

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

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<b>In the Matter of:</b>	)	
	)	
Sammy, LLC	)	
t/a DC Mini Supermarket	)	
	)	Case No. 13-CMP-00111
Holder of a Retailer's Class B License	)	License No. ABRA-077803
	)	Order No. 2013-410
at premises	)	
1828 1 <sup>st</sup> Street, N.W.	)	
Washington, D.C. 20001	)	

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

**ALSO PRESENT:** Samuel Ashine, on behalf of Sammy, LLC, t/a DC Mini Supermarket, Respondent

Christine Gephardt, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

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The Alcoholic Beverage Control Board (Board) finds that Sammy, LLC, t/a DC Mini Supermarket, (Respondent), violated District of Columbia (D.C.) Official Code §§ 25-711 and 25-701. As a result, the Respondent must pay a \$750.00 fine.

On June 25, 2013, the Board served a Notice of Status Hearing and Show Cause Hearing (Notice), dated May 29, 2013, on the Respondent charging the Respondent with the following violations:

Charge I: The Respondent failed to post its ABRA license information on the front door or exterior window, in violation of D.C. Official Code

§ 25-711 (2001), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

Charge II: The Respondent permitted the establishment to operate without the presence of a Board-approved manager, in violation of D.C. Official Code § 25-701 (2001), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

On February 20, 2013, Citation #7505 was issued to the Respondent in the amount of \$500.00 for violating D.C. Official Code §§ 25-711 and 25-701.

On February 27, 2013, the Respondent refused to pay the citation and instead, requested a hearing. The Respondent was personally served with a copy of the Notice on June 25, 2013. The Respondent failed to appear at the Show Cause Status Hearing held on July 31, 2013.

The Board held a Show Cause Hearing on August 14, 2013.

The Board having considered the evidence, the testimony of the witness, the arguments of parties, 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 to the Respondent, dated May 29, 2013. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 13-CMP-00111. The Respondent holds a Retailer's Class B license and is located at 1828 1<sup>st</sup> Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-077803.
2. The Show Cause Hearing was held on August 14, 2013. *See* ABRA Show Cause File No. 13-CMP-00111. The Notice charges the Respondent with the two violations enumerated above. *See* ABRA Show Cause File No. 13-CMP-00111.
3. The Government presented its case through the testimony of one witness, ABRA Investigator Earl Jones. *Transcript (Tr.)*, 8/14/13 at 9-10. On February 20, 2013, Investigator Jones conducted a regulatory inspection at the licensed establishment. *Tr.*, 8/14/13 at 11-12.
4. Prior to entering the Respondent's establishment, Investigator Jones observed that the Respondent did not have the ABRA license information posted on the front door or on any of the exterior windows as required by D.C. Official Code § 25-711. *Tr.*, 8/14/13 at 12-14.
5. Once inside the establishment, Investigator Jones identified himself and asked to speak to an ABC-licensed manager or the owner. *Tr.*, 8/14/13 at 16. Mr. Bekele, Respondent's employee, informed Investigator Jones that there was no ABC-licensed manager on the premises. *Tr.* 8/14/13 at 17-18. The owner was also absent from the

premises. *Tr.* 8/14/13 at 17-18. Mr. Bekele stated that he was an ABC Manager, but he did not have his ABC Manager's License in his possession. *Tr.* 8/14/13 at 17.

6. During his inspection, Investigator Jones observed an alcoholic beverage transaction take place while the establishment was been operated only by Mr. Bekele. *Tr.* 8/14/13 at 18-19. Investigator Jones advised Mr. Bekele that the establishment was in violation for selling alcoholic beverages without having an ABC-licensed manager or an owner present. *Tr.* 8/14/13 at 18-19. Mr. Bekele informed Investigator Jones that he was the only employee on premises at the time of the violation. *Tr.* 8/14/13 at 19.

7. After completing the regulatory inspection, Investigator Jones returned to his office and reviewed ABRA's licensing records. *Tr.* 8/14/13 at 20-21. He was unable to find any record that an ABC Manager's license had been issued to Mr. Bekele. *Tr.* 8/14/13 at 21.

8. At the Show Cause Hearing, Samuel Ashine, owner of the licensed establishment, testified that he has had the ABRA license information posted on a small door inside the establishment for six or seven years. *Tr.* 8/14/13 at 23-24.

9. Mr. Ashine stated that at the time of Investigator Jones' inspection, Mr. Bekele was licensed as an ABRA Manager, but that he did not have the license with him because it had expired. *Tr.* 8/14/13 at 24-25. Mr. Ashine indicated that Mr. Bekele's Manager's license is now current. *Tr.* 8/14/13 at 24-25. Mr. Ashine admitted that he was aware that Mr. Bekele should not have sold alcoholic beverages with an expired ABC Manager's License. *Tr.* 8/14/13 at 25.

