

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

In the Matter of:)	
)	
Spring, LLC)	License No. 25560
t/a Blair Liquors)	Case No. 09-CMP-00678
)	Order No. 2010-332
Holder of a Retailer's Class A License)	
at premises)	
6111 Blair Road, N.W.)	
Washington, D.C. 20011)	

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ALSO PRESENT: Michael Stern, Senior Assistant Attorney General,
Office of the Attorney General, District of Columbia

Bernard Dietz, Counsel for the Respondent

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On January 5, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated December 2, 2009, on Spring, LLC, t/a Blair Liquors (Respondent), at premises 6111 Blair Road, N.W., Washington, D.C., charging the Respondent with a single violation:

Charge I: The Respondent sold a malt liquor beverage less than 70 ounces in violation of D.C. Official Code § 25-341(c).

This matter was initially referred to the Adjudication staff of the Alcoholic Beverage Regulation Administration (ABRA) for settlement with the Respondent. On September 28, 2009, the Respondent rejected a settlement offer and requested a Show Cause Hearing.

The matter proceeded to a Show Cause Hearing on March 10, 2010, where the Government and the Respondent stipulated to the facts of the case and presented arguments for the Board's consideration in deriving an appropriate penalty for the admitted violation. The Board, having considered the evidence, the testimony of the Respondent, 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 December 2, 2009. (*See* ABRA Show Cause File Number 09-CMP-00678). The Respondent holds a Retailer's Class A License and is located at 6111 Blair Road, N.W., Washington, D.C. (*See* ABRA Licensing File No. 25560).
2. The Show Cause Hearing in this matter was held on March 10, 2010. The Notice to Show Cause charges the Respondent with a single violation enumerated above. (*See* ABRA Show Cause File Number 09-CMP-00678).
3. The Government and the Respondent stipulated to the facts and waived opening arguments. *Transcript (Tr.)*, 3/10/10 at 7. The parties stipulated that on Friday, July 24, 2009, at approximately 5:30 p.m., the Respondent sold a single bottle of malt liquor beverage (Verdi) to ABRA Investigator Regina Hollis who consummated the sale and exited the establishment. *Tr.* 3/10/10 at 9, 13. The single bottle of malt liquor was labeled as a malt beverage with natural flavors. *Tr.* 3/10/10 at 9, 14 (*See* Government's Exhibit No. 1). The malt liquor beverage was five percent (5%) alcohol by volume and it was contained in a single container less than 70 ounces. *Tr.* 3/10/10 at 9, 14 (*See* Government's Exhibit No. 1).
4. The Respondent, Girma Belay, has owned and operated Blair Liquors since 1982. *Tr.*, 3/10/10 at 11. The Respondent agreed that he violated the moratorium prohibiting the sale of single containers of beer, malt liquor or ale in sizes less than 70 ounces. *Tr.*, 3/10/10 at 18. He mistook the bottle he sold to Investigator Hollis for a bottle of wine and not a malt liquor beverage. *Tr.*, 3/10/10 at 12. The Respondent testified that he now recognizes that the beverage he sold is malt liquor containing five percent (5%) alcohol by volume and he stated that he does not intend to sell malt liquor anymore. *Tr.*, 3/10/10 at 13-14, 16. Mr. Belay admitted that he sold it and admitted that the product is malt liquor, but that it was an honest mistake on his part. *Tr.*, 3/10/10 at 15, 18.
5. The Respondent argued that the Board should take into consideration that the violation he committed was an honest mistake and that he has not received a single ABC

violation in his 28 years of ownership. *Tr.*, 3/10/10 at 18. Additionally, the Respondent argues that because the Charge is a secondary tier violation, the Board should levy a fine of \$250.00 which is the lower end of the range of penalties for secondary tier violations. *Tr.*, 3/10/10 at 18-29.

CONCLUSIONS OF LAW

6. 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)(2001). Additionally, pursuant to the specific statute 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.*

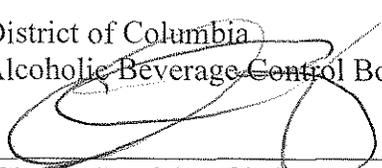
7. The Board notes that D.C. Official Code § 25-341(c) states that “Within the Targeted Ward 4 Moratorium Zone, a licensee under an off-premises retailer's license, class A or B, shall not sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale with a capacity of 70 ounces or less.” In the present case, the Respondent admitted that he violated the Ward 4 Moratorium by selling a malt liquor beverage in a container less than 70 ounces.

8. Based upon the Respondent’s admission that he violated D.C. Official Code § 25-341(c), the Board finds that the violation warrants the imposition of civil penalties.

ORDER

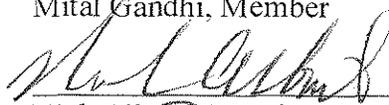
Based on the foregoing findings of fact and conclusions of law, the Board, on this 21st day of April, 2010, finds that the Respondent, Spring, LLC t/a Blair Liquors at premises 6111 Blair Road, N.W., Washington, D.C., holder of a Retailer's Class A License, violated D.C. Code § 25-341(c). The Board hereby **ORDERS** that 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.

District of Columbia
Alcoholic Beverage Control Board

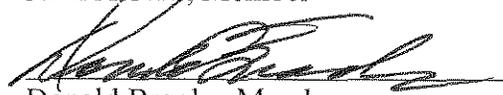


Charles Brodsky, Chairman

Mital Gandhi, Member



Nick Albert, Member



Donald Brooks, Member

Herman Jones, Member

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 the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington D.C. 20001.

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 (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).