

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

In the Matter of:

Sami Restaurant, LLC
t/a Bistro 18

Holder of a
Retailer's Class CR License

at premises
2420 18th Street, N.W.
Washington, D.C. 20009

Case Nos.: 12-CMP-0679
12-CMP-0734
13-CMP-035
License No.: ABRA-086876
Order No.: 2014-075

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

ALSO PRESENT: Sami Restuarant, LLC, t/a Bistro 18, Respondent

Sami M. Ghulais, Owner, on behalf of the Respondent

Ely Hurwitz, Counsel for Respondent

Amy Schmidt, Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

INTRODUCTION

This case arises from three Notices of Status Hearing and Show Cause Hearing (collectively the "Notices"), which the Alcoholic Beverage Control Board executed on April 11, 2013. The Alcoholic Beverage Regulation Administration (ABRA) served the Notices on the Respondent, located at premises 2420 18th Street, N.W., Washington, D.C., on April 15, 2013.

The Notices charged the Respondent with a number of violations, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license.

Specifically, the Notice in Case No. 12-CMP-0679, charged the Respondent with the following violation:

Charge I: [On Sunday, November 18, 2012,] the Respondent permitted the sale and consumption of alcoholic beverages after ABC approved hours on-premises, in violation of D.C. Official Code § 25-723

ABRA Show Cause File No., 12-CMP-0679, Notice of Status Hearing and Show Cause Hearing, 2 (April 11, 2013).

In addition, the Notice in Case No. 13-CMP-035, charged the Respondent with the following violations:

Charge I: [On Sunday, December 30, 2012,] the Respondent permitted the sale and consumption of alcoholic beverages after ABC approved hours on-premises, in violation of D.C. Official Code § 25-723

Charge II: [On Sunday, December 30, 2012,] the Respondent interfered with an investigation by an ABRA investigator, in violation of D.C. Official Code § 25-823(5)

Charge III: [On Sunday, December 30, 2012,] the Respondent failed to make a copy of its Voluntary Agreement immediately accessible to an Official of ABRA, in violation of D.C. Official Code § 25-823(1)

ABRA Show Cause File No., 13-CMP-035, Notice of Status Hearing and Show Cause Hearing, 2-3 (April 11, 2013).

Finally, the Notice in Case No. 12-CMP-0734, charged the Respondent with the following violations:

Charge I: [On Monday, November 12, 2012,] the Respondent permitted the sale and consumption of alcoholic beverages after ABC approved hours on-premises, in violation of D.C. Official Code § 25-723

Charge II: [On Monday, November 12, 2012,] the Respondent interfered with an investigation by an ABRA investigator, in violation of D.C. Official Code § 25-823(5)

Charge III: [On Monday, November 12, 2012,] the Respondent failed to superintend in person or keep an ABC-licensed manager on duty at all times, in violation of D.C. Official Code § 25-701

The Office of the Attorney General (OAG) and the Respondent appeared at the Show Cause Status Hearing on May 15, 2013. The parties then appeared at the Show Cause Hearing for all three cases on October 23, 2013.

At the Show Cause Hearing, the OAG and the Respondent entered into an Offer in Compromise (OIC) setting forth the terms of the disposition of Case Number 12-CMP-0734. As a result, the Respondent waived its right to a Show Cause Hearing for the three charges arising from Case Number 12-CMP-0734.

By a majority vote, the Board accepted the terms of the OIC which provided for a fine of \$6,000 payable within 120 days from the date of the OIC, and a one day suspension of the license. The charges listed in the Notice are primary tier violations, and the total fine of \$6,000 represents a \$2,000 fine for each of the three charges. The one suspension day is activated from Case Number 11-CMP-00457. The suspension was served on January 5, 2014.

The parties proceeded to a Show Cause Hearing on the remaining two cases; Case Numbers 12-CMP-679 and 13-CMP-035, and argued their respective cases on October 23, 2013.

