THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:		
Sami Restaurant, LLC t/a Bistro 18	Case Nos.:	12-CMP-0679 12-CMP-0734 13-CMP-035
Holder of a Retailer's Class CR License	License No.: Order No.:	ABRA-086876 2014-098
at premises 2420 18th Street, N.W. Washington, D.C. 20009		

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

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

On March 5, 2014, the Alcoholic Beverage Control Board imposed a fine of $16,000 on Sami Restaurant, LLC, t/a Bistro 18, (Respondent) and ordered the license suspended for eleven days. Sami Restaurant, LLC t/a Bistro 18, Case Nos. 12-CMP-0679, 12-CMP-0734, 13-CMP-035, Board Order No. 2014-75, 10 (D.C.A.B.C.B. Mar. 5, 2014). In its Order, the Board accepted an Offer-in-Compromise where the Respondent admitted that on November 12, 2012, it sold and permitted the consumption of alcohol on its premises in violation of D.C. Official Code § 25-823; interfered with a lawful investigation in violation of D.C. Official Code § 25-823(5);

and failed to maintain a licensed manager on the premises in violation of D.C. Official Code § 25-701. Id. at 2, 10. The Board further determined that on November 18, 2012, the Respondent once again permitted the sale and consumption of alcohol after its approved hours in violation of D.C. Official Code § 25-723. Id. at 2, 10. Finally, the Board found that on December 30, 2012, the Respondent unlawfully permitted the sale and consumption of alcohol in violation of D.C. Official Code § 25-723, interfered with a lawful investigation in violation of D.C. Official Code § 25-823(5), and failed to have a copy of its Settlement Agreement available in violation of D.C. Official Code § 25-711(a). Id. at 2, 10.

On March 11, 2014, the Board received a Motion for Reconsideration requesting a reduction in the fine payment and suspension days imposed by the Board, and argued that the Board failed to articulate its reasoning for the penalty under D.C. Official Code § 25-447(f). *Mot. for Recon.*, 1. The Office of Attorney General for the District of Columbia filed a reply asking the Board to affirm its prior decision, because (1) the Respondent did not challenge the underlying legal and factual basis underpinning the Board's factual findings and liability; and (2) the penalty chosen by the Board does not exceed the maximum penalties allowed by law. *District's Resp.*, 1.

The Respondent's reference to § 25-447 is immaterial to the determination of an appropriate penalty in this matter, because the Board did not impose conditions on the license. Section 25-823 states, "[t]he Board may fine, as set forth in the schedule of civil penalties established under § 25-830, and suspend, or revoke the license of any licensee during the license period if: . . . The licensee violates any of the provisions of this title . . . ." D.C. Official Code § 25-823. In turn, § 25-447(f) states,

If the Board holds a show cause hearing on a complaint made under subsection (a) of this section, the Board, in issuing its order, may place certain conditions on the license if it determines 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. The Board, in placing the conditions, shall state, in writing, the rationale for its decision.

D.C. Official Code § 25-447(f).

The Board in its Order imposed a fine and ordered an eleven day suspension of the license. The Board did not impose any permanent operating restrictions on the license; therefore, no conditions have been placed on the license. Furthermore, a plain reading of § 25-823 and § 25-447(f) shows that fines, suspensions, revocations, and conditions are treated separately in Title 25 of the D.C. Official Code. Therefore, § 25-447(f) has no bearing on the Board's decision to impose a suspension or revocation.

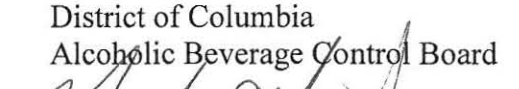
In turn, the Board sees no reason to depart from its penalty determination. Here, the Respondent engaged in repeated violations of its hours of operation, which demonstrates a brazen disregard of the law and the quality of life of the Respondent's neighbors. Sami Restaurant, LLC t/a Bistro 18, Board Order No. 2014-75 at pg. 2-3, ¶¶ 35-36; In re Asefu Alemayehu t/a Yegna, Board Order No. 2013-049, 1-2 (D.C.A.B.C.B. Feb. 26, 2013) (revoking owner's license for repeated failures to abide by the establishment's hours of operation).

Furthermore, the establishment blatantly destroyed evidence in front of an investigator and blocked her from taking pictures—an offense for which the Board could have revoked the Respondent's license, had the Board chosen to do so. Id. at ¶ 37. Based on these facts, the Board finds the Respondent's request for leniency unpersuasive.

ORDER

Therefore, based on the foregoing, the Board, on this 26th day of March 2014, hereby **DENIES** the Motion for Reconsideration filed by Sami Restaurant, LLC, t/a Bistro 18. The ABRA shall deliver copies of this Order to the Government and the Respondent.

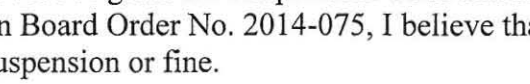
District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Member

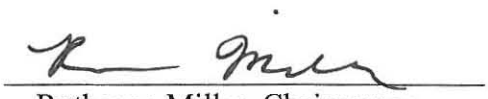
Donald Brooks, Member

Herman Jones, Member



Mike Silverstein, Member

I dissent from the majority of the Board and vote to grant the Respondent's Motion for Reconsideration. As I stated in my dissent in Board Order No. 2014-075, I believe that facts do not support the imposition of such a large suspension or fine.



Ruthanne Miller, Chairperson

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).