

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

In the Matter of:	)	
	)	
Hi Il Lee & Jung Ae Lee,	)	License Number: 14355
t/a Seaton Market	)	Case Number: 09-CMP-00358
	)	Order No. 2010-024
Holder of a Retailer's Class B License	)	
at premises	)	
1822 North Capitol Street, N.W.	)	
Washington, D.C.	)	

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

ALSO PRESENT: Walter Adams, Assistant Attorney General  
District of Columbia  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

On August 19, 2009, the Alcoholic Beverage Control Board (the "Board") served a Notice of Status Hearing and Show Cause Hearing ("Notice"), dated August 12, 2009, on Hi Il Lee and Jung Ae Lee, t/a Seaton Market ("Respondent"), at premises 1822 North Capitol Street, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent failed to keep and maintain on the licensed premises, records which include invoices and delivery slips, in violation of 23 DCMR § 1204. The date of this alleged incident was April 13, 2009.

Charge II: The Respondent violated Paragraph L of the Voluntary Agreement, as approved by the Board on February 27, 2002, which requires the establishment to post signs advising customers that licensee will not sell to intoxicated persons, in violation of D.C. Official Code § 25-446. The date of this alleged incident was April 13, 2009.

The matter proceeded to a Show Cause Hearing and the Government and the Respondent presented evidence through the testimony of witnesses and the submission of documentary evidence. The Board, having considered the evidence, the testimony of witnesses, 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 August 12, 2009. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 09-CMP-00358). The Respondent holds a Retailer's Class B License and is located at 1822 North Capitol Street, N.W., Washington D.C.
2. The Show Cause Hearing in this matter was held on November 18, 2009. The Respondent was charged with two violations. Charge I alleges that the Respondent failed to maintain its business records on the licensed premises in violation of 23 DCMR § 25-1204. Charge II alleges that the Respondent violated the terms of its Board-approved Voluntary Agreement in violation of D.C. Official Code § 25-446. The date of the violations was April 13, 2009. (*See* ABRA Show Cause File Number 09-CMP-00358).
3. The Government presented its case through the testimony of one witness, ABRA Investigator Demetrius Nickens. *Transcript (Tr.)*, 11/18/09 at 10.
4. Investigator Nickens testified that on April 13, 2009, he and Investigator Regina Hollis conducted a regulatory inspection at the Respondent's establishment. *Tr.*, 11/18/09 at 13, 21; *See Government Exhibits No. 1 and 2*. Part of the inspection was to ensure that the Respondent was in compliance with the terms of his Voluntary Agreement. *Tr.*, 11/18/09 at 14. At the conclusion of the inspection, Investigator Nickens requested the Respondent to produce his invoices from the previous three months. *Tr.*, 11/18/09 at 15-16, 25. The Respondent informed Investigator Nickens that he could not produce the records because the invoices were not available. *Tr.*, 11/18/09 at 15-16, 26, 30. Investigator Nickens then advised the Respondent of the violation and requested that the Respondent come into compliance by maintaining records on the premises for three years. *Tr.*, 11/18/09 at 15, 17, 25, 32. The Respondent indicated to Investigator Nickens that the records were stored either at the Respondent's home or at the accountant's office. *Tr.*, 11/18/09 at 16-17, 33.

5. Additionally, Investigator Nickens reviewed the Voluntary Agreement during the inspection. *Tr.*, 11/18/09 at 18. Investigator Nickens discovered that the Respondent did not have a sign posted stating that the establishment would not serve intoxicated individuals pursuant to the terms of the Voluntary Agreement. *Tr.*, 11/18/09 at 18. The Respondent informed Investigator Nickens that the sign was not posted because he had recently painted the walls and the sign had not been put back up. *Tr.*, 11/18/09 at 19-20. Investigator Nickens testified that he did not smell paint fumes nor did the walls appear to be recently painted. *Tr.*, 11/18/09 at 19, 28. All other required signs were posted on the wall, so Investigator Nickens assumed that the Respondent had simply taken that one sign down. *Tr.*, 11/18/09 at 27-28, 34. The Respondent offered to retrieve the sign but he did not take steps to post it to the wall while the investigators were on the premises. *Tr.*, 11/18/09 at 28-29, 34.

