

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

In the Matter of:)	
)	
Twin T's, LLC)	License No.: 88119
t/a DC Shenanigans)	Case No.: 12-CC-00034
)	Order No.: 2013-360
)	
)	
)	
Holder of a Retailer's Class CT License)	
at premises)	
2450 18th Street, N.W.)	
Washington, D.C. 20009)	

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

ALSO PRESENT: Twin T's, LLC, t/a DC Shenanigans, Respondent

Emanuel Mpras, Esq., on behalf of the Respondent

Chrissy Gephardt, 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 Twin T's, LLC, t/a DC Shenanigans, (Respondent) violated District of Columbia (D.C.) Official Code §§ 25-781(a)(1) and 25-783(b) on February 17, 2012. The Respondent shall pay a \$4,000 fine and have its license suspended for ten (10) days. The Respondent shall serve eight suspension days, and shall receive two stayed suspension days, which shall go into effect if we find that the Respondent has

committed additional violations within one year from the date of this Order. The suspension shall run from September 8, 2013, to September 15, 2013.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on January 16, 2013. *ABRA Show Cause File No.*, 12-CC-00034, Notice of Status Hearing and Show Cause Hearing, 4 (Jan 16, 2012). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2450 18th Street, N.W., Washington, D.C., on February 1, 2013. *ABRA Show Cause File No.*, 12-CC-00034, Service Form. The Notice charges the Respondent with a number of violations, 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 violations:

Charge I: [On February 17, 2012,] [y]ou permitted the sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age in violation of D.C. Official Code § 25-781

Charge II: [On February 17, 2012,] [y]ou failed to require production of valid identification during the sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age, in violation of D.C. Official Code § 25-783

Notice of Status Hearing and Show Cause Hearing, 2-3.

Both the Government and Respondent appeared at the Show Cause Status Hearings for this matter on February 27, 2013. The parties proceeded to a Show Cause Hearing where they argued their respective cases on May 1, 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 CT License, ABRA License Number 88119. See ABRA Licensing File No. 88119. The establishment's premises are located at 2450 18th Street, N.W., Washington, D.C. Id.
2. On February 17, 2013, ABRA Investigator Abyie Ghenene was driving down 18 th Street, N.W., with ABRA Investigator Ileana Corrales. *Transcript (Tr.)*, May 1, 2013 at 9-10. Investigator Ghenene observed a large crowd of patrons standing outside the Respondent's establishment that appeared under the age of twenty-one. Id. at 9. He saw some of the individuals smoking outside the establishment, while others were standing in line waiting to enter the establishment. Id.

3. Investigator Ghenene parked the car, and both investigators exited the vehicle. Id. at 10. They then observed the establishment's entry procedures for approximately five to ten minutes. Id. Investigator Ghenene witnessed the establishment's doorperson requesting identification from patrons seeking admission. Id. at 10. The doorperson was not using any identification checking aids, such as an I.D. checking book or a flashlight. Id. at 10-11.

4. The investigators then approached the establishment's doorperson, showed their credentials, and requested to speak to the establishment's owner or manager. Id. at 11. The doorperson told the investigators that the owner was in an office in the rear of the establishment. Id. at 11. As the investigators walked through the establishment, Investigator Ghenene observed numerous patrons that he believed to be under the age of twenty-one. Id. at 12- 13.

5. Both investigators then requested the identification of two female patrons inside the establishment. Id. at 13. The female patrons were consuming beer in plastic cups. Id. at 67. The investigators identified themselves, explained that they were monitoring the establishment for compliance with the District's underage drinking laws, and requested that the patrons show the investigators their identification. Id.

6. The first female approached by the investigators appeared nervous and dropped her beer when the investigators requested her identification. Id. at 14. She told the investigators that her identification was in her jacket, which was located on the establishment's second floor. Id. Investigator Ghenene accompanied this patron to the second floor. Id. at 15. The young woman handed Investigator Ghenene an identification document that the woman described as being a fake. Id.

7. Investigator Ghenene identified the document as a fake Florida driver's license. Id. at 39-40. Investigator Ghenene observed that the identification provided by the first patron had heavy creases in the laminate. Id. at 16; Government Exhibit No. 1. Investigator Ghenene noted that normal identification documents do not crease, but instead crack or break. Id. at 17. Investigator Ghenene also used an ID TECH device that identified the document as fraudulent, because the Florida driver's license lacked the required hologram, microprinting, and contained a blurry and faded barcode. Id. at 18-19, 39-40; Government Exhibit No. 1, 4. The female patron stated that she was nineteen years old, but fled when Investigator Ghenene asked her for her real identification. Id. at 21.

8. The investigators then met with the owner and began checking patron identification. Id. at 22-23. Investigator Ghenene asked the owner to check the identification of patrons, but the owner ignored Investigator Ghenene's request. Id. at 23-24. Investigator Ghenene first checked the identification documents of two patrons and they were over the age of twenty-one. Id. at 26. He also approached another female patron and requested her identification documents, but she refused to comply and fled the establishment. Id. at 27.

9. Investigator Ghenene approached another female patron who possessed an alcoholic beverage, and he requested her identification. Id. at 27. The female patron presented a Michigan driver's license that indicated the bearer turned twenty-one on February 9, 2012. Id. at 27-28; Government Exhibit No. 2. Investigator Ghenene inspected the document and noticed that

driver's license expired on February 9, 2012. Id. at 28. In addition, the photograph on the driver's license did not match the female patron. Id. at 28, 31; Government Exhibit No. 3. Specifically, the patron's nose and hair color did not match the individual featured in the photograph. Id. at 31-32. The female patron also admitted to Investigator Ghenene that she was twenty years of age. Id. at 30. Finally, Investigator Ghenene took a picture of the female patron and she returned to the party at the establishment. Id. at 33.

