

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

In the Matter of:)	
Zandamn, Inc.)	License No.: 9480
t/a New Heights)	Case Nos.: 10-CMP-00640
)	11-CMP-00067
Holder of a Retailer's Class CR License)	Order No.: 2012-040
at premises)	
2317 Calvert Street, N.W.)	
Washington, D.C. 20008)	

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Zandamn, Inc., t/a New Heights, Respondent

Amarjeet Singh, Owner, 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**

On October 18, 2011, the Alcoholic Beverage Regulation Administration (ABRA) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated September 21, 2011, on Zandamn, Inc., t/a New Heights, (Respondent) at premises 2317 Calvert Street, N.W., Washington, D.C., charging the Respondent, in Case Nos. 10-CMP-00640 and 11-CMP-00067, with the following violations, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license:

Charge I: The Respondent failed to keep and maintain records upon the licensed premises, which include invoices and delivery slips that adequately and

fully reflect all purchases, sales and deliveries of all alcoholic beverages, except beer, for a period of three years, in violation of District of Columbia Official Code § 25-113(j)(3)(A), for which the Board may take the proposed action under District of Columbia Official Code § 25-823 and 23 DCMR § 800, *et seq.*

Charge II: The Respondent failed to file the required quarterly statement for the preceding quarter in violation of District of Columbia Official Code § 25-113(b)(2)(A), for which the Board may take the proposed action under District of Columbia Official Code § 25-823 and 23 DCMR § 800, *et seq.*

The Alcoholic Beverage Control Board (Board) originally scheduled the Show Cause Status Hearing for October 26, 2011, but rescheduled the hearing for November 2, 2011. On November 2, 2011, the Respondent presented the Board with the establishment's books and records.

The matter proceeded to a Show Cause Hearing on November 16, 2011, where the Government and the Respondent presented evidence through the testimony of witnesses and the submission of documentary evidence. The Board, having considered the evidence, the testimony of witnesses, the arguments of the parties, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. ABRA Investigator Jabriel Shakoor visited the Respondent's establishment on September 17, 2010, in order to conduct a regulatory inspection. *Transcript*, November 16, 2011 at 12. Investigator Shakoor met with Amarjeet Singh, the establishment's owner, and asked him to present alcohol invoices, guest checks, and sales receipts from the past three years. *Tr.*, 11/16/11 at 13-14.
2. Investigator Shakoor noted that Mr. Singh had guest checks and his sales information saved on the establishment's computer. *Government Exhibit No. 1, Investigative Report*, 2.
3. Nevertheless, the establishment only maintained its alcohol purchase invoices from the previous year. *Tr.*, 11/16/11 at 22; *Government Exhibit No. 1, Investigative Report*, 2. Mr. Singh told Investigator Shakoor that the establishment only keeps one year of invoices on the establishment's premises and stores the rest of the invoices at his home. *Tr.*, 11/16/11 at 17-18; *Government Exhibit No. 1, Investigative Report*, 2. Mr. Singh did not tell Investigator Shakoor that the invoices were located in the restaurant's attic or that he needed more time to produce the records. *See Tr.*, 11/16/11 at 72-75.
4. During the investigation, Investigator Shakoor observed a group of rowdy youths congregate outside the establishment and heard them break a glass. *Tr.*, 11/16/11 at 21. Mr. Singh briefly confronted the youths and they ran away. *Tr.*, 11/16/11 at 21, 22, 49-50. The disturbance caused by the group of youths ended quickly, and the investigation resumed. *Tr.*, 11/16/11 at 22.

5. Investigator Shakoor noted that ABRA's standard practice during books and records investigations is to offer to reschedule investigations if the licensee appears to be busy. *Tr.*, 11/16/11 at 82-84. During the investigation, Investigator Shakoor offered to continue the investigation at a later date, but Mr. Singh declined the offer. *Tr.*, 11/16/11 at 20, 84.

6. Adeniyi Adejunmobi serves as a Compliance Analyst with ABRA. *Tr.*, 11/16/11 at 31. As part of his duties, Mr. Adejunmobi examines the quarterly reports submitted by licensees. *Tr.*, 11/16/11 at 31. In that vein, Mr. Adejunmobi maintains a log for ABRA that tracks the submission of quarterly reports by licensees. *Tr.*, 11/16/11 at 31-32. Mr. Adejunmobi observed that the Respondent did not submit a fourth quarter quarterly report on January 30, 2011. *Tr.*, 11/16/11 at 36. Additionally, ABRA did not receive proof that the Respondent faxed the quarterly report to ABRA. *Tr.*, 11/16/11 at 37.