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

1. The Respondent holds a Retailer's Class CR License, License No. ABRA-086876. See ABRA Licensing File No. ABRA-086876. The establishment's premises are located at 2420 18th Street, N.W., Washington, D.C. See ABRA Licensing File ABRA-086876. The hours of operation are Sunday 8 a.m. to 2 a.m. and Monday through Saturday 11 a.m. to 2 a.m. The hours of sales, service and consumption are Sunday through Saturday 11 a.m. to 1:30 a.m. See ABRA Licensing File ABRA-086876.
2. The Respondent has a Settlement Agreement (formerly known as a Voluntary Agreement) dated October 22, 2002 whose terms attached to the license. An amendment dated May 4, 2011, was not approved by the Board until January 16, 2013, and thus the amendment does not apply to the incidents which are the subject of this hearing and adjudication.

Case Number 12-CMP-00679

I. Former ABRA Investigator Brian Molloy

3. On Sunday, November 18, 2012, former ABRA Investigator Brian Molloy was working in the Adams Morgan neighborhood at 1:45 a.m. near the Respondent's establishment when he observed four patrons entering the establishment. *Transcript (Tr.)*, 10/23/13 at 51, 69-70, 74. He knew from previous experience with the Respondent, that the hours of sales, service and consumption ended at 1:30 a.m. *Tr.* 10/23/13 at 52. He followed the patrons inside and identified himself by name and occupation to an employee. *Tr.* 10/23/13 at 53, 75-76. Mr.

Molloy then requested to speak to either an ABC licensed manager or the owner of the establishment. *Tr.* 10/23/13 at 53.

4. While waiting for the arrival of either the manager or the owner, Mr. Molloy observed bar service to patrons and that patrons were consuming alcoholic beverages. *Tr.* 10/23/13 at 53. In particular, he observed the bartender place a Heineken beer in front of a patron at the bar. *Tr.* 10/23/13 at 69-71. He observed three patrons at the bar, and about 12 patrons in the larger smoking room off to the left side of the bar area. *Tr.* 10/23/13 at 73.

5. Mr. Molloy spoke to Sami Ghulais, the owner of the establishment, and requested a copy of the license. *Tr.* 10/23/13 at 54. The license stated that sales of alcoholic beverages end at 1:30 a.m. *Tr.* 10/23/13 at 54. Mr. Molloy then notified Mr. Ghulais of the violation. *Tr.* 10/23/13 at 54. Mr. Ghulais apologized and stated that no more drinks would be served. *Tr.* 10/23/13 at 76-77. The two beers were removed from the patrons. *Tr.* 10/23/13 at 77-78.

6. Mr. Molloy then examined the Settlement Agreement, which also listed hours of 1:30 a.m. *Tr.* 10/23/13 at 54-55. The Settlement Agreement is dated May 4, 2011. *Tr.* 10/23/13 at 57. An amendment to the Settlement Agreement was approved by the Board in January 2013, after the date of the incident. *Tr.* 10/23/13 at 56-58. The Settlement Agreement provides that the hours for sales, service and consumption are Monday through Saturday, 8:00 a.m. to 1:30 a.m. *Tr.* 10/23/13 at 58. The Settlement Agreement is signed by the Respondent, Advisory Neighborhood Commission 1C, and the Kalorama Citizens Association. *Tr.* 10/23/13 at 58-59.

7. Mr. Molloy was trained as an ABRA investigator to interpret the term “operations” as the sale, service and consumption of alcoholic beverages. *Tr.* 10/23/13 at 60-61, 66-67. He did not observe sales taking place while inside the establishment. *Tr.* 10/23/13 at 61. As such, his investigative report mentions the consumption of alcoholic beverages after 1:30 a.m., but it does not mention sales. *Tr.* 10/23/13 at 61. Mr. Malloy did not see any monetary or credit card transactions while inside the establishment. *Tr.* 10/23/13 at 61.

8. The Respondent’s Settlement Agreement dated October 22, 2002 provides that the Licensee will announce “last call” at 1:25 a.m. Sunday through Thursday.. *Tr.* 10/23/13 at 64. The Settlement Agreement also provides that the service of alcoholic beverages will be discontinued at 1:30 a.m., Sunday through Thursday *Tr.* 10/23/13 at 64.

