

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

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In the Matter of:	)	
	)	
Sunshine Bar & Lounge, LLC	)	License No.: 85239
t/a Sunshine Bar & Lounge	)	Case No.: 12-251-00123
	)	12-CMP-00194
	)	Order No.: 2013-068
	)	
	)	
Holder of a Retailer's Class CR License	)	
at premises	)	
7331 Georgia Avenue, N.W.	)	
Washington, D.C. 20012	)	

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

**ALSO PRESENT:** Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, Respondent  
  
Algaish Kidane, Owner, on behalf of the Respondent  
  
Walter Adams, Esq., Assistant Attorney General,  
on behalf of the District of Columbia  
  
Martha Jenkins, Esq., General Counsel  
Alcoholic Beverage Regulation Administration

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

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**INTRODUCTION**

We find Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, (Respondent) guilty of unlawfully preventing the Metropolitan Police Department (MPD) from searching the establishment's premises and operating past its licensed hours of operation on April 1, 2012. In addition, we further find that the Respondent engaged in an unlawful substantial change and violated Board Order No. 2011-198 by selling and serving alcoholic beverages on the establishment's second floor without the approval of the Board. Consequently, as punishment

for these violations, the Respondent must pay a total fine of \$10,750. In addition, the Respondent shall have its license suspended for eight days. The Respondent shall also receive five stayed suspension days, which shall not go into effect unless we find that the Respondent committed a violation within one year from the date of this Order.

The Board also warns the Respondent that interfering with anMPD investigation is a serious offense that raises serious questions about the Respondent’s fitness to hold a license in the District of Columbia. The Board emphasizes that if this type of behavior continues, or repeats itself, then the Board will likely revoke the Respondent’s license.

***Procedural Background***

This case arises from two Notices of Status Hearing and Show Cause Hearing (collectively the “Notices”), which the Alcoholic Beverage Control Board executed on May 6, 2012. The Alcoholic Beverage Regulation Administration (ABRA) served the Notices on the Respondent, located at premises 7331 Georgia Avenue, N.W., Washington, D.C., on September 20, 2012. The Notices charged the Respondent with a number of violations, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent’s ABC-license.

Specifically, the notice in Case Number 12-251-00123, charged the Respondent with the following violations:

- Charge I: [On Sunday, April 1, 2012,] [y]ou failed or refused to allow police officers to enter or inspect without delay the licensed premises or examine the books and records of the business, or otherwise interfered with an investigation [in violation of] D.C. Official Code § 25-823(5) . . . .
- Charge II: [On Sunday, April 1, 2012,] [y]ou allowed the licensed establishment to be used for an unlawful or disorderly purpose [in violation of] D.C. Official Code § 25-823(2) . . . .
- Charge III: [On Sunday, April 1, 2012,] [y]ou sold, served, or permitted the consumption of alcoholic beverages on the licensed premises beyond your authorized hours, in violation of 23 DCMR § 705.9 . . . .

*ABRA Show Cause File No.*, 12-251-00123, Notice of Status Hearing and Show Cause Hearing, 2-3 (May 6, 2012).

In addition, the notice in Case Number 12-CMP-00194, charged the Respondent with the following violations:

- Charge I: [On Sunday, April 8, 2012,] [y]ou made a substantial change in the nature of the operation of the licensed establishment without Board approval in violation of D.C. Official Code § 25-762 . . . .

Charge II: [On Sunday, April 8, 2012,] [y]ou failed to comply with [Board Order No. 2011-198 in violation of] D.C. Official Code § 25-823(6) . . . .

*ABRA Show Cause File No.*, 12-CMP-00194, Notice of Status Hearing and Show Cause Hearing, 2-3 (May 6, 2012).

Both the Government and Respondent appeared at the Show Cause Status Hearing on October 24, 2012. The parties proceeded to a Show Cause Hearing and argued their respective cases on January 23, 2013.

### 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:

1. The Respondent holds a Retailer’s Class CR License, ABRA License Number 85239. *See ABRA Licensing File No. 85239*. The establishment’s premises are located at 7331 Georgia Avenue, N.W., Washington, D.C. *See ABRA Licensing File No. 85239*.