7. The Respondent currently holds a Retailer's Class CR License. *ABRA Licensing File No. 9480*. The Respondent has three prior quarterly statement violations in the past five years. *Government Exhibit No. 2*.

CONCLUSIONS OF LAW

8. The Board has the authority to 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). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830; 23 DCMR § 800, *et seq.*

9. The Board bases its factual findings on the substantial evidence contained in the record. 23 DCMR § 1718.3 (2008). The courts define substantial evidence as evidence that "reasonable minds might accept as adequate to support the [Board's] conclusions." 2641 Corp. v. District of Columbia Alcoholic Beverage Control Bd., 950 A.2d 50, 52 (D.C. 2008) *citing* Kopff v. District of Columbia Alcoholic Beverage Control Bd., 381 A.2d 1372, 1387 (D.C. 1977).

10. We find that the Government has proven through substantial evidence that the Respondent is guilty of the violations described in Charge I and Charge II.

11. The record shows that the Respondent failed to maintain alcohol purchase invoices for a period of three years. Under the law, each licensee holding a Retailer's Class CR License "shall keep and maintain on the premises for a period of 3 years adequate books and records showing all sales, purchase invoices, and dispositions." D.C. Code § 25-113(j)(3)(A) (West Supp. 2011). Purchase invoices should include "the date and quantity of the purchase, the name, address, and phone number of the wholesaler and or vender with the original invoice." D.C. Code § 25-113(j)(3)(A)(iii). Here, Mr. Singh could not produce three years of purchase invoices; thus, we find that he failed to keep adequate books and records. *Supra*, at ¶¶ 2-3. We simply do not credit Mr. Singh's explanation that Investigator Shakoor misunderstood him and that the records were located in the establishment's attic; especially, when Mr. Singh had the opportunity to reschedule the investigation or, at the very least, tell Investigator Shakoor that the records were

located in the establishment's attic. Supra, at ¶¶ 3, 5. Therefore, we find that the Respondent committed the offense described in Charge I.

12. The record also shows that the Respondent failed to submit its 2010 fourth quarter quarterly report to ABRA by January 30, 2011. Under the law, each licensee must "file with the Board quarterly statements, on the dates and in the manner prescribed by the Board . . ." D.C. Code § 25-113(b)(2)(A). Here, the record shows that the Respondent did not submit its fourth quarter quarterly report to ABRA. Supra, at ¶ 6. Therefore, we find that the Respondent committed the offense described in Charge II.

ORDER

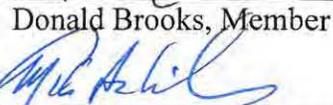
Based on the foregoing findings of fact and conclusions of law, the Board, on this 1st day of February 2012, finds that the Respondent, Zandamn, Inc., t/a New Heights, violated District of Columbia Official Code §§ 25-113(j)(3)(A) and 25-113(b)(2)(A). The Board hereby **ORDERS** that

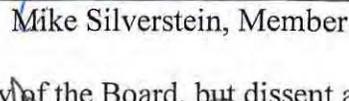
- (1) the Respondent shall pay a \$2,000.00 fine by no later than thirty (30) days from the date of this Order for the violation described in Charge I; and
- (2) the Respondent shall pay a \$1,000.00 fine by no later than thirty (30) days from the date of this Order for the violation described in Charge II.

The Alcoholic Beverage Regulation Administration shall deliver copies of this Order to the Government and the Respondent.

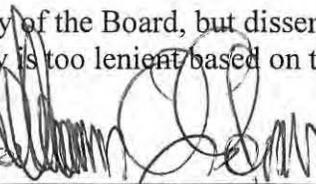
District of Columbia
Alcoholic Beverage Control Board


Nick Alberti, Interim Chairperson

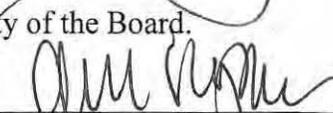

Donald Brooks, Member


Mike Silverstein, Member

I concur with the position taken by the majority of the Board, but dissent as to the penalty. I believe that punishment chosen by the majority is too lenient based on the facts presented to the Board by the Government.


Herman Jones, Member

I dissent from the position taken by the majority of the Board.


Calvin Nophlin, 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).