

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

<b>In the Matter of:</b>	)	
	)	
Lamaree, Inc.	)	
t/a Aroma Indian Restaurant	)	
	)	Case No. 10-CMP-00715
Holder of a Retailer's Class CR License	)	License No. ABRA-001847
at premises	)	Order No. 2011-306
1919 I Street, N.W.	)	
Washington, D.C. 20006	)	

**BEFORE:** Nick Alberti, Interim Chairperson  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ALSO PRESENT:** Lamaree, Inc., t/a Aroma Indian Restaurant, Respondent  
  
Walter Adams II, 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 March 26, 2011, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated March 23, 2011, on Lamaree, Inc., t/a Aroma Indian Restaurant (Respondent), at premises 1919 I Street, N.W., Washington, D.C., charging the Respondent with the following violation:

Charge I: The Licensee failed to obtain importation permits for alcoholic beverages purchased from outside the District, in violation of the D.C. Official Code § 25-119 and 23 DCMR 1204, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The Board held a Show Cause Status Hearing on April 27, 2011. There was no settlement of the matter and it proceeded to a Show Cause Hearing on June 1, 2011. The

Board having considered the evidence, the testimony of the witnesses, the arguments of parties, 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 March 23, 2011. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 10-CMP-00715. The Respondent holds a Retailer's Class CR license and is located at 1919 I Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-001847.
2. The Show Cause Hearing was held on June 1, 2011. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 10-CMP-00715.
3. The Government called its first witness, ABRA Investigator Tyrone Lawson. *Transcript, (Tr.)* 06/01/11 at 8. Investigator Lawson has been employed with ABRA for over a year, and he conducts regulatory inspections and investigations of ABC-licensed establishments in the District of Columbia. *Tr.*, 06/01/11 at 9. On October 25, 2010, Investigator Lawson conducted a regulatory inspection at the Respondent's establishment. *Tr.*, 06/01/11 at 10. He testified that he entered the establishment and identified himself to the General Manager, Jose Rios. *Tr.*, 06/01/11 at 11. Mr. Rios was not an ABC-licensed manager, so he sought out another employee, Sunil Kumar, who is licensed as an ABC manager. *Tr.*, 06/01/11 at 11. Investigator Lawson stated that he spoke with both employees throughout the regulatory inspection. *Tr.*, 06/01/11 at 11.
4. Investigator Lawson explained that when he conducts a regulatory inspection, he checks certain items to ensure that the establishment is compliant with the law and regulations that govern ABC-licensed establishments. *Tr.*, 06/01/11 at 11. This inspection includes ensuring that licenses and signs are properly posted, that the owner or an ABC Manager is on duty, that there is compliance with the terms and conditions of the Voluntary Agreement if one exists, and that there is three years worth of importation permits and invoices on-site. *Tr.*, 06/01/11 at 12. Investigator Lawson further explained that invoices for alcoholic beverages brought into the District of Columbia from an out-of-state wholesaler must be accompanied by an importation permit. *Tr.*, 06/01/11 at 12.
5. Investigator Lawson testified that as part of the regulatory inspection, he requested Mr. Rios to produce the invoices housed on the premises. *Tr.*, 06/01/11 at 13. Mr. Rios produced some folders of the establishment's alcoholic beverage invoices. *Tr.*, 06/01/11 at 13, 25. Investigator Lawson examined the invoices and noticed that some invoices were from Legends, Inc., a wholesaler located in Baltimore, MD, specifically Invoice No. 125156, dated September 30, 2010, and Invoice No. 121676, dated August 25, 2010. *Tr.*, 06/01/11 at 13, 18-23, 26; Government Exhibit No. 1.
6. Investigator Lawson stated that he then requested Mr. Rios to produce the importation permits to accompany the Legends, Inc. invoices. *Tr.*, 06/01/11 at 13. Mr. Rios informed Investigator Lawson that he was responsible for most of the beverage

purchasing for the Respondent, but he was unfamiliar with the importation permits. *Tr.*, 06/01/11 at 13-14.

7. Investigator Lawson showed Mr. Rios a blank copy of an importation permit. *Tr.*, 06/01/11 at 14. He informed Mr. Rios that the importation permit is required to be provided to the establishment at the time of delivery of the alcoholic beverage received from a wholesaler located outside the District of Columbia. *Tr.*, 06/01/11 at 14-15. Mr. Rios told Investigator Lawson that he had never seen an importation permit. *Tr.*, 06/01/11 at 14, 32. Investigator Lawson informed Mr. Rios that failure to have importation permits on the premises was a violation of the ABC Code. *Tr.*, 06/01/11 at 15. Investigator Lawson was not provided any importation permits by the Respondent. *Tr.*, 06/01/11 at 24, 27.

8. Investigator Lawson testified that it is his practice to perform a sampling rather than inspect each invoice. *Tr.*, 04/13/11 at 15. It is also his practice to inquire how many years the establishment maintains their invoices and then he will ask to see an invoice from a certain date or time period to ensure that invoices are, in fact, being kept on the premises. *Tr.*, 06/01/11 at 33.

