



Charge I: [On Saturday, March 21, 2015] [y]ou failed to have a Board approved manager on site, in violation of D.C. Official Code § 25-701...

Charge II: [On Saturday, March 21, 2015] [y]ou failed to post on the front window or front door the correct name or names of the licensee(s) and the class and number of the license in plain and legible letters, in violation of D.C. Official Code § 25-711(b)...

*ABRA Show Cause File No., 15-CMP-00272, Notice of Status Hearing and Show Cause Hearing, 2-3 (August 20, 2015).*

On March 27, 2015, Citation #5151 was issued to the Respondent in the amount of \$1,500.00 for violating D.C. Official Code §§ 25-701 and 25-711(b).

On April 20, 2015, the Respondent refused to pay the citation and instead, requested a hearing.

On November 18, 2015, the Board held a Show Cause Status Hearing. There was no settlement of the matter and it proceeded to a Show Cause Hearing on January 20, 2016.

The Respondent failed to appear at the Show Cause Hearing held on January 20, 2016. The Board proceeded to hearing pursuant to D.C. Official Code § 25-447(e), which allows for an ex parte proceeding.

## **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:

### **I. Background**

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated August 20, 2015. See ABRA Show Cause File No. 15-CMP-00272. Lucky 7, LLC, t/a Lucky 7 Liquor, holds a Retailer's Class A License, ABRA License No. ABRA-090270. See ABRA Licensing File No. ABRA-090270. The establishment's premises are located at 2314 Rhode Island Avenue, N.E., Washington, D.C. See ABRA Licensing File No. ABRA-090270.

2. The Show Cause Hearing was held on January 20, 2016. The Notice charges the Respondent with two violations enumerated above. See ABRA Show Cause File No. 15-CMP-00272.

## II. Testimony of ABRA Investigator Shawn Townsend

3. The Government presented its case through the testimony of one witness, ABRA Investigator Shawn Townsend. *Transcript (Tr.)* 1/20/16 at 5-6.
4. Investigator Townsend authored the Investigative Report, whose contents and exhibits serve as the basis of the factual nature of the incident. *Tr.* 1/20/16 at 14. Government's Exhibit 1.
5. On March 21, 2015, Investigator Townsend visited the Respondent's establishment to conduct a Regulatory Inspection. *Tr.* 1/20/16 at 7. Investigator Townsend identified himself to a female employee and asked to speak to the owner or an ABC-licensed Manager. *Tr.* 1/20/16 at 8. Neilia Drummond, Respondent's employee, informed Investigator Townsend that there was no ABC-licensed manager or the owner on the premises. *Tr.* 1/20/16 at 8-9. During this visit, Investigator Townsend observed an alcoholic beverage sales transaction take place while the establishment was been operated by Ms. Drummond. *Tr.* 1/20/16 at 13.
6. Ms. Drummond telephonically contacted the owner. *Tr.* 1/20/16 at 9. Investigator Townsend advised the owner via telephone that the establishment was in violation for selling alcoholic beverages without having an ABC-licensed manager or an owner present. *Tr.* 1/20/16 at 9. Investigator Townsend then conducted a regulatory inspection. *Tr.* 1/20/16 at 9.
7. During the Regulatory Inspection, Investigator Townsend also found that the Respondent did not have window lettering posted. *Tr.* 1/20/16 at 9. Investigator Townsend also advised the owner via telephone about this violation. *Tr.* 1/20/16 at 9. Investigator Townsend provided Ms. Drummond with temporary window lettering. *Tr.* 1/20/16 at 9.
8. On March 27, 2015, Investigator Townsend made a second visit to the Respondent's establishment to issue a citation to the Respondent for not having an ABC-licensed Manager on duty and window lettering posted on March 21, 2015. *Tr.* 1/20/16 at 10-11. *See* ABRA Show Cause File No. 15-CMP-00272. During this second visit, Meskrem Mehri, owner, was present. *Tr.* 1/20/16 at 11. Investigator Townsend advised Ms. Mehri again about the violations observed on March 21, 2015. *Tr.* 1/20/16 at 10-11. During this second visit, Investigator Townsend also issued a Warning to the Respondent for not having the ABC license conspicuously posted, in violation of D.C. Official Code § 25-711(a). *Tr.* 1/20/16 at 11. *See* ABRA Show Cause File No. 15-CMP-00272.
9. The Board finds that the Respondent was given adequate notice of the charges brought against it, and adequate notice of the Show Cause Hearing before the Board. The Respondent did not appear at the hearing and did not file any testimony or exhibits refuting the evidence submitted by the Government. Furthermore, the Respondent did not contact the Office of the Attorney General or ABRA to request a continuance of the hearing. As such, the finding of facts are undisputed.

## CONCLUSIONS OF LAW

10. 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. 2013). 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.

### I. THE RESPONDENT VIOLATED § 25-701

11. The Board finds the Respondent liable for permitting the licensed establishment to operate on March 21, 2015, without either the licensee or an ABC-licensed Manager superintending during the hours of operation in violation of D.C. Official Code § 25-701.

12. ABRA’s regulations are clear that either the licensee or an ABC-licensed Manager must be present while the establishment is operating. Title 23 of the DCMR § 707.1 provides that in the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises.

13. The Board finds that the facts set forth in the Investigative Report support the charge and support a finding of liability as to the Respondent. It is unrefuted that on March 21, 2015 at approximately 10:40 p.m., the Respondent’s employee, Neilia Drummond, admitted to Investigator Townsend that there was no ABC-licensed manager or owner on the premises. The Respondent was open and operating during Investigator Townsend’s visit.

### II. THE RESPONDENT VIOLATED § 25-711(b)

14. The Board finds that the Respondent did not have the ABRA license information posted on the front door or exterior window. The Board credits Investigator Townsend, who personally observed, on March 21, 2015, that the Respondent did not have the window lettering posted as required by D.C. Official Code § 25-711(b).

### III. PENALTY

15. The Respondent’s Investigative History shows that these are the Respondent’s third secondary tier violations within three years. *Licensing File No. ABRA-090270*, Investigative History. Thus, the Board may fine the Respondent between \$750.00 and \$1,000.00. *Licensing File No. ABRA-090270*, Investigative History; DCMR § 23-802.

## **ORDER**

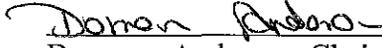
Based on the foregoing findings of fact and conclusions of law, the Board, on this 2<sup>nd</sup> day of March, 2016, finds that the Respondent, Lucky 7, LLC, t/a Lucky 7 Liquor, located at 2314 Rhode Island Avenue, N.E., Washington, D.C., holder of a Retailer's Class A license, violated D.C. Official Code §§ 25-701 and 25-711(b).

The Board hereby **ORDERS** that:

- 1) Charge I: Respondent must pay a fine in the amount of \$1,000.00.
- 2) Charge II: Respondent must pay a fine in the amount of \$1,000.00.
- 3) In total, the Respondent must pay a fine in the amount of \$2,000.00 by no later than thirty (30) from the date of this Order or its license shall be suspended until all outstanding fines are paid.

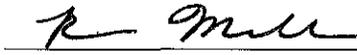
Copies of this Order shall be sent to the Respondent and the Government.

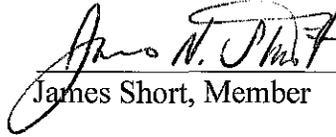
District of Columbia  
Alcoholic Beverage Control Board

  
Donovan Anderson, Chairperson

  
Nick Alberti, Member

  
Mike Silverstein, Member

  
Ruthanne Miller, Member

  
James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(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, 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, 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 (2008) 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).