

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

In the Matter of:

Bardo, LLC
t/a Bardo

Holder of a
Retailer's Class CT License

at premises
1200-1216 Bladensburg Road, N.E.
Washington, D.C. 20002

Case No. 15-CMP-00396
License No. ABRA-090430
Order No. 2016-132

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ALSO PRESENT: Bill Stewart, on behalf of Bardo, LLC, t/a Bardo, Respondent

Fernando Rivero, 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

The Alcoholic Beverage Control Board (Board) finds that Bardo, LLC, t/a Bardo (Respondent), violated District of Columbia (D.C.) Official Code § 25-701 on June 30, 2015. As a result, the Respondent must pay a \$250.00 fine.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), dated December 15, 2015. The Respondent acknowledged at the Show Cause Hearing, held on March 9, 2016, that he received the Notice setting forth the Charge enumerated below.

The Notice charged the Respondent with the following violation, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license:

Charge I: [On Tuesday, June 30, 2015] [y]ou failed to keep a licensed ABC manager on duty at all times, in violation of D.C. Official Code § 25-701...

ABRA Show Cause File No., 15-CMP-00396, Notice of Status Hearing and Show Cause Hearing, 2 (December 15, 2015).

On July 2, 2015, Citation #4068 was issued to the Respondent in the amount of \$250.00 for violating D.C. Official Code § 25-701.

On July 20, 2015, the Respondent refused to pay the citation and instead, requested a hearing.

The Government and the Respondent appeared at the Show Cause Hearing for this matter on March 9, 2016. At the Show Cause Hearing, the Parties stipulated to facts contained in the Notice dated December 15, 2015, and provided oral argument on the penalty. *Transcript (Tr.)*, 3/9/16 at 4-5.

The Government recommended that the Board fine the Respondent \$350.00 for the violation. *Tr.*, 3/9/16 at 5.

The Respondent requested leniency arguing that he was eligible for a warning. *Tr.*, 3/9/16 at 7-8. In support of his request, the Respondent stated that despite several visits to the establishment by ABRA investigators, he had never has been found in violation of the law. *Tr.*, 3/9/16 at 6. The failure to have an ABC Manager on duty charged in this case is his first violation as a licensee. *Tr.*, 3/9/16 at 6. He also informed the Board that his head bartender is now licensed as an ABC Manager. *Tr.*, 3/9/16 at 6. Thus, because he has remedied the concern about not having an ABC-licensed Manager on duty, he is entitled to a warning rather than a fine. *Tr.*, 3/9/16 at 7-8.

Based on the Respondent's stipulation to the facts, the Board finds that the Respondent violated D.C. Official Code § 25-701 on June 30, 2015, for permitting the licensed establishment to operate without either the licensee or an ABC-licensed Manager superintending during the hours of operation.

The Board takes administrative notice that this violation is the Respondent's first secondary tier violation. *Licensing File No. ABRA-090430*; Investigative History. Thus, the present violation shall be fined as a first secondary tier violation and the Board may impose a fine in the range of \$250.00 and \$500.00. *Licensing File No. ABRA-090430*, Investigative History; DCMR § 23-802.

ORDER

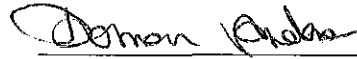
Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 6th day of April, 2016, finds that the Respondent, Bardo, LLC, t/a Bardo, located at 1200-1216 Bladensburg Road, N.E., Washington, D.C., holder of a Retailer's Class CT license, violated D.C. Official Code § 25-701.

The Board hereby **ORDERS** that:

- 1) The Respondent must pay a fine in the amount of \$250.00 by no later than thirty (30) days from the date of this Order or its license shall be suspended indefinitely until this fine is paid.

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

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

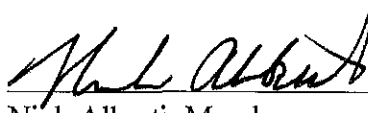


Mike Silverstein, Member

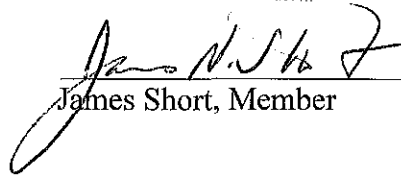


Ruthanne Miller, Member

We concur with the majority's decision as to its finding of the Respondent's liability, but we dissent as to the penalty selected by the majority of the Board.



Nick Alberti, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). 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).