

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

In the Matter of:)	
)	
Venus Indo Services, Inc.)	License No.: 60242
t/a Pan Mar Liquors)	Case Nos.: 11-251-00174
)	Order No.: 2012-495
Holder of a Retailer's Class A License)	
at premises)	
1926 I Street, N.W.)	
Washington)	

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

ALSO PRESENT: Venus Indo Services, Inc., t/a Pan Mar Liquors, Respondent

Andrew Kline, Non-Lawyer Representative, 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

**ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION AND
AMENDING FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On September 28, 2011, by Board Order No. 2012-362 issued at the conclusion of the Show Cause Hearing, the Alcoholic Beverage Control Board (Board) found the Respondent, Venus Indo Services, Inc., t/a Pan Mar Liquors, holder of a Retailer's Class CR License, located at 1904 14th Street, N.W., Washington, D.C., in violation of §§ 25-781 and 25-783, of the District of Columbia Official Code.

As a result of its findings, the Board imposed a fine of \$4,000.00, and a suspension of the license for ten (10) days; four (4) days to be served, six (6) days to be stayed for Charge I, and a fine of \$6,000.00, and a suspension of five (5) days; one (1) day to be served and four (days)

stayed for Charge II. Additionally, the Board imposed an additional five (5) day suspension that was activated from a previous Offer in Compromise entered into by the Respondent and the Government on July 6, 2011, in Case No. 11-251-00064. Lastly, the Board required the Respondent and its employees to undertake and complete Alcohol Awareness Training within 90 days of the issuance of Board Order No. 2012-362. The ten (10) days of suspension were scheduled to be served on October 16, 2012, through October 25, 2012.

On October 11, 2012, the Respondent filed a Motion for Reconsideration of Board Order, resulting in a stay of the penalty; specifically, the imposition of the suspension of the Respondent's license, until the matter could be further addressed by the Board.

In its Motion for Reconsideration, the Respondent argued the following three points: 1) holding the Respondent liable for two charges for the same offense is inconsistent with the intention of the statute; 2) the fine of \$6,000.00 levied in violation of Charge II is contrary to law; and 3) the suspension for violation of §25-783 exceeds the suspension allowable under the statute.

The Government responded to the Motion for Reconsideration and argued that holding the Respondent liable for §§ 25-781 and 25-783 is not inconsistent with the statute because these are two distinct statutes with distinct penalties, indicating that the legislature intended to penalize different types of conduct. The Government also does not agree that the penalty imposed for violation of §25-783 exceeds the suspension allowable under the statute, because the imposition of a suspension lies entirely within the Board's discretion. As to the Respondent's second point regarding the \$6,000.00 levied in violation of Charge II, the Government concurs with the Respondent, and believes that the fine should be not less than \$1,000.00 and not more than \$2,000.00.

The Board has reviewed the parties' arguments, concurs with the Government, and finds no reason to reverse its prior Order. Thus, it affirms its findings that the Respondent is liable for both §§ 25-781 and 25-783, and it affirms the penalty assessed for § 25-781 (Charge I). However, upon review, the Board now seeks to amend Order No. 2012-362 to address an administrative error made in the tally of the fine for Charge II. The Board makes clear that the fine imposed on the Respondent in violation of § 25-783 (Charge II) is \$1,000.00, not \$6,000.00. Therefore, ordering paragraph (2) is deleted in its entirety and is replaced with new paragraph (2) as follows:

2. The Respondent is liable for Charge II. For Charge II, the Respondent shall pay a fine of \$1,000.00 by no later than sixty (60) days from the date of this Order. Additionally, the Respondent shall receive a suspension of its license for five (5) days; one (1) day to be served and four (4) days stayed for one year, provided that the Respondent does not commit any additional ABC violations;

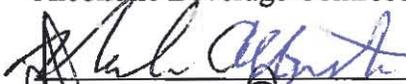
ORDER

Accordingly, it is this 7th day of November, 2012, **ORDERED** that:

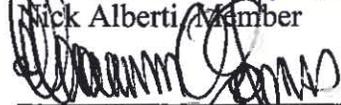
1. Board Order No. 2012-362 regarding the penalty assessed against Venus Indo Services, Inc., t/a Pan Mar Liquors, holder of a Retailer's Class A License, located at 1926 I Street, N.W., Washington, D.C., in violation of §§ 25-781 and 25-783, is amended as described above.
2. All other terms and conditions of Order No. 2012-362, with the exception of the dates scheduled for the served suspension days, shall remain in full force and effect.
3. The ten days of suspension shall now be served from January 8, 2013, through January 17, 2013.

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

District of Columbia
Alcoholic Beverage Control Board



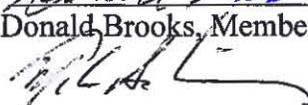
Nick Alberti, Member



Herman Jones, Member



Donald Brooks, Member



Mike Silverstein, Member

I maintain my dissent from the original Order, and I believe that while the Respondent is liable for the offenses charged, the penalty is excessive.



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).