

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

In the Matter of:)	
)	
SD Liquors, Inc.)	
t/a Al's Liquor)	
)	Case No. 10-CMP-00656
Holder of a Retailer's Class A License)	License No. ABRA-074611
at premises)	Order No. 2011-182
4009 South Capitol Street, S.W.)	
Washington, D.C. 20032)	

BEFORE: Charles Brodsky, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member

ALSO PRESENT: Harmeet Dhillon, on behalf of the Respondent

Maureen Zaniel, Senior 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

On February 14, 2011, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated February 2, 2011, on SD Liquors, Inc., t/a Al's Liquor (Respondent), at premises 4009 South Capitol Street, S.W., Washington, D.C., charging the Respondent with the following violation:

Charge I: The Licensee failed to frame the license under glass and post it in a conspicuous place, in violation of D.C. Official Code § 25-711(a) (2001), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823 (2001).

The Board held a Show Cause Status Hearing on March 9, 2011. There was no settlement of the matter and it proceeded to a Show Cause Hearing on April 6, 2011. The

Board having considered the evidence, the testimony of the 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 February 2, 2011. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 10-CMP-00656. The Respondent holds a Retailer's Class A license and is located at 4009 South Capitol Street, S.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-074611.
2. The Show Cause Hearing was held on April 6, 2011. *See* ABRA Show Cause File No. 10-CMP-00656. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 10-CMP-00656.
3. The Government presented its case through the testimony of one witness, Investigator Tyrone Lawson. *Transcript (Tr.)*, 04/06/11 at 6. Investigator Lawson conducts regulatory inspections and investigations for the Alcoholic Beverage Regulation Administration (ARBA). *Tr.* 04/06/11 at 6.
4. Investigator Lawson testified that on September 13, 2010, he conducted a regulatory inspection at the Respondent's establishment. *Tr.* 04/06/11 at 8. Investigator Lawson stated that when he conducts a regulatory inspection, he follows a list of items on a checklist to ensure compliance. *Tr.* 04/06/11 at 8. Some of those items include checking for the posting of the license, the ABC window lettering, and all documents that are required to be conspicuously displayed. *Tr.* 04/06/11 at 8.
5. Investigator Lawson testified that the window lettering was posted, as required, but the ABC license was not posted. *Tr.* 04/06/11 at 9. Investigator Lawson then requested to see the ABC Manager on duty. *Tr.*, 01/13/11 at 9. He spoke to Tejinder Sharma, the ABC Manager and requested Mr. Sharma to produce the ABC license for inspection. *Tr.* 04/06/11 at 9.
6. Investigator Lawson testified that Mr. Sharma walked over to the far corner of the counter and removed a large framed corkboard that was hanging on the wall. *Tr.* 04/06/11 at 10. He stated that the corkboard is about 18" by 36" and is covered by Plexiglas that covers all of the licenses attached to the corkboard. *Tr.* 04/06/11 at 15. A metal frame secured the Plexiglas to the corkboard. *Tr.* 04/06/11 at 19.
7. Investigator Lawson stated that he observed what he appeared to be the outline of the license attached to the corkboard. *Tr.* 04/06/11 at 10. He then took a picture of the framed corkboard in the condition it was presented to him by Mr. Sharma. *Tr.* 04/06/11 at 10; *See* Government's Exhibit 1. Investigator Lawson stated that he did not see the corkboard before it was removed from the wall nor did he take a picture of the corkboard before to its removal. *Tr.* 04/06/11 at 14-15.
8. Investigator Lawson then described where the license was located in the center of the photograph and testified that it was covered by two other licenses and a copy of an

ABRA receipt that was stapled to the license. *Tr.* 04/06/11 at 12-14, 17. Investigator Lawson stated that the other two licenses covering the ABC license were a lottery license and a business license, which are also required to be conspicuously displayed. *Tr.* 04/06/11 at 13, 17. Investigator Lawson did not agree that the ABC license was concealed covered by the other licenses when the corkboard was removed from the wall. *Tr.* 04/06/11 at 14.

9. When Investigator Lawson pointed out to Mr. Sharma that the ABC license was not conspicuously displayed, Mr. Sharma opened the Plexiglas and moved the two licenses covering the ABC license and removed the receipt that was stapled to the ABC license. *Tr.* 04/06/11 at 16.