9. Investigator Lawson stated that Mr. Rios went upstairs to retrieve the invoice folder, and he noticed that the Legends, Inc., invoices did not have importation permits. *Tr.*, 06/01/11 at 33. Investigator Lawson specifically requested to see the importation permits for the invoices dated August 25, 2010 and September 30, 2010. *Tr.*, 06/01/11 at 34. The two invoices represented about 13 cases of alcoholic beverages. *Tr.*, 06/01/11 at 35.

10. Investigator Lawson testified that this was his second regulatory inspection conducted with the Respondent. *Tr.*, 06/01/11 at 30-31. He was not provided invoices for alcoholic beverages brought from outside the District at the first inspection, so there was no need to request to see importation permits. *Tr.*, 06/01/11 at 31. He did recall seeing invoices from wholesalers who are licensed in the District of Columbia. *Tr.*, 06/01/11 at 31.

11. Mr. Daljeet Chhatwal testified on behalf of the Respondent. *Tr.*, 06/01/11 at 36. Mr. Chhatwal produced a copy of Invoice No. 121676, dated August 25, 2010. *Tr.*, 06/01/11 at 37; Respondent Exhibit No. 1. He testified that Invoice No. 125156 was from Legends, Inc., but did not represent alcoholic beverages sold to the Respondent. *Tr.*, 06/01/11 at 38, 40. Mr. Chhatwal believes that Invoice No. 125156 was for inventory sold to Calvert Woodley Liquors. *Tr.*, 06/01/11 at 39; Respondent Exhibit No. 2.

### **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. With regard to Charge I set forth in the Notice to Show Cause, dated March 23, 2011, the Board must determine whether the Licensee failed to obtain an importation permit authorizing the licensee to import, transport, or cause to be imported or transported, alcoholic beverages into the District, in violation of the D.C. Official Code § 25-119. In this case, based upon the law and the testimony of the witnesses, the Board finds that there is sufficient evidence to establish that the Respondent failed to obtain an importation permit.

15. The Board relies on the credible testimony of Investigator Lawson who established that he identified himself as an ABRA Investigator and informed the ABC Manager that he was there to conduct a regulatory inspection. Investigator Lawson testified that a regulatory inspection routinely involves checking invoices and importation permits to ensure that alcoholic beverages delivered into the District of Columbia from outside distributors has been done so with the authority of the ABRA. Investigator Lawson testified that he was satisfied that the Respondent was compliant with every aspect of the regulatory inspection, with the exception of producing copies of importation permits. The Respondent could not produce a copy of the importation permit for Invoice No. 121676 for Legends, Inc., a wholesaler based in Baltimore, MD.

16. The testimony of the Respondent’s witness, Mr. Chhatwal, does not refute that Investigator Lawson was not provided copies of importation permits for the Legends Inc., invoices at the time of the regulatory inspection. Mr. Chhatwel was able to produce a copy of Invoice No. 121676, dated August 25, 2010, at the Show Cause hearing, but there was no testimony offered to convince the Board that the importation permit was at the establishment on the day of the regulatory inspection.

17. Investigator Lawson’s very credible testimony demonstrates that the General Manager could not produce the importation permits associated with the Legends, Inc., invoices and nothing in the record before the Board contradicts that testimony. The failure by the Respondent to produce the importation permits left Investigator Lawson no choice but to assume that the importation permits he sought to confirm did not exist or were not on-site.

18. Based upon the above testimony and the evidence in the record, the Board finds that the Respondent did violate D.C. Official Code § 25-119 as set forth in Charge I of the Notice to Show Cause, dated March 23, 2011.

## **ORDER**

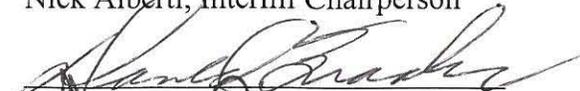
Based on the foregoing findings of fact and conclusions of law, the Board, on this 29<sup>th</sup> day of June 2011, the Board finds that:

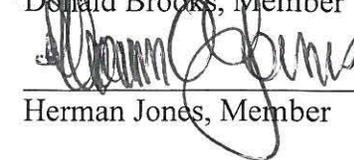
1. For Charge I, the Respondent did violate D.C. Official Code § 25-119, as set forth in Charge I of the Notice to Show Cause, dated March 23, 2011, by failing to obtain an importation permit authorizing the licensee to import, transport, or cause to be imported or transported, alcoholic beverages into the District.
2. Based upon the Respondent's history of violations, the Board finds that the Respondent shall pay a graduated fine in the amount of \$500.00, by no later than thirty (30) days from the date of this Order.

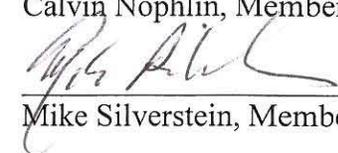
Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia  
Alcoholic Beverage Control Board

  
\_\_\_\_\_  
Nick Alberti, Interim Chairperson

  
\_\_\_\_\_  
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 14<sup>th</sup> 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).