9. Mr. Molloy testified that the Respondent was in violation of its license because it exceeded the hours of operation permitted by the license. *Tr.* 10/23/13 at 66.

II. Sami Ghulais

10. Sami Ghulais is the owner of the establishment *Tr.* 10/23/13 at 79. He was present at the establishment on the night of Mr. Molloy’s visit. *Tr.* 10/23/13 at 80. Mr. Ghulais testified that the three patrons observed by Mr. Molloy entering the establishment at 1:45 am had already been patronizing the establishment, and had stepped out to smoke cigarettes. *Tr.* 10/23/13 at 80-81. When they finished smoking, they re-entered the bar. *Tr.* 10/23/13 at 81.

11. When Mr. Molloy identified himself, Mr. Ghulais informed him that they had stopped serving alcoholic beverages at 1:30 p.m. *Tr.* 10/23/13 at 81. He did not deny that there were Heineken bottles on the bar. *Tr.* 10/23/13 at 82, 84, 89. Mr. Ghulais was seated at the bar when Mr. Molloy entered the establishment. *Tr.* 10/23/13 at 87. He was watching the bartender and did not see the bartender serve alcoholic beverages after 1:30 a.m. *Tr.* 10/23/13 at 87-88.

12. Mr. Ghulais believes that he is not permitted to sell after 1:30 p.m., but that patrons are permitted to finish the consumption of a drink purchased prior to 1:30 a.m. *Tr.* 10/23/13 at 82, 95. Mr. Ghulais further testified that one of the patrons tried explaining to Mr. Molloy that he had been in the bar since 12:30 a.m. *Tr.* 10/23/13 at 82. It is Mr. Ghulais' policy to stop serving alcoholic beverages after 1:25 a.m. and that "last call" is at 1:25 a.m. and patrons are not allowed to order after last call. *Tr.* 10/23/13 at 82-83, 88. Sometimes he announces "last call" at 1:15 a.m. so that the bartender has plenty of time to serve the patron. *Tr.* 10/23/13 at 88, 91. According to Mr. Ghulais, the patrons who were inside consuming alcoholic beverages after 1:30 a.m. had purchased their beverages before "last call". *Tr.* 10/23/13 at 84.

13. Mr. Ghulais trains his employees to announce "last call" at 1:15 a.m., and to not take any beverage order after 1:25 a.m. *Tr.* 10/23/13 at 90-92. After 1:25 a.m., patrons are permitted to order shots of alcohol. *Tr.* 10/23/13 at 90. The Respondent stops serving alcoholic beverages after 1:25 a.m., but they allow the patrons time to finish the beverages already purchased until 1:50 a.m. to 2:00 a.m. *Tr.* 10/23/13 at 92. The employees are also trained to pick up bottles and glasses by 1:45 a.m. *Tr.* 10/23/13 at 92. On the night of the incident, patrons were permitted to consume alcohol until 1:45 a.m.

14. Mr. Ghulais is familiar with the amendment to the Settlement Agreement dated May 4, 2011 which provides that consumption, sales and service of alcoholic beverages is limited to 10:00 a.m. to 1:30 a.m. *Tr.* 10/23/13 at 85, 98. The amendment to the Settlement Agreement was not approved by the Board until January 16, 2013. *Tr.* 10/23/13 at 98. At the time of the incident in 2013, Mr. Ghulais was operating under a Settlement Agreement dated October 22, 2002. *Tr.* 10/23/13 at 94. The terms of the Settlement Agreement became conditions on his ABC license. *Tr.* 10/23/13 at 94. The 2002 Settlement Agreement provides that the hours of operation from Sunday to Thursday shall be until 2:00 a.m. *Tr.* 10/23/13 at 94. The 2002 Settlement Agreement also provided that "last call" was at 1:25 a.m. and that service would stop at 1:30 a.m., Sunday through Thursday. *Tr.* 10/23/13 at 95.