10. Harmeet Dhillon, son of the owner, testified on behalf of the Respondent. *Tr.* 04/06/11 at 23. He testified that the reason the ABC license was concealed is because the corkboard was lowered about eight feet from where it hung on the wall, and, as a result of the removal, the other licenses slid to conceal the ABC license. *Tr.* 04/06/11 at 23, 25, 27, 36-37. He stated that the corkboard is visible to patrons from where it hangs on the wall. *Tr.* 04/06/11 at 23-24, 26. He also stated that the licenses can be read through the Plexiglas when the corkboard is hanging. *Tr.* 04/06/11 at 29.

11. Mr. Dhillon admitted that he was not present on the premises when Investigator Lawson conducted his inspection on September 13, 2010. *Tr.* 04/06/11 at 25. Mr. Dhillon also could not confirm that the receipt was stapled to the ABC license at the time of the inspection, but he did state that the receipt was no longer attached to the license. *Tr.* 04/06/11 at 27, 32. Mr. Dhillon testified that his employees told him that the ABC license was not obscured by other licenses. *Tr.* 04/06/11 at 33-34.

CONCLUSIONS OF LAW

12. 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) (2009). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 D.C.M.R. 800, *et. seq.*

13. In order to hold a Licensee liable for a violation of the ABC laws, the Government must show that there is substantial evidence to support the charge. Substantial evidence is defined as evidence that a “reasonable mind[] might accept as adequate to support the conclusion” and there must be a “rational connection between facts found and the choice made.” 2461 Corp. v. D.C. Alcoholic Bev. Control Bd., 950 A.2d 50, 52-53 (D.C. 2008)

14. The Board finds that the Government has proven that the Respondent violated D.C. Code § 25-711(a) by failing to frame the ABC license under glass and post it in a conspicuous place.

15. The Board credits the testimony of Investigator Lawson who testified that when he conducted a regulatory inspection at the licensed establishment on September 13, 2010, he discovered that the ABC license was not conspicuously displayed. It was only when

assisted by the Respondent's ABC Manager that Investigator Lawson learned that the ABC license was posted to a corkboard that was covered by other licenses issued by various District of Columbia agencies.

16. The Board's review of Government's Exhibit 1 demonstrated that the ABC license was obscured by the other licenses and was, in fact, not conspicuously displayed. Moreover, when Investigator Lawson located the ABC license on the corkboard, he witnessed that the license itself was obscured by an ABRA receipt that was attached to the license. Investigator Lawson testified that he pointed out the violation to the ABC Manager who then uncovered the ABC license and removed the stapled receipt.

17. The Board is disinclined to believe the Respondent's argument that the licenses slid from their posting behind the Plexiglas as the corkboard was removed from the wall. It is too convenient that the ABC license was the one license that became concealed due to the jostling of the corkboard. Equally importantly, the argument that the licenses slid from their location on the corkboard cannot account for the existence of the stapled ABRA receipt which also served to conceal the ABC license.

18. The Board commends the ABC Manager's willingness to comply with Investigator Lawson's directive to separate the licenses and remove the receipt. The Board encourages the Respondent to properly post the license in a conspicuous place at all times.

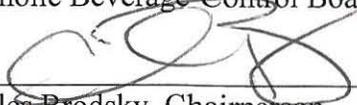
19. Based upon the Government's witness testimony and given no credible evidence to the contrary, the Board finds that the violation of D.C. Code § 25-711(a) as set forth in Charge I of the Notice of Show Cause, dated February 2, 2011, warrants a \$500.00 fine payable within 30 (thirty) days from the date of this Order.

ORDER

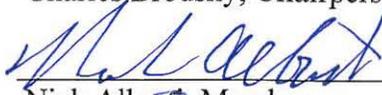
Based on the foregoing findings of fact and conclusions of law, the Board, on this 4th day of May 2011, finds that the Respondent, SD Liquors, Inc., t/a Al's Liquor, at 4009 South Capitol Street, S.W., Washington, D.C., holder of a Retailer's Class A license, violated § 25-711 (a) (2001).

The Respondent shall pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions. Copies of this Order shall be sent to the Respondent and the Government.

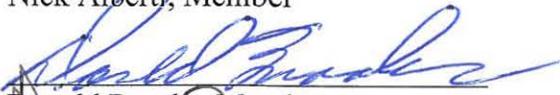
District of Columbia
Alcoholic Beverage Control Board



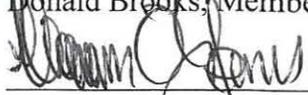
Charles Brodsky, Chairperson



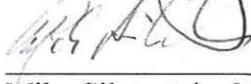
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, 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 (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).