

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

In the Matter of:)	
)	
Brookland, Inc.,)	License No. 74752
t/a Bobby Lew's)	Case No. 08/299C
)	Order No. 2010-493
)	
Holder of a Retailer's)	
Class CR License)	
at premises)	
2006 18 th Street, N.W.)	
Washington, D.C. 20009)	

BEFORE: Charles Brodksy, Chairperson
Mital M. Gandhi
Nick Alberti, Member
Charles Brodsky, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: James D. Mayers II, Esquire, on behalf of the Respondent

Fernando Rivero, Assistant Attorney General, on behalf of the
District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ORDER VACATING REVOCATION OF LICENSE
AND APPROVING OFFER IN COMPROMISE**

Brookland, Inc., t/a Bobby Lew's (Respondent), was the subject of a Show Cause Hearing prosecuted by the Office of the Attorney General (the Government), the result of which was the Alcoholic Beverage Control Board (Board) finding that the Respondent failed to meet its food sales requirements as a restaurant. *See* Board Order Number 2009-95. The Respondent moved for reconsideration based on the penalty imposed by the Board for this violation – revocation of the Respondent's license. On July 1, 2009, the Board denied the Respondent's Motion for Reconsideration. *See* Board Order Number

2009-172. On July 6, 2009, the Respondent filed a written Motion for Stay Pending Appeal. The Respondent's Motion to Stay the Board's Order Number 2009-95 pending Appeal was granted on July 8, 2009.

On August 18, 2010, the Court of Appeals affirmed the Board's decision to revoke the license, finding that the Board's decision was clearly supported by the law and was not unreasonable, plainly wrong or inconsistent with its legislative purpose. *See* Memorandum and Judgment, No. 09-AA-766.

By letter dated August 24, 2010, the Respondent sought approval from the Board to reduce its seating based upon a newly issued Certificate of Occupancy from the Department of Consumer and Regulatory Administration, listing 22 occupants for the licensed establishment. This request was approved by the Board on its Administrative Agenda on September 15, 2010, effective on that date.

This matter came before the Board again on September 22, 2010, at a Status Hearing scheduled for a related case against the Respondent; Case No. 10-AUD-00001A. At the time of the hearing, the Respondent requested retroactive application of the new Certificate of Occupancy, arguing that its quarterly report submissions for food sales based upon a mathematical formula utilizing the 22 occupants would demonstrate minimal noncompliance with D.C. Official Code § 25-113(b)(3)(B)(i)(I) and (II) (2001) and 23 DCMR 2101.

The Board granted the request for retroactive application of the Certificate of Occupancy of 22 occupants, and has accordingly, taken administrative notice of the Respondent's statutory and regulatory compliance to the food sales requirements for calendar year 2008, namely gross annual food sales of \$1,257.50 per occupant and 20.56% of gross annual food sales.

The Government suggested to the Board that given the new figures, the Board find the Respondent minimally noncompliant with the statutory and regulatory food sales requirement and in so doing, it proposed to the Board, an Offer in Compromise (OIC) pursuant to 23 DCMR 1604.5 (2009). The Respondent acknowledged its consent to the terms of the OIC and waived its right to a hearing.

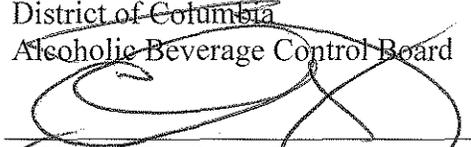
The terms of the OIC are as follows:

1. The Respondent shall pay civil penalties in the amount of \$1,000.00 within sixty (60) days from receipt of this Order. Failure to remit the amount in full within the time specified may result in the imposition of additional sanctions.
2. The Respondent shall file a written business plan for increasing food sales within sixty (60) days of the Board's Order.
3. The Respondent shall continue to be closely monitored by ABRA's Enforcement Division.

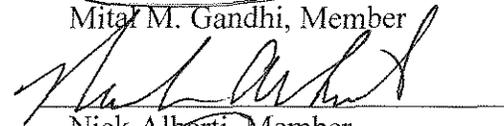
ORDER

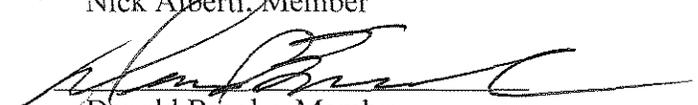
Accordingly, the Board, persuaded by the Respondent for retroactive application of the new Certificate of Occupancy and having found the terms of the OIC to be fair, reasonable and adequate, does hereby, this 13th day of October, 2010, **VACATES** Order 2009-95 revoking the license; **FINDS** the Respondent in violation of D.C. Official Code § 25-113(b)(3)(B)(i)(I) and (II) (2001) and 23 DCMR 2101 and **APPROVES** the terms of the Offer in Compromise entered into by the Government and Brookland, Inc., t/a Bobby Lew's located at premises 2006 18th Street, N.W., Washington, D.C. A copy of this Order shall be sent to the Government and to the Respondent.

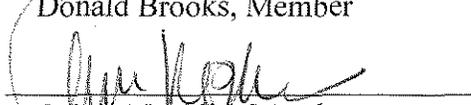
District of Columbia
Alcoholic Beverage Control Board


Charles Brodsky, Chairperson


Mital M. Gandhi, Member

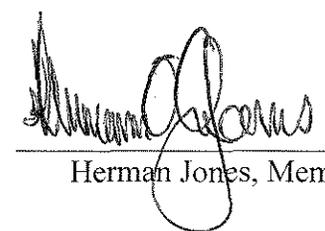

Nick Alberti, Member


Donald Brooks, Member


Calvin Nophim, Member

Mike Silverstein, Member

I dissent from the majority on this Order.


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.