15. Mr. Ghulais testified that since the date of the incident, he ensures that there is no alcohol inside the establishment after 1:35 a.m. *Tr.* 10/23/13 at 100. He has also taken bartending classes and is now certified. *Tr.* 10/23/13 at 100. Mr. Ghulais' staff has been trained and is also certified. *Tr.* 10/23/13 at 101.

Case Number 13-CMP-00035

I. Former ABRA Investigator Brian Molloy

16. On Sunday, December 30, 2012, Mr. Molloy was assigned to the Adams Morgan Initiative (Initiative) which increased the number of investigators in the neighborhood for the

week between the Christmas and New Year's holidays. *Tr.* 10/23/13 at 116. The objective of the Initiative was to step up enforcement and to monitor compliance with ABC laws and regulations. *Tr.* 10/23/13 at 117.

17. At 1:45 a.m., Mr. Molloy was just outside the Respondent's premises with Investigator Josena MacKenzie. *Tr.* 10/23/13 at 117-118, 127. He was familiar with the Respondent due to prior investigations at the establishment. *Tr.* 10/23/13 at 117. On the night of the incident, Mr. Molloy and Inv. MacKenzie observed through the windows that several patrons were sitting at the bar. *Tr.* 10/23/13 at 118. They confirmed the time as 1:45 a.m., entered the establishment, and identified themselves as ABC investigators. *Tr.* 10/23/13 at 118. Mr. Molloy requested to speak to either an ABC licensed manager or the owner. *Tr.* 10/23/13 at 118. While waiting, he again confirmed that there were several patrons at the bar. *Tr.* 10/23/13 at 118. He also observed 15 to 25 patrons located inside a room to the left of the bar. *Tr.* 10/23/13 at 119. He observed one patron holding a bottle of Blue Moon beer. *Tr.* 10/23/13 at 119, 139-140. There were other glasses and drinks out as well. *Tr.* 10/23/13 at 119.

18. Mr. Molloy instructed Inv. MacKenzie to document any beverage that appeared to be alcoholic. *Tr.* 10/23/13 at 119. When Inv. MacKenzie entered the room to the left of the bar and began taking photographs of the evidence, she was blocked by a waitress who stepped in front of her camera shots. *Tr.* 10/23/13 at 119, 126. Inv. MacKenzie explained that she was an ABRA investigator to which the waitress replied, "I know who you are and you cannot take pictures in here". *Tr.* 10/23/13 at 119, 126. The waitress continued to move her body to block Inv. MacKenzie's ability to conduct the investigation. *Tr.* 10/23/13 at 119-120. Inv. MacKenzie was unsuccessful in taking any photographs. *Tr.* 10/23/13 at 126, 129. By the time the investigator was no longer blocked, the evidence had been collected by bar staff. *Tr.* 10/23/13 at 129-131, 144.

19. Mr. Molloy was introduced to Zachary Ibrahim who informed Mr. Molloy that he was in charge of the establishment. *Tr.* 10/23/13 at 120. Mr. Molloy was also introduced to an employee named Mohamed Alhada who is a licensed ABC Manager. *Tr.* 10/23/13 at 120. Mr. Molloy informed both men of the violations he had observed. *Tr.* 10/23/13 at 120. In particular, he pointed out that the establishment was selling, serving and allowing the consumption of alcoholic beverages after 1:30 a.m., and that an employee interfered with an ABRA investigation. *Tr.* 10/23/13 at 120-121, 127-130.

20. Mr. Ibrahim was cooperative and apologized for the waitress' behavior, and indicated that the alcoholic beverages would be picked up. *Tr.* 10/23/13 at 121, 123, 128. It was clear to Mr. Molloy from Mr. Ibrahim's reaction and statements that he knew that the establishment was to have stopped selling, serving and allowing the consumption of alcoholic beverages. *Tr.* 10/23/13 at 123, 131. However, Mr. Ibrahim did not instruct bar staff to not collect the glasses and bottles during the investigation. *Tr.* 10/23/13 at 130-131, 142.