#### *Case Number 12-251-00123*

#### **I. MPD Commander Kimberley Chisley-Missouri**

2. Metropolitan Police Department (MPD) Commander Kimberly Chisley-Missouri serves as the Commander of the Fourth District. *Transcript (Tr.)*, January 23, 2013 at 14. During the early morning hours on Sunday, April 1, 2012, Commander Chisley-Missouri was patrolling the neighborhood in a vehicle. *Id.* at 19. Around 4:00 a.m., the Commander observed Officer Antoine, who she supervises, at the front door of the Respondent’s establishment. *Id.* She then noticed that Officer Antoine was conversing with an individual through the establishment’s front door. *Id.*

3. Commander Chisley-Missouri pulled her vehicle over, and she listened to the conversation. *Id.* at 20. She asked Officer Antoine to describe the situation to her. *Id.* at 20-21. Officer Antoine told the Commander that he believed that the establishment still had patrons inside. *Id.* at 23.

4. The Commander exited her vehicle and walked to the establishment’s front door. *Id.* at 20-21. Commander Chisley-Missouri began speaking with Anthony Patrick, one of the Respondent’s security staff. *Id.* at 21, 61. She looked inside the establishment from the front door, and she observed individuals seated inside the establishment. *Id.* at 23, 25.

5. She asked Mr. Patrick to open the establishment’s door, but he refused. *Id.* at 23. The Commander observed that Mr. Patrick’s demeanor was “confrontational” and “aggressive.” *Id.* at 24. She noted that Mr. Patrick said, “I don’t have to let you in here” and claimed that the upstairs of the establishment was a residence. *Id.*

6. After Mr. Patrick denied MPD entrance, Commander Chisley-Missouri contacted the Alcoholic Beverage Regulation Administration (ABRA). Id. at 26. She also requested that an MPD sergeant report to the establishment. Id. After she called ABRA and MPD, Officer Michael Beeler arrived at the scene to assist with the investigation. Id.
7. Soon after Officer Beeler arrived, she noticed that two individuals exited the establishment from a side door. Id. The Commander, Officer Antoine, and Officer Beeler approached the individuals and interviewed them. Id. One individual reported that he was the establishment's disc jockey, while the other stated that he was a patron. Id. at 26-27.
8. While talking to the two individuals, the Commander saw that Officer Beeler had approached the side door, and he was holding the door open. Id. at 27. The Commander then observed a woman inside the establishment try to close the door while Officer Beeler was holding it open. Id. at 27. The Commander approached the side door, and she explained to the woman inside the establishment that they were police officers on official business. Id. at 27-28. In response, the woman stated that the Commander and the other officers could not enter the premises. Id. at 33. During the Commander's conversation with the woman, the woman inside the establishment continued trying to close the establishment's door. Id. at 33.
9. After the woman spoke to the Commander, the woman inside the establishment pushed Commander Chisley-Missouri back from the door, and attempted to close the establishment's door again. Id. at 34. The Commander and the other officers attempted to keep the door open, and the woman inside the establishment then pushed Commander Chisley-Missouri again. Id. At this point, the Commander restrained the woman, placed her in handcuffs, and informed the woman that she was under arrest. Id. She later learned that the woman was the fiancée of the son of the owner. Id. at 34-35.
10. After arresting the woman, a transport vehicle was summoned to take the woman away. Id. at 35. Immediately after making the call, Yeneneh Hailu, the establishment's manager and the owner's son, exited the side door. Id. at 35, 108, 111-12. Commander Chisley-Missouri noted that Mr. Hailu appeared to be "very belligerent, very irate, [and] very confrontational," and he began yelling to the officers that they did not have a right to be there. Id. at 35-36. The man began advancing on the officers, and he was told to stay back. Id. at 36.
11. During the confrontation, the Commander observed that Mr. Hailu had an object in his hand. Id. at 35. Mr. Hailu admitted that he had a knife in his possession. Id. In response, the officers placed Mr. Hailu in handcuffs in order to ensure that the scene remained safe. Id. at 35-36. The officers on the scene checked Mr. Hailu and determined that he did not have a knife, but rather a "white plastic piece" used for cigars. Id. at 36.
12. After placing Mr. Hailu in handcuffs, Algaish Kidane emerged from the establishment. Id. at 40. Commander Chisley-Missouri asked Ms. Kidane who was in the establishment. Id. at 41. Ms. Kidane stated that no one was inside the establishment. Id. Furthermore, Ms. Kidane insisted that "Mr. Patrick" was not inside the establishment. Id.

