phone number next to the Respondent's hours of operation. Finally, under item 14, the Respondent was obligated to post a sign in not less than 1-inch type that stated: "Please be considerate of our neighbors. Keep noise to a minimum when you leave. And please help keep our neighborhood clean and safe."

26. During her April 9, 2009, investigation, Investigator Mathieson found that the Respondent did not have any of the signs mandated by either VA posted in his establishment. Furthermore, Respondent admits that he did not have the signs required by the VA posted. Therefore, the Board concludes that the Respondent violated paragraph M, item 10, and item 14 of his VAs in violation of D.C. Official Code § 25-446.

27. Investigator Mathieson also testified that the Respondent failed to present his copies of the VAs and the Board Order when requested during the April 9, 2009, investigation. The Respondent testified that he had copies of the VAs and Board Order in his establishment but refused to show them to Investigator Mathieson. Therefore, the Board concludes that the Respondent failed to make his VAs and the Board Order available to an ABRA investigator in violation of D.C. Official Code § 25-711.

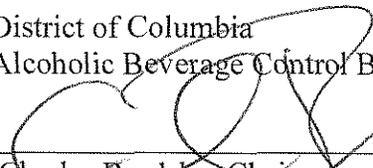
28. The Board concludes that the Respondent committed the violations outlined in Charges I, II, III, and IV. The Board imposes a fine of \$750 payable within 30 days and a five day suspension with all five days stayed for one year pending no further violations.

ORDER

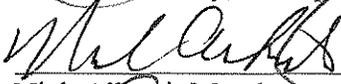
Based on the foregoing findings of fact and conclusions of law, the Board, on this 7 day of April, 2010, finds that the Respondent, Jamie T. Carrillo, t/a Don Jaime at premises 3209 Mt. Pleasant St., N.W., Washington, D.C., holder of a Retailer's Class CR License, violated D.C. Code § 25-446 (2009) and D.C. Code § 25-711 (2009). The Board hereby **ORDERS** that:

1. The Respondent shall pay a fine in the amount of \$750 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for five (5) days; all five (5) days stayed for one (1) year, provided that the Respondent does not commit any ABC violations.

District of Columbia
Alcoholic Beverage Control Board



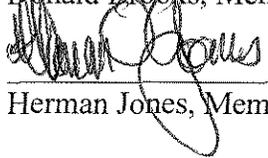
Charles Brodsky, Chairperson



Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member

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 the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington D.C. 20001.

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 (April 2004) 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).