

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

In the Matter of:)		
)		
)	Case No.:	14-CMP-00327
Continental Wine & Liquors, LLC)	License No:	78964
t/a Continental Wine and Liquors)	Order No:	2015-040
)		
Holder of a)		
Retailer's Class A License)		
)		
at premises)		
1100 Vermont Avenue, N.W.)		
Washington, D.C. 20005)		

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ALSO PRESENT: Continental Wine & Liquors, LLC t/a Continental Wine and Liquors,
Respondent

Chrissy Gephardt, Assistant Attorney General
Office of the Attorney General for 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 Continental Wine & Liquors, LLC, t/a Continental Wine and Liquors, (hereinafter "Respondent" or "Continental") in violation of one count of violating D.C. Official Code § 25-701.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on October 22, 2014. *ABRA Show Cause File No., 14-CMP-00327*, Notice of Status Hearing and Show Cause Hearing, 2 (Oct. 22, 2014). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1100 Vermont Avenue, N.W., Washington, D.C., on October 29, 2014, along with the Investigative Report related to this matter. *ABRA Show Cause File No., 14-CMP-00327*, Service Form. The Notice charges the Respondent with one violation, 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 violation:

Charge I: [On June 26, 2014,] [y]ou did not have a Board-approved Manager or owner on duty at the establishment in violation of D.C. Official Code § 25-701

Notice of Status Hearing and Show Cause Hearing, 2.

Both the Government and Respondent appeared at the Show Cause Status Hearing on December 3, 2014. The parties proceeded to a Show Cause Hearing and argued their respective cases on January 14, 2015.

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. Continental Wine and Liquors holds an Off-Premise Retailer's Class A License at 1100 Vermont Avenue, N.W., Washington, D.C. *ABRA License No. 78964*.

II. ABRA Investigator Dorshae Demby

2. ABRA Investigator Dorshae Demby visited Continental on June 26, 2014 at approximately 7:20 p.m. to conduct a regulatory inspection. *Transcript (Tr.)*, January 14, 2015 at 11-12. Inside the establishment, Investigator Demby met with Rejendra Bhusal. *Id.* at 13.

3. Investigator Demby requested that Mr. Bhusal notify the establishment's licensed manager or owner that he was present. *Id.* at 14. Mr. Bhusal informed Mr. Demby that no licensed manager or owner was present. *Id.* Investigator Demby then advised Mr. Bhusal that the law required that a licensed manager or owner must be present inside the establishment whenever alcohol is sold. *Id.* at 15.

4. During his inspection, the investigator observed patrons inside the establishment. *Id.* at 15. After the investigator notified Mr. Bhusal of the violation, Investigator Demby witnessed several patrons purchase alcohol. *Id.* at 15.

III. Harpreet Singh

5. Harpreet Singh manages and owns Continental. *Id.* at 16-17. Mr. Singh filed the “Application for a Change of Officer, Director, Partner, General Partner, Member Or Managing Member” on May 20, 2014, for the purpose of adding Mr. Bhusal to the limited liability company that holds Continental’s license. *Respondent’s Exhibit No. 1; id.* at 17.

6. He visited ABRA’s offices on July 8, 2014, to investigate the status of the application. *Tr.*, 1/14/14 at 17. On that day, Mr. Singh paid the \$100 fee, and later received the official approval for the change on July 18, 2014. *Respondent’s Exhibit Nos. 2, 3.* Mr. Singh blamed ABRA’s delay in processing the application for the violation. *Tr.* 1/14/14 at 18.

7. Nevertheless, Mr. Singh admitted that Mr. Bhusal had not been approved as a manager or owner at the time of the violation. *Id.* at 19-20, 40-41.

CONCLUSIONS OF LAW

8. 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. 2014). 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.

9. 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). In this case, on June 26, 2014, ABRA Investigator Demby observed Mr. Bhusal sell alcohol while no licensed manager or owner was present at the establishment. *Supra*, at ¶¶ 2-4.

10. The Board is not sympathetic to Mr. Singh’s defense that he should be free from blame based on his claim that ABRA failed to process the application to make Mr. Bhusal an owner in a timely fashion. *Supra*, at ¶ 5-6. In this case, as a matter of law, Mr. Bhusal had to be approved before he could begin managing the establishment. If Continental needed Mr. Bhusal to act as a manager, Mr. Singh could have inquired as to the status of the application before Investigator Demby found the violation or obtained a temporary manager’s license for Mr. Bhusal, rather than choose to operate in violation of the law.

IV. Penalty

10. A violation of D.C. Official Code § 25-701 is deemed a secondary tier violation under the law. 23 DCMR § 800. The present violation constitutes Continental's second secondary tier violation in a two year period, which means that the Board can impose a fine between \$500 and \$750. 23 DCMR § 802.1(B); *ABRA Licensing File No. 78964, Investigative History*. In this case, based on Continental's knowing violation of the law, the Board assesses a \$750 fine.

ORDER

Therefore, the Board, on this 25th day of February 2015, finds that Continental Wine & Liquors, t/a Continental Wine and Liquors, guilty of violating § 25-701. The Board imposes the following penalty on Continental Wine and Liquors:

- (1) For the violation described in Charge I, Continental Wine and Liquors shall pay a \$750 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

Ruthanne Miller, Chairperson



Nick Alberti, Member



Donald Brooks, Member



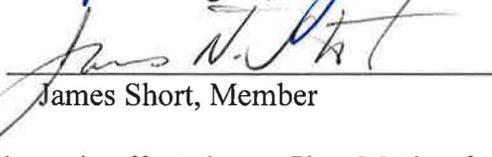
Herman Jones, Member



Mike Silverstein, Member



Héctor Rodríguez, Member



James Short, Member

Pursuant to 23 DCMR § 1719.1, 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).