

- Charge I: You permitted the sale of an alcoholic beverage to persons under the age of twenty-one (21) years and permitted the consumption of alcoholic beverages by persons under the age of twenty-one (21) years in violation of D.C. Official Code § 25-781 (a) (2001), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823 (2001).
- Charge II: You failed to take steps reasonably necessary to ascertain whether the persons to whom you served alcoholic beverages were of legal drinking age in violation of D.C. Code § 25-873(b) (2001), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823 (2001).

ABRA Show Cause File Nos. 11-251-00174, Notice of Status Hearing and Show Cause Hearing, 2 (Nov. 16, 2011). The Government and the Respondent appeared before the Alcoholic Beverage Control Board for a Show Cause Status Hearing on January 18, 2012. The Show Cause Hearing was held on May 2, 2012.

FINDINGS OF FACT

The Board, having considered the evidence, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

1. Detective David Carter has been with the Metropolitan Police Department (MPD) for 16 years, and he has been assigned to the underage enforcement detail for 12 years. *Transcript (Tr.)*, 5/2/12 at 10, 19. He has worked over 100 underage enforcement cases. *Tr.* 5/2/12 at 20. He has attended annual training sponsored by the Department of Justice for over six years, on how to spot fake IDs. *Tr.* 5/2/12 at 20.
2. Detective Carter was conducting underage identification checks on the night of March 11, 2011, at approximately 8:30 p.m. *Tr.* 5/2/12 at 11. Detective Scott Edmonds and he were on their way to another location, when Detective Carter saw a male patron leaving the Respondent's establishment carrying a 30 pack of beer. *Tr.* 5/2/12 at 12, 49. The detectives stopped the male patron because he looked younger than 21 years of age. *Tr.* 5/2/12 at 12, 15, 48-49, 57-58.
3. Detective Carter identified himself, and requested the male patron's identification. *Tr.* 5/2/12 at 13. The male patron produced the same identification he used in the Respondent's establishment to purchase the beer. *Tr.* 5/2/12 at 13. The male patron admitted that the ID he used was fake, and that he had used it previously at the same establishment. *Tr.* 5/2/12 at 16, 33, 43, 46-47. The male patron also informed MPD that he was 19 years old, and that he is a student at George Washington University. *Tr.* 5/2/12 at 17.
4. Detective Carter described the identification as one that appeared to be from Rhode Island. *Tr.* 5/2/12 at 13. Upon Detective Carter's further inspection, the male patron's identification was determined not to be valid. *Tr.* 5/2/12 at 13. There was no micro-printing on the back of the ID. *Tr.* 5/2/12 at 13, 63-65. Detective Carter has seen a lot of fake Rhode Island IDs. *Tr.* 5/2/12 at 13, 39-40. He did not get certification from the state of Rhode Island that the

ID was indeed fake. *Tr.* 5/2/12 at 34. Detective Carter took possession of the alcoholic beverages and the fake ID, but he did not arrest the male patron. *Tr.* 5/2/12 at 17, 33.

5. Detective Carter acknowledged that micro-printing is not visible to the naked eye. *Tr.* 5/2/12 at 14, 35, 67. One could look at the back of the ID and not be able to discern whether the micro-printing existed. *Tr.* 5/2/12 at 35, 43. The ID used by the male patron to make the purchase was a very good fake. *Tr.* 5/2/12 at 35, 47, 64-66. It is difficult to reproduce the micro-printing on fake IDs. *Tr.* 5/2/12 at 48, 59. The ID looks very similar to the one profiled in the 2010 I.D. Checking Guide. *Tr.* 5/2/12 at 35-38. The I.D. Checking Guide references the micro-printing feature on the back of the ID. *Tr.* 5/2/12 at 38, 62, 66.

6. MPD uses a magnifying glass that has a flashlight embedded in it to inspect IDs. *Tr.* 5/2/12 at 14, 60. Detective Carter carries this device to look for the micro-printing when he conducts underage compliance checks. *Tr.* 5/2/12 at 14, 60. He has seen ABC licensed establishments use this same device to inspect identifications. *Tr.* 5/2/12 at 15, 59-60. Detective Carter always checks for the micro-printing to validate the IDs. *Tr.* 5/2/12 at 39, 48. Micro-printing is an important feature to check when inspecting IDs. *Tr.* 5/2/12 at 59, 61.

7. Detective Carter entered the Respondent's establishment and informed the clerk that the clerk had sold alcoholic beverages to a 19 year old male. *Tr.* 5/2/12 at 18. He showed the clerk the fake ID used to make the purchase. *Tr.* 5/2/12 at 18.

8. Detective Carter has conducted observation and compliance checks at the Respondent's establishment previously on other occasions. *Tr.* 5/2/12 at 21, 52-54. He had received complaints from ABRA that this establishment sells alcoholic beverages to minors. *Tr.* 5/2/12 at 22.