13. Because Commander Chisley-Missouri did not believe Ms. Kidane, she and the other officers searched the premises to ensure that the scene remained safe. Id. at 42. Inside the establishment, the Commander observed a young woman sitting downstairs. Id. The Commander then went upstairs and she observed that one of the offices was locked. Id. at 42. The Commander returned to the first floor after searching the premises. Id.

14. Once downstairs, the Commander heard a crash in the rear alley behind the establishment. Id. at 43. The crash was Mr. Patrick jumping from the second floor of the establishment. Id. at 113 (Testimony of Mr. Hailu). The Commander and the other officers quickly exited the building and observed Mr. Patrick rise from a pile of garbage bags, and then watched him run down the alley. Id. at 43-44. The MPD officers pursued Mr. Patrick, while the Commander followed in her car. Id. The officers eventually caught Mr. Patrick and brought him back to the scene. Id. at 44.

15. Upon returning to the scene, the Commander observed numerous people inside the establishment that she had not observed when she originally searched the premises. Id. at 45. According to one of the officers, at least fifteen people were in the locked office on the second floor. Id. at 45.

## **II. MPD Officer Michael Beeler**

16. Officer Michael Beeler was patrolling the neighborhood when he saw the Commander outside of the Respondent's establishment as she was talking to Mr. Patrick through the establishment's front door. Id. at 83. He joined the Commander and the other officers at the front of the establishment, and then followed them to the side door once that door was opened. Id. at 87. At the side door, he attempted to pull people away from the Commander after the woman assaulted her at the side door. Id. at 87. Once inside the establishment, Officer Beeler observed glasses full of alcoholic beverages on the first floor of the establishment. Id. at 89; Case Report 12-251-00123, Incident-Based Event Report, 3 (Apr. 1, 2012).

## **III. ABRA Investigator Jabriel Shakoor**

17. ABRA Investigator Jabriel Shakoor arrived at the establishment around 4:25 a.m., in response to a call from the MPD around 3:50 a.m. Id. at 69. Upon entering the establishment, Investigator Shakoor observed approximately twenty-one people inside the establishment. Id.

18. Investigator Shakoor interviewed Ms. Kidane at the establishment as part of his investigation. Id. 70. According to Ms. Kidane, the individuals were friends who did not want to leave the establishment at 3:00 a.m., and she further claimed that the establishment was not operating after its Board-approved hours. Id. She also insisted that the establishment had closed at 3:00 a.m. Id. She further explained that the individuals found by the MPD officers at the establishment were hiding, because they were afraid that the officers would arrest them. Id. at 72.

19. Investigator Shakoor also conducted a search of the establishment after speaking to Ms. Kidane. Id. at 74. During his search, he observed bottles of alcohol on top of the bar counter on

the second floor of the establishment. Id. at 74, 77. He examined the bottles, and he saw that some of the bottles were open and other bottles were closed. Id. at 75-76. Investigator Shakoor identified some of the bottles as being Smirnoff vodka, and he observed that other bottles contained rum. Id. at 77.

#### **IV. Yeneneh Hailu**

20. Yeneneh Hailu is the son of Ms. Kidane and serves as the establishment's manager. Id. at 108. Mr. Hailu admitted that the establishment had people inside on April 1, 2012. Id. He stated that the establishment was hosting a birthday party on that night. Id. at 109.

21. Mr. Hailu claimed that the establishment kept people inside in order to prevent them from drinking and driving. Id. Nevertheless, we do not find this testimony credible based on the attempts by Mr. Patrick and Mr. Hailu's fiancée to prevent MPD from entering the establishment, as well as Ms. Kidane's attempt to lie to Commander Chisley-Missouri about the presence of people inside the establishment. Supra, at ¶¶ 5, 9, 12. Furthermore, Mr. Hailu's testimony is further undermined by the presence of open bottles and glasses of alcohol inside the establishment. Supra, at ¶¶ 16, 19.

22. Furthermore, we do not credit Mr. Hailu's claim that all the people locked in the office were employees of the establishment. Id. at 112. We note that this claim is contradicted by the fact that MPD found twenty-one people in the office, which is more than the six people Mr. Hailu claimed were upstairs on April 1, 2012. Supra, at ¶¶ 15, 17; id. at 112.