21. Mr. Molloy then requested to see a copy of the Settlement Agreement. *Tr.* 10/23/13 at 121, 125. Neither Mr. Ibrahim nor Mr. Alhada could locate the Settlement Agreement. *Tr.* 10/23/13 at 122, 124. Mr. Molloy and Inv. MacKenzie were in the establishment for ten minutes during the investigation, and the Settlement Agreement was never produced during that time. *Tr.*

10/23/13 at 122-123. Mr. Molloy then apprised the two men regarding the violation for not making the Settlement Agreement available upon request. *Tr.* 10/23/13 at 122, 124. Mr. Ibrahim apologized to Mr. Molloy and acknowledged that he knew they were to have it available. *Tr.* 10/23/13 at 122, 124.

22. Mr. Molloy was trained as an ABRA investigator to treat a licensee's hours of operation as the hours a licensee was permitted to sell, serve or allow the consumption of alcoholic beverages. *Tr.* 10/23/13 at 136-137. He did not witness any sales or consumption during the investigation. *Tr.* 10/23/13 at 138. He observed a handful of patrons with alcoholic beverages in their possession, who then placed them on the table before they were collected by bar staff. *Tr.* 10/23/13 at 138-139. Mr. Molloy and Inv. MacKenzie were unable to document specific numbers and alcoholic beverages because the products and glassware were collected and placed behind the bar before they could do so. *Tr.* 10/23/13 at 141.

23. Mr. Molloy charged the Respondent with a violation of its ABC license, and not a violation of the Settlement Agreement. *Tr.* 10/23/13 at 146. He defers to the terms of the license and considers the license to be controlling when enforcing hours of sales, service and consumption. *Tr.* 10/23/13 at 147.

II. Sami Ghulais

24. Sami Ghulais was out of the country and was not present at the establishment on the night of Mr. Molloy's visit in December. *Tr.* 10/23/13 at 147, 156. Mr. Ghulais left Mr. Ibrahim and Mr. Alhada in charge of the establishment. *Tr.* 10/23/13 at 150, 177. Mr. Ibrahim has over 20 years of experience in the restaurant business. *Tr.* 10/23/13 at 180.

25. He stated that there was no interference and that the waitress was only trying to stop Inv. MacKenzie from taking pictures of the patrons, not the evidence. *Tr.* 10/23/13 at 150-151. His patrons have complained in the past to him about being photographed. *Tr.* 10/23/13 at 150-151.

26. Mr. Ghulais had also instructed staff that there was to be no service of alcoholic beverages after 1:30 a.m. *Tr.* 10/23/13 at 152. He is under the belief that he is permitted to sell up until 1:30 a.m. and that patrons are allowed to consume until 2:00 a.m. *Tr.* 10/23/13 at 152. He told his employees that there should be no bottles on the tables after 1:45 a.m. *Tr.* 10/23/13 at 153.

27. Mr. Ghulais keeps his Settlement Agreement under the license, and he stated that it was under the license the night of the incident. *Tr.* 10/23/13 at 153. He has since instructed his staff to locate the Settlement Agreement behind the license that hangs on the wall. *Tr.* 10/23/13 at 154. He does not recall if they knew the Settlement Agreement was under the license when Mr. Molloy conducted his investigation. *Tr.* 10/23/13 at 179.

28. He has also instructed his staff to not interfere with an ABRA investigation. *Tr.* 10/23/13 at 154. He and his staff have taken training since 2012, and he now has three ABC-licensed managers. *Tr.* 10/23/13 at 155-156, 175.

29. Mr. Ghulais testified that he understood after the November 2012 incident that he was not to allow patrons to consume alcoholic beverages after 1:30 a.m. *Tr.* 10/23/13 at 176. Mr. Ghulais had discussed the November incidents with Mr. Ibrahim before he left the country. *Tr.* 10/23/13 at 182-183.