9. Detective Carter was also at the establishment on February 3, 2011, when two female patrons entered the premises and purchased alcoholic beverages. *Tr.* 5/2/12 at 23. Detective Carter witnessed the transaction, but he did not see the clerk request or receive identification from the two women. *Tr.* 5/2/12 at 23-25. Detective Carter stopped the two women after they exited the establishment, and he requested to see their identification. *Tr.* 5/2/12 at 25. The women only had their student IDs with them, and both of them were under the age of 21 years. *Tr.* 5/2/12 at 25. The establishment is within walking distance of two universities; George Washington University, and Georgetown University. *Tr.* 5/2/12 at 26. The women informed MPD that the Respondent is known as a place where minors can purchase alcohol. *Tr.* 5/2/12 at 26.

10. Detective Carter spoke to the owner about safeguards the owner could take to avoid selling alcoholic beverages to minors. *Tr.* 5/2/12 at 27-28, 51. He reminded the owner that due to the proximity of the establishment to the two universities, the owner could expect to see the use of fake IDs. *Tr.* 5/2/12 at 27. He also told the owner that ABRA offers training to ABC owners and their staff, that the owner should have asked for a second form of identification, and that the I.D. Checking Guide should be kept handy on the establishment counter. *Tr.* 5/2/12 at 27, 52. Detective Carter believes the establishment could have done more to ascertain the male patron's age, given the male patron's youthful looks. *Tr.* 5/2/12 at 48-52.

11. MPD has visited the establishment on other occasions, where the Respondent did not sell alcoholic beverages to an undercover minor. *Tr.* 5/2/12 at 29. Detective Carter described a District of Columbia ID as one that is read vertically with bold, red, writing that states that the holder of the license is under the age of 21 years. *Tr.* 5/2/12 at 55-56.

12. Baljeet Chatwel has owned Pan Mar Liquors for 16 years. *Tr.* 5/2/12 at 72-73, 79. He was present on March 11, 2011, when the male patron entered his establishment. *Tr.* 5/2/12 at 73. The male patron approached the counter with the alcoholic beverage and Mr. Chatwel requested his ID. *Tr.* 5/2/12 at 73, 121. Mr. Chatwel compared the male patron's ID to the 2010 I.D. Checking Guide and checked all of the security features embedded in the ID, except for the state flag emblem. *Tr.* 5/2/12 at 73-77, 91-94, 103. He checked only one of the three items recommended in the Guide Book to validate an ID. *Tr.* 5/2/12 at 93-94.

13. Mr. Chatwel thought the ID was valid, and he sold the beer to the male patron. *Tr.* 5/2/12 at 73, 77, 84, 103. He utilizes the I.D. Checking Guide to check identification because patrons and college students frequently try to use fake IDs in his establishment. *Tr.* 5/2/12 at 77, 85, 89, 109. He sees a lot of drivers' licenses, to include ten to 15 fake IDs in a month. *Tr.* 5/2/12 at 78, 108-109. When he gets a fake ID, he does not complete the sale, and he returns the fake ID to the person who presented it. *Tr.* 5/2/12 at 78. Mr. Chatwel keeps the I.D. Checking Guide on his counter, and he references it when presented with identification from someone who appears to be under the age of 30 years. *Tr.* 5/2/12 at 109.

14. Mr. Chatwel acknowledged that he has had two prior Sale to Minor violations. *Tr.* 5/2/12 at 78-79; See ABRA Show Cause File No. 11-251-00064, Investigative History. He was not present on February 3, 2011 when the sale to minor incident happened. *Tr.* 5/2/12 at 79, 96, 121. He is now in the store 50 to 55 hours per week. *Tr.* 5/2/12 at 79, 108. He did not receive a letter of warning for his first Sale to Minor offense, but he has received several certificates from ABRA when he passes the undercover compliance check tests. *Tr.* 5/2/12 at 80.

15. Mr. Chatwel did not think the male patron looked young, nor was he suspicious that the patron was underage. *Tr.* 5/2/12 at 81, 84. He took no additional steps to ascertain the male patron's age such as requesting a second ID. *Tr.* 5/2/12 at 82-83. Mr. Chatwel only checked the front of the ID, and not the backside. *Tr.* 5/2/12 at 83, 102, 104. He did not check the micro-printing, and he does not own a backlight or magnifying glass. *Tr.* 5/2/12 at 83-84, 94, 110. He acknowledged that the backlight would be useful to have to check identifications, and that MPD had advised him to use a backlight tool. *Tr.* 5/2/12 at 112, 122-123.

16. Mr. Chatwel acknowledged that he is responsible for ensuring that his staff is trained on checking identifications. *Tr.* 5/2/12 at 85, 91, 115. The Respondent's employees receive their training from an on-line service. *Tr.* 5/2/12 at 98-99, 115-119. He has never participated in the training courses offered by ABRA, nor has he taken any on-line training courses himself. *Tr.* 5/2/12 at 89-90, 98-99. Mr. Chatwel did not take the training because he has 24 years of experience and the knowledge to recognize fake identification. *Tr.* 5/2/12 at 100-102, 120. Mr. Chatwell denies that he sold alcoholic beverages to a minor on March 11, 2011. *Tr.* 5/2/12 at 112-113.

