

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

In the Matter of:)
)
Spo-dee-o-dee, LLC)
t/a The Showtime)
)
Applicant for a New)
Retailer's Class CT License)
)
at premises)
113 Rhode Island Avenue, N.E.)
Washington, D.C. 20002)
)

Case No. 12-PRO-00040
License No. ABRA-089186
Order No. 2012-317

Spo-dee-o-dee, LLC, t/a The Showtime (Applicant)

Dr. Paul L. Collins, abutting property owner

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

ORDER DENYING APPLICANT'S MOTION FOR RECONSIDERATION

The Application filed by Spo-dee-o-dee, LLC, t/a The Showtime, for a new Retailer's Class CT License, was protested by Dr. Paul L. Collins, abutting property owner, and came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on May 29, 2012, in accordance with D.C. Official Code § 25-601 (2001).

On May 29, 2012, pursuant to Title 23 of the District of Columbia Municipal Regulations (23 DCMR) § 1602.3 (2004), the Board dismissed the Protest of Dr. Collins, because the Board's agent determined that his protest was untimely filed. The protest petition deadline was May 14, 2012, and Dr. Collins's protest was time-stamped by the Alcoholic Beverage Regulation Administration (ABRA) on May 15, 2012. Board Order No. 2012-242, dated June 6, 2012.

On June 6, 2012, Dr. Collins filed a request for reinstatement with the Board, which the Board granted, because the Board believed that Dr. Collins's protest letter was timely filed, despite the time-stamped indicating a later date. Board Order No. 2012-290, dated June 27, 2012.

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On July 5, 2012, the Applicant filed a Motion for Reconsideration, indicating the following reasons for the Board to reconsider the reinstatement of the Protestant:

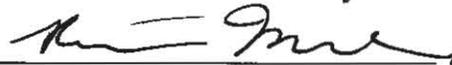
1. Dr. Collins' protest should be dismissed, because it was not received by ABRA within the protest period, pursuant to 23 DCMR § 1605.2, all protests "shall be in writing, shall be received by the Board prior to the end of the protest period."
2. ABRA's date stamp indicates that the protest was received by ABRA one day after the protest period ended.
3. Dr. Collins claims that the protest letter was mailed on May 11, 2012, but he submitted no evidence indicating that the protest was mailed on May 11, 2012. Even if Dr. Collins mailed the protest on May 11, 2012, the date the protest letter was mailed is not a consideration according to the Regulations.
4. There is no good cause to reinstate Dr. Collins' protest under 23 DCMR § 1605.3. Dr. Collins simply relied on the services provided by the U.S. mail.
5. In the past, the Board has strictly enforced 23 DCMR § 1605. See JVLHC, LLC, t/a Jimmy Valentine's Lonely Hearts Club, Order No. 2007-066.

The Board finds it credible that Dr. Collins mailed the protest letter on May 11, 2012, and believes that ABRA received the protest letter before May 15, 2012. Therefore, the Board finds that Dr. Collins's protest letter was timely filed, despite the time-stamp indicating a later date.

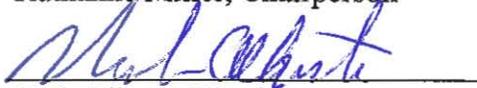
ORDER

The Board does hereby, this 25th day of July, 2012, **DENY** the Applicant's Motion for Reconsideration. Copies of this Order shall be sent to the Applicant and Dr. Paul L. Collins, abutting property owner.

District of Columbia
Alcoholic Beverage Control Board



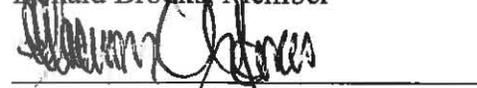
Ruthanne Miller, Chairperson



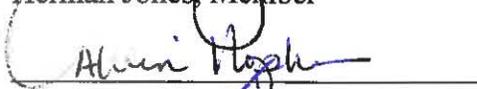
Nick Alberti, Member



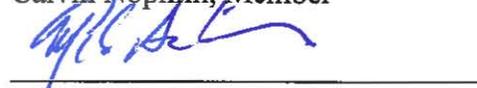
Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, 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, 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, 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).