THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:		
Brentwood Road Beverages, LLC t/a Woodbridge Vet's Liquors	License Number: Case Number: Order Number:	80559 10-CMP-00010 2010-563
Holder of a Retailer's Class A License at premises 1358 Brentwood Road, N.E. Washington, D.C. 20018		

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Brentwood Road Beverages, LLC, t/a Woodbridge Vet's Liquors, Respondent

Walter Adams, Assistant Attorney General
Office of Attorney General, District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On August 25, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated August 18, 2010, on Brentwood Road Beverages, LLC, t/a Woodbridge Vet's Liquors (Respondent), at premises 1358 Brentwood Road, N.E., Washington, D.C., charging the Respondent with the following violation:

Charge I: The total area covered by advertisements relating to the prices of alcoholic beverages exceeded 25% of the establishment's window space, in violation of D.C Code § 25-765(a) (2001), for which the

Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The matter proceeded to a Show Cause Hearing where the Government and the Respondent presented evidence through the testimony of witnesses and the submission of documentary evidence. The Board, having considered the evidence, the testimony of witnesses, the arguments of counsel, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated August 18, 2010. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 10-CMP-00010). The Respondent holds a Retailer's Class A License and is located at 1358 Brentwood Road, N.E., Washington D.C. (*See* ABRA Licensing File No. 80559).

2. The Show Cause Hearing in this matter was held on October 20, 2010. The Notice to Show Cause, dated August 18, 2010, charges the Respondent with the violation enumerated above. (*See* ABRA Show Cause File Number 10-CMP-00010).

3. The Government presented its case through the testimony of one witness, ABRA Investigator Jabriel Shakoor. *Transcript (Tr.)*, 10/20/10 at 8. The Government also submitted pictures of the Respondent's signage. (*See* ABRA Show Cause File Number 10-CMP-00010, Government Exhibit 1).

4. The Government called Investigator Shakoor to testify. *Tr.*, 10/20/10 at 8. Investigator Shakoor testified that he visited the Respondent's establishment on December 16, 2010. *Tr.*, 10/20/10 at 9.

5. Investigator Shakoor testified that the Respondent's windows are located in the front and on the right side of the establishment. *Tr.*, 10/20/10 at 12. He testified that a large Belvedere vodka advertisement was adhered to the inside of the window. *Tr.*, 10/20/10 at 10. The establishment also had a large Heineken beer advertisement, which covered half of the establishment's window space. *Tr.*, 10/20/10 at 11, 19. Investigator Shakoor stated that he could basically only see the inside of the store from outside the premises if he looked through the establishment's front door. *Tr.*, 10/20/10 at 11. He testified that the alcohol advertisements prevented him from viewing the interior of the establishment. *Tr.*, 10/20/10 at 28.

6. Investigator Shakoor testified that the signs were covering more than 25 percent of the establishment's windows. *Tr.*, 10/20/10 at 12. He stated that one sign had a price on it and some of the establishment's illuminated signs had prices on them. *Tr.*, 10/20/10 at 12.

7. Investigator Shakoor testified that he took pictures of the exterior and the interior of the establishment. *Tr.*, 10/20/10 at 15-16. The photos showed a Heineken beer display

with a price listed on one of the windows. *Tr.*, 10/20/10 at 16. The Government presented a photograph that showed an advertisement for Heineken beer that listed a price of $11.99 per 12 pack. (*See* ABRA Show Cause File Number 10-CMP-00010, Government Exhibit 1C). He stated that the bottom half of both windows were covered by advertisements and the top half of the windows had illuminated signs. *Tr.*, 10/20/10 at 19-20. Investigator Shakoor also took a photograph of a large Grey Goose display that sat back from the window that did not contain the Heineken display. *Tr.*, 10/20/10 at 20. He noted that the Grey Goose display listed a price of "$29 and something cents." *Tr.*, 10/20/10 at 21. Investigator Shakoor also stated that an advertisement for Ciroc and Courvoisier appeared in the windows. *Tr.*, 10/20/10 at 25. Investigator Shakoor stated that the Courvoisier advertisement listed a price of $17.99. *Tr.*, 10/20/10 at 26.

8. Investigator Shakoor stated that the Grey Goose display and the Heineken advertisement took up more than 25 percent of the Respondent's window space. *Tr.*, 10/20/10 at 27.

9. The Respondent called Ms. Hye Kim to testify. *Tr.*, 10/20/10 at 43. She testified that she posted the price for Grey Goose on the back of the cashier's cage behind the Grey Goose display, not on the window. *Tr.*, 10/20/10 at 43-44. She also noted that she has cooler boxes behind one of the windows and put a display in between the coolers and the window. *Tr.*, 10/20/10 at 44-45. Ms. Kim admitted that the displays could be seen from the window. *Tr.*, 10/20/10 at 48. Ms. Kim asserted that the displays that the Government claimed violated the ABC laws were not touching the windows and did not cover more than 25 percent of the window. *Tr.*, 10/20/10 at 47, 50.

10. Ms. Kim also argued that the Ciroc poster did not violate the statute because it did not have any prices listed on it. *Tr.*, 10/20/10 at 53.

CONCLUSIONS OF LAW

11. The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1)(2001). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code §§ 25-830 (2001) and 23 D.C.M.R. 800, *et seq.* (2008).

12. The Board finds that the Government has proven the charges against the Respondent. The Respondent violated D.C. Code § 25-765(a) by having advertisements relating to the prices of alcoholic beverages displayed or posted in the establishment's windows and having such advertisements cover more than 25 percent of the total window space. Under the law,

> "[a]dvertisements relating to the prices of alcoholic beverages shall only be displayed in the window of a licensed establishment if the total area covered by the advertisements does not exceed 25% of the window space." § 25-765(a).

The Board interprets § 25-765(a) to only cover signs and displays that list the prices of alcoholic beverages. Further, § 25-765(a) does not require that signs or displays touch a window; rather, the statute merely requires that such signs or displays be visible through the window and are intended to be viewed from outside the establishment. Here, the Respondent set up a Heineken beer display that advertised the price of a 12 pack at $11.99, which, when observed from the exterior, covered the bottom half of one of her windows. The Respondent also set up a Grey Goose display that advertised that Grey Goose could be purchased for approximately $29.00, which, when observed from the exterior, covered a quarter of another window. Thus, based on the testimony of Investigator Shakoor and the photographs submitted by the Government, the Respondent clearly violated § 25-765(a) by covering more than 25 percent of its windows with advertisements related to the prices of alcoholic beverages.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 17th day of November 2010, finds that the Respondent, Brentwood Road Beverages, LLC, t/a Woodbridge Vet's Liquors at premises 1358 Brentwood Road, N.E., Washington, D.C., holder of a Retailer's Class A License, violated D.C. Official Code § 25-765(a). The Board hereby **ORDERS** that:

1. The Respondent shall pay a fine in the amount of $250.00 by no later than thirty (30) days from the date of this Order.

District of Columbia
Alcoholic Beverage Control Board

Charles Brodsky, Chairperson

Mital Gandhi, Member

Nick Alberti, Member

Donald Brooks, Member

Herman Jones, Member

Calvin Nophlin, Member

Mike Silverstein, Member

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 the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington D.C. 20001.