

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

In the Matter of:)	
)	
Jasper Ventures, LLC)	License No.: 72225
t/a Capitale (formerly K Street))	Case No.: 12-251-00369
)	Order No.: 2013-367
)	
)	
)	
Holder of a Retailer's Class CN License)	
at premises)	
1301 K Street, N.W.)	
Washington, D.C. 20005)	
)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member

ALSO PRESENT: Jasper Ventures, LLC, t/a Capitale, Respondent

Stephen O'Brien, Esq., on behalf of the Respondent

Michael Stern, Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

INTRODUCTION

The Alcoholic Beverage Control Board (Board) finds that Jasper Ventures, LLC, t/a Capitale, (Respondent) committed a trade name violation on October 8, 2012. The Respondent shall pay a \$500 fine. This offense also results in the imposition of suspension days, previously stayed in Case Numbers 10-CMP-00714 and 10-CMP-00540. Consequently, the Respondent

shall serve nine (9) suspension days. The suspension shall run from September 15, 2013, to September 23, 2013.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on April 26, 2013. *ABRA Show Cause File No.*, 12-251-00369, Notice of Status Hearing and Show Cause Hearing, 2 (Apr. 26, 2013). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1301 K Street, N.W., Washington, D.C., on April 30, 2013. *ABRA Show Cause File No.*, 12-251-00369, Service Form. The Notice charges the Respondent with a single violation, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license.

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

Charge I: [On October 8, 2012,] [y]ou used a trade name for the establishment without first having obtained Board approval for the new name, in violation of D.C.M.R. § 23-600.1

Notice of Status Hearing and Show Cause Hearing, 3.

Both the Government and Respondent appeared at the Show Cause Status Hearings for this matter on May 29, 2013. The parties proceeded to a Show Cause Hearing where they argued their respective cases on July 17, 2013.

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

1. The Respondent holds a Retailer's Class CN License, ABRA License Number 72225. See ABRA Licensing File No. 72225. The establishment's premises are located at 1301 K Street, N.W., Washington, D.C. Id.
2. The parties stipulated to the facts in this matter. *Transcript (Tr.)*, July 17, 2013 at 3. Accordingly, the parties stipulated as follows:

[O]n October 8th 2012[,] Investigator Kofi Apraku . . . visited the establishment. At that time, the establishment was using the trade name Capitale. [A] . . . search of the records revealed that at that time that name had not been approved for use by the Board.

Id.

CONCLUSIONS OF LAW

3. 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 (D.C.) Official Code pursuant to D.C. Official Code § 25-823(1). D.C. Code § 25-830 (West Supp. 2013); 23 DCMR § 800, *et seq.* (West Supp. 2013). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if we determine “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. Code § 25-447 (West Supp. 2013).

4. Under § 600.1 of Title 23 of the D.C. Municipal Regulations, “No person licensed under the Act shall use any name other than that of an individual licensee or licensees, including a corporate or trade name, without first obtaining approval from the Board for use of the corporate or trade name.” 23 DCMR § 600.1 (West Supp. 2013). Under the facts stipulated by the parties, we find that the Respondent changed its trade name without the permission of the Board in violation of § 600.1. Supra, at ¶ 2.

5. The Respondent’s investigative history shows that we attached nine stayed suspension days to its license on the condition that it not commit any additional offenses within one year from the date we attached the suspension days to its license. Specifically, in Case Number 10-CMP-00714, we attached five suspension days to its license on June 13, 2012. *ABRA Show Cause File No. 12-251-00369*, Investigative History. In addition, in Case Number 10-CMP-00540, we attached four suspension days to the Respondent’s license on October 12, 2011. *Id.* In both cases, we stayed these additional suspension days on the condition that the licensee not commit any additional violations within one year from the date we found the Respondent guilty of the underlying violations. In re Jasper Ventures, LLC, t/a K Street, Case Number 10-CMP-00540, 10-251-00282, Board Order No. 2011-403, 8 (D.C.A.B.C.B. Oct. 12, 2011); In re Jasper Ventures, LLC, t/a K Street, Case Number 10-CMP-00714, Board Order No. 2012, 6 (D.C.A.B.C.B. Jun. 13, 2012). We note that both June 13, 2012, and October 12, 2011 are within one year of October 8, 2012, the date of the current offense.

6. The Respondent has requested that we forgo imposing the stayed suspension days, because they are too severe for a violation of § 600.1. *Tr.*, 7/17/13 at 6-7. In contrast, the Government opposes this request, and asks the Board to impose the stayed suspension days. *Id.* at 4-5.

7. It is the view of the Board that stayed suspension days are not related to the offense that triggers their imposition. Instead, stayed suspension days are punishment for the offense that justified their imposition in the first place. The Board imposes stayed suspension days, in lieu of having a licensee serve them, in order to give the licensee an opportunity to demonstrate that it can operate in accordance with the law. If the Respondent fails in that task, then the blame lies with the Respondent’s ownership.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 14th day of August 2013, finds that Jasper Ventures, LLC, t/a Capitale, violated § 600.1 of Title 23 of the D.C. Municipal Regulations. Accordingly, the Board imposes the following penalty on the Respondent:

- (1) For the violation described in Charge I, the Respondent shall pay a fine of \$500.
- (2) The Respondent shall serve the nine (9) stayed suspension days it received in Case Numbers 10-CMP-00714 and 10-CMP-00540.

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

IT IS FURTHER ORDERED that the Respondent's suspension shall begin on September 15, 2013, and end at 11:59 p.m. on September 23, 2013.

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

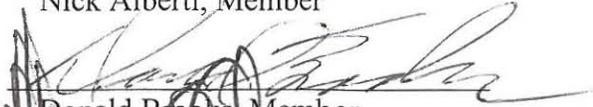
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



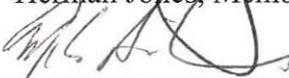
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, N.W., 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, District of Columbia 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).