

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

In the Matter of:)	
)	
Lin's Entertainment LLC)	License No.: ABRA-60113
t/a Columbia Wine and Liquors)	Case No.: 11-CMP-00344
)	Order No.: 2013-328
)	
Holder of a Retailer's Class A License)	
at premises)	
1151 Bladensburg Road, N.E.)	
Washington, D.C. 20018)	

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

ALSO PRESENT: Lin's Entertainment, LLC, t/a Columbia Wine and Liquors, Respondents

Peter Lin, on behalf of the Respondent.

Michael Stern, Senior 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

We find the Respondent, Lin's Entertainment, LLC, t/a Columbia Wine and Spirits, guilty of selling go-cups in violation of D.C. Official Code § 25-741. As a result, the Board imposes a fine of \$350.00.

Procedural Background

On February 1, 2013, the Alcoholic Beverage Regulation Administration (ABRA) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated January 13, 2013, on the

Respondents located at premises, 1151 Bladensburg Road, N.E., Washington, D.C. The Notice charged the Respondents with the following violation, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondents' Retailer's Class CR License. *ABRA Show Cause File No. 11-CMP-00344*, Notice of Status Hearing and Show Cause Hearing, 2 (Jan. 13, 2013).

According to the charge, the Respondents violated D.C. Official Code § 25-741 by providing a go-cup with the sale of alcoholic beverages on August 4, 2011. *Id.* at 2.

The parties came before the Alcoholic Beverage Control Board (Board) for a Show Cause Status Hearing on March 13, 2013, and a Show Cause Hearing on May 15, 2013, where the Government sought to prove the charge through substantial evidence.

FINDINGS OF FACT

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

1. The Respondent holds a Retailer's Class A License, ABRA License Number 60113, and is located at 1151 Bladensburg Road, N.E., Washington, D.C.. *See ABRA Licensing File No. 60113.*
2. On August 4, 2011, ABRA Investigator Earl Jones entered the Respondent's licensed establishment in an undercover capacity at approximately 1:30 p.m. *Transcript (Tr.)*, May 15, 2013 at 7-8. The undercover nature of his investigation was related to a single sales initiative conducted by ABRA's Enforcement Division. *Tr.* at 7.
2. Investigator Jones approached the sales counter and requested a 375 milliliter bottle of Remy Martin Cognac. *Tr.* at 8. Additionally, he requested a cup and ice to go with the bottle of alcoholic beverage. *Tr.* at 8. The Respondent's sales clerk placed the Remy Martin Cognac, a sandwich bag of ice, and two unpackaged Styrofoam cups in a black plastic bag. *Tr.* at 9, 14. The sandwich bag contained enough ice for both Styrofoam cups. *Tr.* at 16. Investigator Jones paid for the alcoholic beverage and left the establishment. *Tr.* at 10.
3. Investigator Jones tagged and recorded the contents of the black plastic bag with the name of the licensed establishment, and placed it in ABRA's evidence locker. *Tr.* at 12-13; Government's Exhibit No. 1.
4. Peter Lin, on behalf of the Respondent, testified that on the date of the incident, an ABRA investigator informed him that he could not sell individual cups. *Tr.* at 21. Mr. Lin was instructed by the investigator that prepackaged cups could be sold to patrons. *Tr.* at 21. One week later, a different ABRA investigator informed Mr. Lin that no cups could be sold to patrons. *Tr.* at 22, 32. Following the second investigator's visit, Mr. Lin received a citation on August 18, 2011, for violating the law. *Tr.* at 23. He has not sold any cups since the undercover investigation. *Tr.* at 22, 37, 44.

5. The Respondent acknowledged that the terms of his Settlement Agreement permit him to sell disposable cups to patrons provided that the cups are prepackaged containing from two to six cups. *Tr.* at 27. The Board takes administrative notice that the Respondent's Settlement Agreement was approved by the Board in Order No. 2009-205

CONCLUSIONS OF LAW

6. 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. D.C. Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2012). 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. 2012).

7. The Board finds that the Respondent violated § 25-741 by providing a go-cup with the sale of an alcoholic beverage on August 4, 2011. It is uncontroverted that the Respondent provided the go-cup to the investigator at the time the investigator purchased the alcoholic beverage. Moreover, the establishment provided a sandwich bag of ice, intended for the individual cups of alcohol. As such, the Board finds that the Government has sustained the charge.

ORDER

Therefore, the Board, on this 10th day of July 2013, finds that the Respondents, Lin's Entertainment, LLC, t/a Columbia Wine and Liquors, violated D.C. Official Code § 25-741. Because this is the Respondent's first secondary tier violation within four years, the Board hereby **ORDERS** that the Respondent shall pay a fine of \$350.00. The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Donald Brooks, Member



Mike Silverstein, Member

I concur with the decision of the majority of the Board as to liability, and I dissent as to the penalty.



Nick Alberti, 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).