6. The Respondent presented its case through the testimony of Jung Ae Lee. *Tr.*, 11/18/09 at 37. Ms. Lee testified that the missing sign was in the basement and it was to be restored to the wall when a new copy was made. *Tr.*, 11/18/09 at 37, 44-45. She admitted that all of the signs were posted except the one that stated no service to intoxicated persons. *Tr.*, 11/18/09 at 39. She also indicated that the Investigator requested 30 days of invoices, which her husband showed to Investigator Nickens, but then Investigator Nickens requested three months of records. *Tr.*, 11/18/09 at 38. When Mr. Lee tried to show three months of records, Investigator Nickens was not interested. *Tr.*, 11/18/09 at 38. Ms. Lee admitted that there were no records beyond three months on the premises. *Tr.*, 11/18/09 at 39-40, 43, 46-47. Ms. Lee did bring three months of records to the hearing from her home where they are kept. *Tr.*, 11/18/09 at 46, 49. The Respondent has not taken any steps to seek approval from the Board to store the records off-premises, although they plan to do so. *Tr.*, 11/18/09 at 49-50.

## CONCLUSIONS OF LAW

7. 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 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.*

8. The Board finds that the Government has proven that the Respondent violated 23 DCMR § 1204 and violated the terms of its Voluntary Agreement. The Board credits the testimony of Investigator Nickens that he observed no sign posted stating that the establishment would not serve intoxicated persons. Additionally, Investigator Nickens requested to see the Respondent's records and invoices which the Respondent could not produce for inspection. The Respondent's testimony, through its witness, Ms. Lee, corroborated Investigator Nickens' testimony by admitting that the missing sign was not posted to the wall although all other required signs were posted. Ms. Lee also admitted that the Respondent only had three months of records on the premises and that the other records required to be maintained onsite, were indeed, at home. Moreover, Ms. Lee admitted that

the Respondent had not sought the Board's approval for storage of records and invoices off-premises. The Board takes administrative notice that as of the issuance of this Board Order, the Respondent has still not sought permission for off-premises storage.

9. The Government asked that the Board impose, in total, a fine of \$1,250 and a suspension of three days, with one day served and two days stayed for one year pending no further violations. The Respondent argued that the offenses don't merit such a steep penalty. The Board will, in effect, take both parties' positions into consideration by fining a lesser amount and by not requiring the Respondent to serve the entirety of the suspension that will be imposed. The Board further instructs the Respondent that all records and invoices must be maintained on premises for three years and must be available for inspection by ABRA investigators. In the alternative, if the Respondent seeks to store records and invoices off-premises, he must obtain the Board's approval.

### ORDER

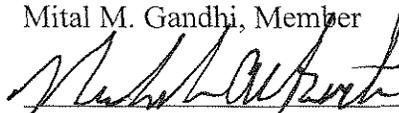
Based on the foregoing findings of fact and conclusions of law, the Board, on this 3<sup>rd</sup> day of February, 2010, finds that the Respondent, Hi Il Lee and Jung Ae Lee, t/a Seaton Market at premises 1822 North Capitol Street, N.W., Washington, D.C., holder of a Retailer's Class B License, violated 23 DCMR § 1204 and D.C. Official Code § 25-446. The Board hereby ORDERS that:

1. Charge I: Respondent shall **pay a fine in the amount of \$250.00** and shall be suspended for a period of two days, both days stayed for one year, provided that the Respondent does not commit any ABC violations.
2. Charge II: Respondent shall **pay a fine in the amount of \$250.00** and shall be suspended for a period of one day, stayed for one year, provided that the Respondent does not commit any ABC violations.
3. In total, 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. A total of three days suspension shall be stayed for one year, provided that the Respondent does not commit any ABC violations.
4. It is **FURTHER ORDERED** that Respondent shall seek written permission from the Board to store its invoices and records off-premises within 30 days from the date of this Order.

District of Columbia  
Alcoholic Beverage Control Board

  
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Charles Brodsky, Chairperson

Mital M. Gandhi, Member



Nick Alberti, 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).