

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

In the Matter of:)	
)	
STK, LLC)	
t/a STK)	
)	
Holder of a)	Case No. 15-CMP-00795
Retailer's Class CR License)	License No. ABRA-092844
)	Order No. 2016-174
at premises)	
1250 Connecticut Avenue, N.W.)	
Washington, D.C. 20036)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ALSO PRESENT: Amy Schmidt, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Alcoholic Beverage Control Board (Board) finds that STK, LLC, t/a STK (Respondent), violated District of Columbia (D.C.) Official Code § 25-701 on October 10, 2015. As a result, the Respondent must pay a \$500.00 fine.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Alcoholic Beverage Control Board executed on January 6, 2016. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1250 Connecticut Avenue, N.W., Washington, D.C., on January 17, 2016.

The Notice charged the Respondent with the following violation:

Charge I: [On Saturday, October 10, 2015] [y]ou failed to superintend in person or keep an ABC-licensed manager on duty at all times, in violation of D.C. Official Code § 25-701...

ABRA Show Cause File No., 15-CMP-00795, Notice of Status Hearing and Show Cause Hearing, 2 (January 6, 2016).

On October 22, 2015, Citation #5352 was issued to the Respondent for violating D.C. Official Code § 25-701.

On November 19, 2015, the Respondent refused to pay the citation and instead, requested a hearing.

The Respondent failed to appear at the Show Cause Status Hearing held on February 17, 2016. A Show Cause Hearing was scheduled for March 30, 2016.

The Respondent also failed to appear at the Show Cause Hearing held on March 30, 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 January 6, 2016. *See* ABRA Show Cause File No. 15-CMP-00795. STK, LLC, t/a STK, holds a Retailer's Class CR License, ABRA License No. ABRA-092844. *See* ABRA Licensing File No. ABRA-092844. The establishment's premises is located at 1250 Connecticut Avenue, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-092844.

2. The Show Cause Hearing was held on March 30, 2016. The Notice charges the Respondent with a single violation enumerated above. *See* ABRA Show Cause File No. 15-CMP-00795.

II. Testimony of ABRA Investigator Felicia Dantzler

3. The Government presented its case through the testimony of one witness, ABRA Investigator Felicia Dantzler. *Transcript (Tr.)* 3/30/16 at 5.

4. Investigator Dantzler authored the Investigative Report, whose contents and exhibits serve as the basis of the factual nature of the incident. *Tr.* 3/30/16 at 11. Government's Exhibit 1.

5. On Saturday, October 10, 2015 at approximately 9:30 p.m., Investigator Dantzler visited the Respondent's establishment to conduct a Regulatory Inspection. *Tr.* 3/30/16 at 5-6. Investigator Dantzler identified herself to a female employee and asked to speak to the owner or an ABC-licensed Manager. *Tr.* 3/30/16 at 6. Ben Arnat, Respondent's employee, appeared shortly and informed Investigator Dantzler that he was not an ABC-licensed manager or the owner. *Tr.* 3/30/16 at 6-7. Mr. Arnat informed Investigator Dantzler that there was no ABC-licensed manager or the owner on the premises. *Tr.* 3/30/16 at 7. During this visit, Investigator Dantzler observed alcoholic beverages sales transaction take place while the establishment was being operated by Mr. Arnat. *Tr.* 3/30/16 at 9-10.

6. A female arrived to the licensed establishment thirty (30) minutes later, and she identified herself as an ABC-licensed Manager. *Tr.* 3/30/16 at 7. The ABC-licensed Manager provided her ABC Manager's license to Investigator Dantzler. *Tr.* 3/30/16 at 7. The ABC-licensed Manager stated that she was not at the establishment because she had to take care of a family matter. *Tr.* 3/30/16 at 7. Investigator Dantzler advised the ABC-licensed Manager that the establishment was in violation for selling alcoholic beverages without having an ABC-licensed manager or an owner present. *Tr.* 3/30/16 at 8.

7. 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

8. 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

9. The Board finds the Respondent liable for permitting the licensed establishment to operate on October 10, 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.

10. 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.

11. 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 October 10, 2015 at approximately 9:30 p.m., the Respondent's employee, Ben Arnat, admitted to Investigator Dantzler that there was no ABC-licensed manager or owner on the premises. It was not until thirty (30) minutes after Investigator Dantzler's arrival to the licensed establishment that an ABC-license Manager came to the establishment.

II. PENALTY

12. The Respondent's Investigative History shows that this is the Respondent's first secondary tier violation. *Licensing File No. ABRA-092844*, Investigative History. Thus, the Board may fine the Respondent between \$250.00 and \$500.00. *Licensing File No. ABRA-092844*, Investigative History; DCMR § 23-802.

ORDER

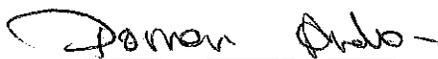
Based on the foregoing findings of fact and conclusions of law, the Board, on this 27th day of April, 2016, finds that the Respondent, STK, LLC, t/a STK, located at 1250 Connecticut Avenue, N.W., Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code § 25-701.

The Board hereby **ORDERS** that:

- 1) The Respondent must pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order or its license shall be suspended indefinitely until this fine is paid.

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

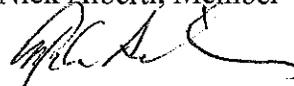
District of Columbia
Alcoholic Beverage Control Board



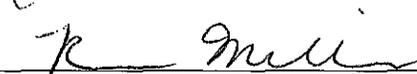
Donovan Anderson, Chairperson



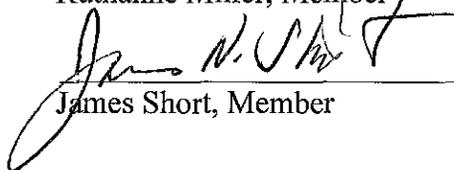
Nick Alberti, Member



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 14th 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).