III. Zakaria Ibrahim

30. Mr. Ibrahim was present on December 30, 2012 when the incident happened. *Tr.* 10/23/13 at 188. He was managing that night because Mr. Ghulais was out of the country. *Tr.* 10/23/13 at 189. Mr. Ghulais instructed Mr. Ibrahim before his departure and stated that he had employed three ABC-licensed managers. *Tr.* 10/23/13 at 189.

31. Mr. Ibrahim stated that he complies with ABRA regulations and that he had instructed bar staff to not serve alcoholic beverages after 1:25 a.m. *Tr.* 10/23/13 at 189-190. He has been in the restaurant business for almost 20 years. *Tr.* 10/23/13 at 191.

32. Mr. Ibrahim also stated that neither he nor bar staff interfered with the investigation. *Tr.* 10/23/13 at 192, 195. He asked Inv. MacKenzie not to take any photographs because patrons don't like their pictures taken. *Tr.* 10/23/13 at 192. He fully cooperated with the investigators. *Tr.* 10/23/13 at 194. Mr. Ibrahim further testified that the investigators did not give him enough time to locate the Settlement Agreement. *Tr.* 10/23/13 at 195.

CONCLUSIONS OF LAW

33. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia Official Code pursuant to District of Columbia Official Code § 25-823(1). D.C. Code § 25-830 (West Supp. 2013); 23 DCMR § 800, *et seq.* (West Supp. 2013). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if we determine "that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed." D.C. Code § 25-447 (West Supp. 2013).

34. The Board finds the Respondent guilty of Charges I Case Number 12-CMP-0679 and Charges I, II and III in Case Number 13-CMP-035

Case Number 12-CMP-0679

35. In Case Number 12-CMP-00679, the Board finds that the Respondent violated its Board approved hours of operation on November 18, 2012. According to the terms of the Respondent's October 2002 Settlement Agreement, the Respondent is to announce "last call" at 1:25 a.m. and to discontinue service of alcohol at 1:30 a.m. Sunday through Thursday. The Board credits the testimony of Mr. Molloy who at 1:45 a.m. observed the bartender place a Heineken beer on the bar. He further observed bar service and patrons consuming alcoholic beverages. The Board does not credit Mr. Ghulais who claimed that beer had been served prior to "last call" and that the patrons consuming the alcoholic beverages were merely outside the establishment smoking a

cigarette. Instead, the Board finds that the establishment continued to serve and allow the consumption of alcoholic beverages after its Board approved hours in violation of District of Columbia Official Code § 25-723.

Case Number 13-CMP-035

36. In Case Number 13-CMP-00035, the Board first finds that the Respondent permitted the sale and consumption of alcoholic beverages after its Board approved hours. What is disturbing in this instance is that Mr. Malloy informed the Respondent on November 18, 2012, that the consumption of alcoholic beverages after 1:30 a.m. was a violation of the terms of the Respondent's license. The Respondent acknowledged the violation and stated it would not happen again. Yet Mr. Malloy observed the Respondent committing the same violation less than two months later. Additionally, it was evident to Mr. Malloy that Mr. Ibrahim, whom the owner had placed in charge of the establishment while the owner was out of the country, was aware he was committing a violation. While Mr. Malloy did not observe the sale or service of alcoholic beverages in this case after 1:30 a.m., he did observe a patron holding a bottle of Blue Moon Beer and other patrons with alcoholic beverages in their possession. Allowing alcoholic drinks to remain within the possession of patrons after hours is prohibited by 23 DCMR 705.9 which specifically restricts sale, service and permitting the consumption of alcoholic beverages to the same hours. 23 DCMR 705.9 implements D.C. Official Code § 25-723, with which Respondent is charged.¹ Respondent permitted the consumption of alcoholic beverages after hours by leaving alcoholic beverages in the patrons' possession, and accordingly violated D.C. Official Code § 25-723.

