

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

In the Matter of:)	
)	
A & A Restaurant Group, Inc.)	License No.: 080952
t/a Russia House)	Case Nos.: 11-CMP-00367
)	11-CMP-00440
Holder of a Retailer's Class CR License)	Order No.: 2012-348
at premises)	
1800 Connecticut Avenue, N.W.)	
Washington, D.C. 20009)	

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

ALSO PRESENT: A & A Restaurant Group, Inc., t/a Russia House, Respondent

Aaron McGovern, on behalf of the Respondent

Edward Grandis, Esq., on behalf of the Respondent

Louise Phillips, Esq., Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, Esq., General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

INTRODUCTION

We find that A & A Restaurant Group, Inc., t/a Russia House, (Respondent), holder of Retailer's Class CR License, violated § 25-724 of Title 25 of the District of Columbia (D.C.) Official Code on September 3, 2011, and September 25, 2011, by permitting the consumption of

alcohol on its premises after its lawful operating hours. In total, the Respondent's violations merit a fine of \$3,000.

Procedural Background

On April 27, 2012, the Alcoholic Beverage Regulation Administration (ABRA) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated April 18, 2012, on the Respondent located at premises 1800 Connecticut Avenue, N.W., Washington, D.C. The Notice charged the Respondent 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: [On September 3, 2012,] you permitted the sale or delivery of alcoholic beverages outside the allowed hours in violation of D.C. Official Code § 25-724 . . . ;
- Charge II: [On September 25, 2012,] you permitted the sale or delivery of alcoholic beverages outside the allowed hours in violation of D.C. Official Code § 25-724 . . . ;¹

ABRA Show Cause File No. 11-CMP-00367, Notice of Status Hearing and Show Cause Hearing (Apr. 18, 2012).

The parties came before the Alcoholic Beverage Control Board (Board) for a Show Cause Status Hearing on June 6, 2012. The matter proceeded to a Show Cause Hearing on July 18, 2012, where the Government sought to prove the charges through substantial evidence.

FINDINGS OF FACT

The parties stipulated to the facts contained in the Notice and Case Reports:

1. Alcoholic Beverage Regulation Administration (ABRA) Investigator Jabriel Shakoor entered the Respondent's establishment on Saturday, August 6, 2011, at approximately 11:30 p.m. Case Report 11-CMP-00367 (CR1), 1. On that night, Deniss Tjurin served as the Respondent's ABC Manager. *Id.* Investigator Shakoor observed that the Respondent's license required the Respondent to cease operations and the sale, service, and consumption of alcoholic beverages at 11:00 p.m., Sunday through Thursday, and at 1:00 a.m. on Friday and Saturday. *Id.* Mr. Tjurin told Investigator Shakoor that the Applicant's hours of operation had been reduced because of a discrepancy in its application. *Id.* In response, Investigator Shakoor advised Mr. Tjurin that the establishment had to abide by the hours on its license unless the Board extended the establishment's hours. *Id.*; see also id. at Exhibit No. 1.
2. Investigator Shakoor returned to the establishment on Saturday, September 3, 2011, at approximately 1:15 a.m. CR1, at 1. On that night, Deniss Tjurin served as the Respondent's

¹ Charge II in the Notice also alleges that the Respondent violated D.C. Official Code § 25-762, however, there is no need to address this charge as the single primary tier offense described by Charge II falls within the language of § 25-724.

ABC Manager. Id. Investigator Shakoor observed the establishment in “full operation,” and he saw customers consuming red wine and Heineken beer. Id. at 1-2. Investigator Shakoor then found Mr. Tjurin, and Investigator Shakoor repeated the warning he gave to him on August 6, 2011. Id. at 2.

3. In addition, at about 3:05 a.m., on Sunday, September 25, 2011, ABRA Investigator Tyrone Lawson observed individuals inside the establishment through the Respondent’s windows. Case Report 11-CMP-00440 (CR2), 1. Investigator Lawson, then, entered the establishment to investigate his observations. Id. There, he witnessed three females sitting at a table and two males standing near the bar. Id. The head of the establishment’s security approached Investigator Lawson while holding an open container of Heineken beer in his left hand. Id. Investigator Lawson requested to speak to the owner, and Mr. Tjurin contacted him via the telephone. Id. at 2.