10. Investigator Ghenene and Investigator Corrales returned downstairs and spoke to Mr. Hall and his doorman about the establishment's procedures for checking identification. Id. at 34. The doorman told Investigator Ghenene that the establishment did not use an "I.D. Checking Guide." Id. at 35. Mr. Hall and the doorman also told Investigator Ghenene that the establishment was only admitting patrons that were twenty-one years of age or older. Id. at 65. The investigator then advised Mr. Hall of the violation and had him sign a sale to minor notification form. Id. at 38.

11. Thomas Hall serves as a managing member of Twin T's, LLC. Id. at 86-87. Mr. Hall was present at the establishment on February 17, 2012. Id. at 87. Mr. Hall discussed the Respondent's security procedures on February 17, 2012. Id. According to Mr. Hall, the Respondent checks the identification of every individual attempting to enter the establishment. Id. In addition, the event on February 17, 2012, was only for individuals twenty-one years of age or older. Id. Sometimes bartenders ask for identification, but the establishment generally only checks patron identification at the door. Id. at 87-88.

12. Mr. Hall admitted that he did not obtain the identifications requested by Investigator Ghenene. Id. at 88. According to Mr. Hall, he did not obtain the identifications, because he was concerned about the legal liability associated with taking an identification. Id. Since the investigation, Mr. Hall has changed his establishment's identification checking procedures. Id. at 89. According to Mr. Hall, the establishment uses the "I.D. Checking Guide," provides an ultraviolet light to his doormen, and uses an identification scanner. Id. Mr. Hall also hired a new door staff with more experience to check identifications. Id. at 89-90.

CONCLUSIONS OF LAW

13. 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. 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).

14. We find that the Respondent sold alcoholic beverages to two minors on February 17, 2012. Under § 25-781(a)(1), the Respondent may not sell or deliver alcohol to an individual "under 21 years of age." D.C. Code § 25-781(a)(1) (West Supp. 2013). We credit Investigator Ghenene's testimony that the female patron with the fake Florida driver's license was nineteen years old and that the female patron with the expired Michigan driver's license was twenty years

old. Supra, at ¶¶ 7, 9. Because both underage patrons possessed alcoholic beverages, we find the Respondent in violation of § 25-781. Supra, at ¶¶ 6, 9.

15. The Respondent argues that it should not be blamed for this violation, because the patrons obtained alcohol using fake identification and lied to the establishment. Nevertheless, the record shows that the establishment should not have accepted the two identifications. First, the establishment's doorperson should not have accepted the Florida driver's license when it was obviously a poor quality fake. The heavy creasing, lack of holograms and microprinting, and blurry and faded bar codes make it an obvious fake that anyone serious about checking identifications should have questioned and rejected. Supra, at ¶ 7. Second, the Michigan driver's license clearly expired on February 9, 2012, and the photograph did not match the female patron presenting the identification. Supra, at ¶ 9. As a result, the blame for this violation rests squarely with the Respondent.

16. The Respondent also argues that there is insufficient evidence to show that the establishment served the two minors in question. We disagree. Unless the establishment routinely allows patrons to enter its premises with open containers of alcohol, the underage female patrons caught with alcoholic beverages had no other source of alcohol other than the establishment. We further find it unlikely that another patron gave the female patrons drinks, because such an act was unnecessary. As Mr. Hall admitted, the establishment's bartenders rarely ask patrons for further identification once they enter the establishment. Supra, at ¶ 11. Therefore, we find that the Government has proven Charge I.

17. We also find that the Respondent failed to take reasonable measures to ascertain the age of individuals purchasing alcohol on February 17, 2012. Under § 25-783(b), the Respondent and its agents must "take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or serves an alcoholic beverage is of legal drinking age. D.C. Code § 25-783(b) (West Supp. 2013). The Board finds that a reasonable identification-checking program requires the Respondent to reject obviously fake identification documents. Furthermore, checking whether the picture on an identification document matches the bearer is the hallmark of a responsible and reasonable identification-checking program. Based on these facts, we find that the Government has proven the violation described in Charge II.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 7th day of August 2013, finds that Twin T's LLC, t/a DC Shenanigans, committed multiple violations of D.C. Official Code §§ 25-781 and 25-783. Accordingly, the Board imposes the following penalty on the licensee:

- (1) For the violation described in Charge I, the Respondent shall pay a fine of \$2,000. The Respondent shall also receive a four (4) day suspension of its license for this offense. The Respondent shall also receive one (1) stayed suspension day, which shall go into effect if the Respondent is found to have committed an additional violation of Title 25 or Title 23 within one year from the date of this Order.

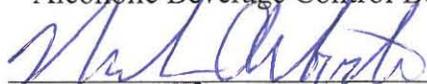
- (2) For the violation described in Charge II, the Respondent shall pay a fine of \$2,000. The Respondent shall also receive a four (4) day suspension of its license for this offense. The Respondent shall also receive one (1) stayed suspension days, which shall go into effect if the Respondent is found to have committed an additional violation of Title 25 or Title 23 within one year from the date of this Order.

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 all fines are paid.

IT IS FURTHER ORDERED that the Respondent's suspension shall begin on September 8, 2013, and end at midnight on September 15, 2013.

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

District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Member

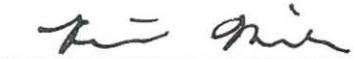


Donald Brooks, Member



Mike Silverstein, Member

I concur with the decision reached by the majority of the Board as to the violation of D.C. Official Code § 25-783 and with the imposition of the financial penalty selected for that violation. I dissent from the additional penalty selected by the majority for the violation of § 25-783, and from the Board's decision to find the Respondent guilty of the violation of D.C. Official Code § 25-781.



Ruthanne Miller, Chairperson

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).