37. Second, the Board finds that the Respondent violated § 25-823(5) on December 30, 2012. Section 25-823(5) makes it a violation for the Respondent to interfere with an investigation. On the night of the incident Inv. MacKenzie attempted to photograph drinks, bottles, glassware and other items indicative of the consumption of alcoholic beverages, but was thwarted in her efforts by the Respondent's employee. Upon identifying herself, Inv. MacKenzie was told by the Respondent's waitress that she was not permitted to take pictures. By the time she was permitted to proceed with the photography, the evidence has already been collected by the bar staff. As a result, the Board finds that the Respondent, through its agent, the waitress, refused interfered with ABRA's investigation in violation of § 25-823(5).

38. Third, the Board find that the Respondent failed to produce its Settlement Agreement in violation of § 25-711(a). Under § 25-711(a), ". . . the licensee shall make a copy of the settlement agreement immediately accessible to . . . official of ABRA . . . upon request." We credit the testimony of Mr. Molloy who testified that during the ten minutes he and Inv. MacKenzie were conducting their investigation, neither Mr. Ibrahim nor Mohamed Alhada, the ABC licensed manager, were able to produce the Settlement Agreement.

D.C. Official Code § 25-724 and 23 DCMR 705.10 provide the Board with authority to further limit the hours set forth in Code § 25-723 and 23 DCMR 705.9

ORDER


Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 5th day of March, 2014, finds that Sami Restaurant, LLC, t/a Bistro 18, violated D.C. Official Code §§ 25-25-723, 25-823(1), and 25-823(5) in Case Nos. 12-CMP-00679 and 13-CMP-00035.

In total, the Respondent must pay a total fine of \$16,000.00, which the Respondent must pay within sixty (60) days from the date of this Order. In addition, the Respondent shall have its license suspended for eleven (11) days. The Respondent shall also receive nine (9) stayed suspension days, which shall not go into effect unless the Board finds that the Respondent committed a violation within one (1) year from the date of this Order. The breakdown of the Respondent's penalty is as follows:

- (1) In Case Number 12-CMP-0679, the Respondent
 - a. shall pay a \$4,000.00 fine and its license shall be suspended for five (5) days; three (3) days to be served, and two (2) days to be stayed for one-year period for the violation described in Charge I.
- (2) In Case Number 13-CMP-035, the Respondent
 - a. shall pay a \$4,000.00 fine and its license shall be suspended for five (5) days; three (3) days to be served, and two (2) days to be stayed for one-year period for the violation described in Charge I.
 - b. shall pay a \$4,000.00 fine and its license shall be suspended for ten (10) days; five (5) days to be served, and five (5) days to be stayed for one-year period for the violation described in Charge II.
 - c. shall pay a \$4,000.00 fine for the violation described in Charge III.
- (3) In total, the Respondent must pay a fine in the amount of \$16,000.00 by no later than sixty (60) days from the date of this Order or its license shall be suspended until all outstanding fines are paid.
- (4) In total, the Respondent's eleven (11) suspension days shall begin on March 20, 2014, and end at midnight on March 30, 2014.

The ABRA shall deliver copies of this Order to the Government and the Respondent.

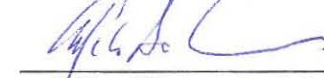
District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Member



Donald Brooks, Member



Mike Silverstein, Member

I concur with the majority of the Board's decision regarding the establishment's liability. Nevertheless, I dissent as to the penalty selected by the majority. As set forth above in the body of the decision above, Respondents' penalties are governed by District of Columbia Official Code § 25-823(1), D.C. Code § 25-830 (West Supp. 2013); 23 DCMR § 800, *et seq.* (West Supp. 2013). For the charges at issue in this case, they mandate a specific range of fines upon a determination that the violation has been committed. Further, after holding a Show Cause Hearing, the Board is entitled to impose conditions if we determine "that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed." D.C. Code § 25-447 (West Supp. 2013).

I dissent to the penalty chosen by the majority because it imposes without distinction the maximum financial penalty for every charge and does not articulate how the best interests of the locality, section, or portion of the District in which the establishment is located will be served by suspension of the license



Ruthanne Miller, Chairperson

I concur with the majority of the Board's decision regarding the establishment's liability. Nevertheless, I dissent as to the penalty selected by the majority.

Herman Jones, 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, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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).