CONCLUSIONS OF LAW

17. The Board has the authority to levy fines, as well as suspend or revoke the license of a licensee who violates any provisions of Title 25 of the District of Columbia Official Code or Title 23 of the District of Columbia Municipal Regulations. D.C. Code §§ 25-830, 25-823(1) (West Supp. 2012); see also 23 DCMR § 800, *et. seq.* (West Supp. 2012). 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. Code §§ 25-830, 25-447 (West Supp. 2012).

18. For Charge I, the Board finds that the Respondent delivered alcohol to patrons under the age of twenty-one in violation of § 25-781(a)(1). Under § 25-781(a)(1), an establishment may not “[sell] or deliver alcoholic beverages” to “[a] person under 21 years of age, either for the person’s own use or for the use of any other person” D.C. Code § 25-781(a)(1) (West Supp. 2011). Specifically, the record shows the Respondent sold beer to an under-aged male patron at the licensed establishment on March 11, 2011. The male patron presented a fake ID at the time of the transaction to effect the purchase. The Board credits the testimony of Detective Carter who testified that the male patron looked young, and under the age of 21. Indeed, it was the male patron’s youthful looks that gave rise to MPD’s inquiry. MPD confirmed that the ID used by the male patron was fake. Moreover, the male patron informed MPD that the ID was fake, and that he was 19 years old. As such, the Respondent is liable for violating § 25-781(a)(1).

19. With regard to Charge II, the Board finds that Government has proven that the Respondent failed to take reasonable steps necessary to ascertain whether the person to whom the alcoholic beverage was sold, was of the legal drinking age, in violation of D.C. Official Code § 25-873 (2001). In this case, the Board finds that there is sufficient evidence to establish that the Respondent failed to take those reasonable steps. Given the proximity to two universities, the ten to 15 fake IDs used a month at the establishment, the Respondent’s stated experience, skills and knowledge, the Respondent should have done more than merely compared the front of the license to the I.D. Checking Guide. Here, the Respondent checked the male patron’s ID against the I.D. Checking Guide, but he only checked one of the three verifiable items, and he only checked the front of the ID. MPD testified that the Respondent could have taken more steps to ascertain the young man’s age such as using a backlight to detect the micro-printing on the backside of the ID, or requesting a second form of identification from the male patron. Lastly, a prior sale to minor violation should have also convinced the Respondent to take additional steps to ascertain the male patron’s age. Because the Respondent took less than reasonable steps, the Board finds that the Respondent is liable for violating § 25-873.

20. Finally, given the testimony of the Respondent, the Board is left to believe that the Respondent’s business practice is to perform the bare minimum with regard to checking identification, without actually giving the examination any due diligence. This, coupled with the sale to minor violation just a month earlier, compels the Board to require the Respondent and all of his staff to undertake and complete Alcohol Awareness Training.

21. Based upon the evidence in the record, the Board finds that the Respondent's violation § 25-781(a)(1), set forth in Charge I, and the violation of § 25-873, set forth in Charge II, warrants both a fine and a suspension of the Respondent's license. The Board also finds that previously stayed suspension days, imposed in Case No. 11-252-00064, are triggered by the case at hand, and will now be served by the Respondent as set forth more fully below.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 28th day of September, 2012, finds that the Respondent, Venus Indo Services, Inc., t/a Pan Mar Liquors, violated §§ 25-781 and 25-783, of the District of Columbia Official Code. The Board hereby **ORDERS** that:

1. The Respondent is liable for Charge I. For Charge I, the Respondent shall pay a fine of \$4,000.00 by no later than sixty (60) days from the date of this Order. The Respondent shall receive a suspension of its license for ten (10) days; four (4) days to be served, and six (6) days stayed for one year, provided that the Respondent does not commit any additional ABC violations;
2. The Respondent is liable for Charge II. For Charge II, the Respondent shall pay a fine of \$6,000.00 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;
3. In addition to the suspension days levied for Charge I and Charge II, the Respondent shall serve an additional five (5) suspension days. These suspension days are activated from the five (5) stayed days resulting from an Offer in Compromise entered into by the Respondent on July 6, 2011, in Case No. 11-251-00064.
4. A total of ten (10) served suspension days shall run from Tuesday, October 16, 2012, through Thursday, October 25, 2012.
5. The Respondent and his entire employed staff shall undertake and complete Alcohol Awareness Training within 90 days of this Order.

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

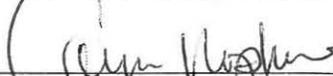
District of Columbia
Alcoholic Beverage Control Board



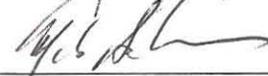
Nick Alberti, Member

Herman Jones, Member

Donald Brooks, Member



Calvin Nophlin, Member



Mike Silverstein, Member

I concur with the majority's decision, with respect to Respondent's liability, but dissent as to the penalty selected by the majority of the Board. In my view, the Respondent merits a less severe penalty.



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).