4. Investigator Lawson spoke with the Respondent’s owner, Aaron McGovern, over the phone, and he advised him that the establishment was operating past its lawful operating hours. CR2, at 2. Mr. McGovern, then, admitted to Investigator Lawson that he was responsible for the violation. Id.

5. On Monday, September 26, 2011, Investigator Lawson reviewed the Respondent’s licensing files with ABRA’s Supervisory Records and Data Management Specialist William Hager. Id. According to Mr. Hager, the Respondent has previously filed for extended hours, but such a change has never been approved by the Board. Id.

CONCLUSIONS OF LAW

6. 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; 23 DCMR § 800, *et seq.* (West Supp. 2012). 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. 2012).

7. In this case, we find that the Respondent committed two violations of § 25-724 by operating past its lawful operating hours on September 3, 2012, and September 25, 2012. According to Title 25, “. . . the Board may further limit the hours of sale and delivery for a particular applicant . . .” D.C. Code § 25-724 (West Supp. 2012). Here, the Respondent’s hours of operation ceased at 11:00 p.m., Sunday through Thursday, and at 1:00 a.m. on Friday and Saturday. Supra, at ¶ 1. Nevertheless, it is undisputed that the individuals were consuming alcohol inside the establishment after 1:00 a.m. on Saturday, September 3, 2011, and after 3:00 a.m. on Sunday, September 25, 2011. Supra, at ¶¶ 1-4. Based on these facts, the Respondent clearly violated its licensed hours of operation in violation of § 25-724.

8. We further disagree with the Respondent’s argument that it attempted to comply with the law. *Transcript (Tr.)*, July 18, 2012 at 8. We acknowledge that the Respondent may have

mistakenly thought that its requests for extended hours in the past had been granted. *Tr.* 7/18/12 at 8-9. Nevertheless, once Investigator Shakoor duly warned the Respondent that it had to abide by its Board-approved hours on its license, the Respondent should have complied with its licensed hours of operation until the Board approved new hours. Supra, at ¶ 1.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 12th day of September 2012, finds that the Respondent, A & A Restaurant Group, Inc., t/a Russia House, violated D.C. Official Code § 25-724 on September 3, 2011, and September 25, 2011. The Board hereby **ORDERS** that, in total, the Respondent shall pay a fine of \$3,000 within thirty (30) days from the date of this Order. Our determination regarding each charge and the penalty is as follows:

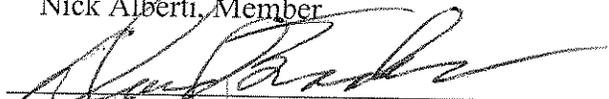
- (1) The Respondent committed the violation described in Charge I. The Respondent shall pay a fine of \$1,000 no later than thirty (30) days from the date of this Order; and
- (2) The Respondent committed the violation described in Charge II. The Respondent shall pay a fine of \$2,000 no later than thirty (30) days from the date of this Order;

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

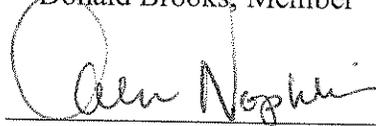
District of Columbia
Alcoholic Beverage Control Board



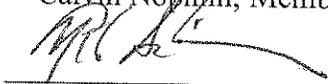
Nick Alberti, Member



Donald Brooks, Member



Calvin Nophlin, Member



Mike Silverstein, Member

I concur with the decision issued by the majority of the Board, but dissent with the penalty selected by the Board. In my opinion, the circumstances related to this case merit a lower penalty.



Ruthanne Miller, Chairperson

I concur with the decision issued by the majority of the Board, but dissent with the penalty selected by the Board. In my view, the violations committed by the Respondent merit a greater penalty.

Herman Jones, 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).