10. Mr. Ashine was not aware that the required ABRA license information should be posted on the 1<sup>st</sup> Street, N.W., side of his establishment. *Tr.* 8/14/13 at 26. He did not have the ABRA license information posted on the appropriate area, but he had it posted inside the establishment. *Tr.* 8/14/13 at 26. Mr. Ashine admitted that in order to see the ABRA license information, the public must enter the establishment. *Tr.* 8/14/13 at 27-28.

11. Mr. Ashine posted the ABRA license information inside the establishment to avoid having someone tear it off. *Tr.* 8/14/13 at 32-33. His establishment has been visited by ABRA investigators before; however, no other investigator had advised him about the requirement to post the ABRA license information to the exterior of the licensed premises. *Tr.* 8/14/13 at 50.

12. In support of his defense, Mr. Ashine submitted a copy of two ABC Manager's licenses of Mr. Bekele, one expired and one current; certificates awarded on September 13, 2011, and September 27, 2012, for receiving a 100 percent compliance rating for ABRA's Enforcement of Underage Drinking Program; the ABRA license information sign that was posted inside the establishment; a photograph of the ABRA license information sign; and a photograph of a different sign posted on the door inside the establishment stating "Notice: We do not sell alcoholic beverages to anyone who is already intoxicated." *Tr.* 8/14/13 at 52-53. *See* Respondent's Exhibits 1-5.

## CONCLUSIONS OF LAW

13. 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) (2009). 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.*

14. In order to hold a Licensee liable for a violation of the ABC laws, the Government must show that there is substantial evidence to support the charge. Substantial evidence is defined as evidence that a “reasonable mind might accept as adequate to support the conclusion” and there must be a “rational connection between facts found and the choice made.” 2461 Corp. v. D.C. Alcoholic Bev. Control Bd., 950 A.2d 50, 52-53 (D.C. 2008).

15. With regard to Charge I, the Board finds that the Respondent violated D.C. Official Code § 25-711 because he did not have the ABRA license information posted on the front door or exterior window of the establishment as required by law. This finding is supported by the record in this matter. Specifically, Investigator Jones personally observed during a regulatory inspection that the Respondent did not have posted the ABRA license information. Moreover, Mr. Ashine admitted that he had the ABRA license information posted inside the establishment, which only could be seen by the public if the public were to enter the establishment.

16. With regard to Charge II, the Board finds that the Respondent violated D.C. Official Code § 25-701 because he permitted the establishment to operate in his absence and without the presence of an ABC-licensed Manager. The Board credits the testimony of Investigator Jones who testified that he witnessed the sale of alcoholic beverages when neither the owner nor an ABC-licensed Manager was present on the premises during the transaction. Additionally, Mr. Ashine admitted that his employee who sold the alcoholic beverage, Mr. Bekele, had an expired ABC Manager’s license at the time of the sale. Moreover, Investigator Jones confirmed by a search of ABRA records that no ABC Manager’s license had been issued to Mr. Bekele.

17. Therefore, based upon the above, the Board finds that the Respondent’s violation of D.C. Official Code § 25-711, as set forth in Charge I, and § 25-701, as set forth in Charge II, of the Notice to Show Cause, dated May 29, 2013, warrants the imposition of a fine as set forth below.

18. The Board takes administrative notice that Charge I and Charge II are the first secondary tier violations within two years for the Respondent.

## ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 16th day of October, 2013, finds that the Respondent, Sammy, LLC, t/a DC Mini Supermarket, located at 1828 1<sup>st</sup> Street, N.W., Washington, D.C., holder of a Retailer's Class B license, violated D.C. Official Code §§ 25-711 and 25-701.

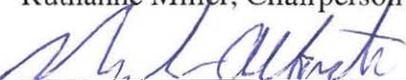
The Board hereby **ORDERS** that:

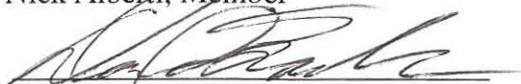
- 1) Charge I: Respondent must pay a fine in the amount of \$250.00.
- 2) Charge II: Respondent must pay a fine in the amount of \$500.00.
- 3) In total, the Respondent must pay a fine in the amount of \$750.00 by no later than thirty (30) days from the date of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions.

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

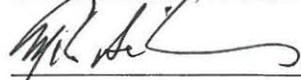
District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

  
Nick Alberti, Member

  
Donald Brooks, Member

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Herman Jones, Member

  
Mike Silverstein, Member

Pursuant to D.C. Official Code § 25-433, 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 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 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 D.C. Official Code § 25-433, 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).