### ***Case Number 12-CMP-00194***

#### **I. Board Order**

23. According to Board Order No. 2011-198, ". . . no entertainment will be offered on the two floors above ground, nor shall the second floor above ground be licensed for the sale, service or consumption of alcoholic beverages. In re Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, Case Number 10-PRO-00149, Board Order No. 2011-198, 10 (D.C.A.B.C.B. May 25, 2011).

#### **II. ABRA Investigator Kofi Apraku**

24. On April 8, 2012, ABRA Supervisory Investigator Craig Stewart ordered ABRA Investigator Kofi Apraku and ABRA Investigator Brian Owens to visit the establishment and determine whether the Respondent was selling alcoholic beverages on its second floor. Id. at 173.

25. Investigators Apraku and Owens arrived at the establishment around 12:20 a.m. Id. at 174. The investigators entered the establishment in an undercover capacity. Id. Investigator Apraku asked the bartender on the first floor for a drink. Id. at 175. The bartender told him that he could only order food on the first floor, and that if he wanted to buy a drink, he would have to go to the second floor. Id.

26. After speaking with the bartender, the investigators went to the second floor of the establishment. *Id.* at 176. Once on the second floor, Investigator Apraku observed patrons smoking a hookah pipe while a disc jockey played music. *Id.* He also saw that patrons were consuming alcoholic beverages. *Id.* Investigator Apraku estimated that there were approximately ten to fifteen people on the second floor. *Id.* at 177.

27. Investigator Apraku and Owens approached the second floor bar. *Id.* They ordered two bud light beers from the bartender, who Investigator Apraku identified as Ms. Kidane. *Id.* Ms. Kidane provided the investigators with the beers and the investigators paid for them. *Id.* The investigators remained at the establishment for approximately twenty-five minutes before they exited. *Id.* at 177-78.

### **III. ABRA Investigator Tyrone Lawson**

28. ABRA Investigator Tyrone Lawson entered the establishment after Investigators Apraku and Owens exited. *Id.* at 181. Investigator Lawson went to the second floor and confirmed that patrons were consuming beer, wine, and spirits. *Id.* at 183. He also saw the disc jockey that Investigator Apraku had seen. *Id.* at 183. Furthermore, Investigator Lawson observed a female employee process an alcoholic beverage sale at the Respondent's second floor cash register. *Id.* at 188.

29. Investigator Lawson then spoke with Ms. Kidane. *Id.* at 190. Ms. Kidane told him that using the second floor was the only way she could make money to sustain her business. *Id.*

### **CONCLUSIONS OF LAW**

30. 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 (West Supp. 2013); 23 DCMR § 800, *et seq.* (West Supp. 2013). 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. 2013).

31. We find the Respondent guilty of Charges I and III in Case Number 12-251-0123 and Charges I and II in Case Number 12-CMP-00194. We issue a warning for the offense described by Charge II in Case Number 12-251-00123.

#### ***Case Number 12-251-00123***

32. In Case Number 12-251-00123, we first find that the Respondent violated § 25-823(5) on April 1, 2012. Section 25-823(5) makes it a violation for a licensee or its agents to “. . . fail[] or refuse[] to allow . . . a member of the Metropolitan Police Department to enter or inspect without delay the licensed premises . . . .” D.C. Code § 25-823(5) (West Supp. 2013). Here, on April 1, 2012, Commander Chisley-Missouri and her fellow officers attempted to enter the establishment after they had reasonable cause to believe that the Respondent exceeded its licensed hours of

operation. Supra, at ¶¶ 2-4. Upon requesting entrance, Mr. Patrick, a member of the Respondent's security team, refused to open the establishment's front door and told them directly that he would not permit them to enter. Supra, at ¶ 5. As a result, the Respondent, through its agent, Mr. Patrick, refused to allow MPD to inspect the premises without delay in violation of § 25-823(5).

33. Second, we find that the Respondent violated its hours of operation on April 1, 2012. According to § 705.9, a licensee holding a Retailer's Class C License may not sell or serve alcohol between the hours of "3:00 a.m. and 10:00 a.m. on Sunday." 23 DCMR § 705.9(c) (West Supp. 2013); D.C. Code § 25-723(b), (b)(3) (West Supp. 2013). We cannot credit Ms. Kidane's claim that the patrons inside the establishment were merely waiting for a ride. Supra, at ¶ 18. Instead, we can infer that the establishment continued to operate after 3:00 a.m., because when Officer Beeler entered the establishment after 4:00 a.m., he discovered glasses of alcoholic beverages on the first floor. Supra, at ¶¶ 2, 16. Furthermore, most of the twenty-one people inside the establishment were patrons, and the open bottles on the second floor show that people continued to drink alcoholic beverages inside the establishment after 3:00 a.m. Supra, at ¶¶ 17, 19.

#### ***Case Number 12-CMP-00194***

34. In Case Number 12-CMP-00194, we find that the Respondent made a substantial change in violation of § 25-762 by expanding its premises to the second floor on April 8, 2012. Under § 25-762, "Before a licensee may make a change in the interior . . . of any licensed establishment, which would substantially change the nature of the operation of the licensed establishment . . . the licensee shall obtain the approval of the Board . . . ." D.C. Code § 25-762(a) (West Supp. 2013). In addition, § 25-762, states that the expansion of a licensed premises to another floor may be considered a substantial change by the Board. § 25-762(b)(3). Here, both Investigator Lawson and Investigator Apraku observed the Respondent use the second floor, even though the establishment did not obtain the permission of the Board. Supra, at ¶¶ 26, 28.

35. Furthermore, the Respondent's use of the second floor on April 8, 2012, also constitutes a violation of Board Order No. 2011-198. Under § 25-823(6), a licensee may not violate any applicable Board orders attached to its license. D.C. Code § 25-823(6) (West Supp. 2013). Here, the Board forbade the Respondent from using its second floor. Supra, at ¶ 23. Nevertheless, on April 8, 2012, both Investigator Lawson and Investigator Apraku observed the establishment sell and serve alcoholic beverages on its second floor. Supra, at ¶¶ 26, 28.

#### **ORDER**

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 27th day of March 2013, finds that Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, violated D.C. Official Code §§ 25-762, 25-823(5), 25-823(6) and § 705.9 of Title 23 of the D.C. Municipal Regulations in Case Numbers 12-251-00123 and 12-CMP-00194.

In total, the Respondent must pay a total fine of \$10,750, which the Respondent must pay within sixty (60) days from the date of this Order. In addition, the Respondent shall have its

license suspended for eight (8) days. The Respondent shall also receive five (5) stayed suspension days, which shall not go into effect unless the Board finds that the Respondent committed a violation within one (1) year from the date of this Order. The breakdown of the Respondent's penalty is as follows:

- (1) In Case Number 12-251-00123, the Respondent
  - a. shall pay a \$3,000 fine and receive two suspension days for the violation described in Charge I;
  - b. shall pay a \$3,000 fine and receive three suspension days for the violation described in Charge III.
  
- (2) In Case Number 12-CMP-00194, the Respondent
  - a. shall pay a \$4,000 fine for the violation described in Charge I, and shall receive five stayed suspension days, which shall go into effect if the Respondent commits any violations within one year from the date of this Order; and
  - b. shall pay a fine of \$750 for the violation described in Charge II.
  
- (3) The Respondent shall also serve three additional suspension days that the Board stayed in Case Number 12-CMP-00054, but that have now been triggered by the Respondent's most recent violations.

**IT IS FURTHER ORDERED** that the Respondent shall receive a **WARNING** for the violation described in Charge II in Case Number 12-251-00123. The Board emphasizes that if the Respondent's conduct, as described in this Order, becomes a method of operation or results in a regular course of conduct, then the Board will strongly consider revoking the Respondent's license.

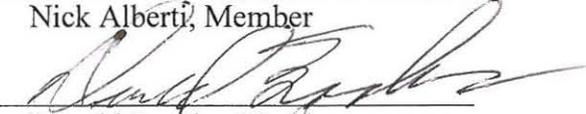
**IT IS FURTHER ORDERED** that the Respondent's suspension shall begin on May 1, 2013, and end at midnight on May 8, 2013.

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

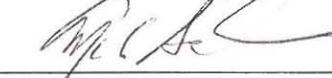
District of Columbia  
Alcoholic Beverage Control Board



Nick Alberti, Member

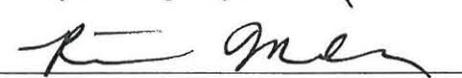


Donald Brooks, Member



Mike Silverstein, Member

I concur with the majority of the Board's decision regarding the establishment's liability. Nevertheless, I dissent as to the penalty selected by the majority.



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).