

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

In the Matter of:)	
)	
Down Under Inc.)	
t/a Bravo Bravo)	
)	Case No. 16-251-00067
Holder of a)	License No.: ABRA-71564
Retailer's Class CN License)	Order No. 2016-131
)	
at premises)	
1001 Connecticut Ave., N.W.)	
Washington, D.C. 20036)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Ruthanne Miller, Member
Mike Silverstein, Member
James Short, Member

ALSO PRESENT: Down Under Inc., t/a Bravo Bravo, Respondent

Michael D. Fonseca, Counsel for the Respondent

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

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER APPROVING THE OFFER-IN-COMPROMISE

The Board has the authority to “summarily revoke, suspend, fine, or restrict” a license to sell alcoholic beverages in the District of Columbia if the Board determines after an investigation that the operations of the licensee present “an imminent danger to the health and safety of the public.” D.C. OFFICIAL CODE § 25-826(A). If properly requested by the licensee, “[t]he Board shall hold a hearing within 48 hours of receipt of a timely request and shall issue a decision within 72 hours after the hearing.” *Id.* AT § 25-826(C).

On March 21, 2016, the Chief of Police for the Metropolitan Police Department for the District of Columbia issued a Notice of Closure against Down Under Inc., t/a Bravo Bravo (hereinafter "Respondent" or "Bravo Bravo"), closing the establishment for 96 hours, in accordance with D.C. Official Code § 25-827. *Notice of Closure* (February 1, 2016).

On March 24, 2016, the Board issued a Notice of Summary Suspension against Barcode, in accordance with D.C. Official Code § 25-826(a). *Notice of Summary Suspension* (March 24, 2016).

After receiving a request for a hearing from Bravo Bravo, the Board conducted a Summary Suspension Hearing on March 30, 2016. The parties presented an Offer-in-Compromise (OIC), which resolved the allegations presented in the Notice of Summary Suspension filed by the Office of the Attorney General for the District of Columbia.

The Board formally accepts this OIC through this Order. The terms of the OIC are appended to this Order.

ORDER

Therefore, the Board, on this 30th day of March 2016, hereby **APPROVES** the OIC submitted on March 30, 2016, and **ORDERS** Down Under Inc., t/a Bravo Bravo to operate in accordance with the terms of the OIC.

It is further **ORDERED** that the Board will impose the conditions set forth in the OIC which are binding on the Respondent.

It is further **ORDERED** that the Respondent will provide the Board with a revised security plan that incorporates the terms of the OIC and is in accordance with D.C. Official Code § 25-402(d)(3) by 5 p.m. on March 30, 2016.

It is further **ORDERED** that the Respondent's establishment shall not reopen for business until the Board has reviewed and approved the revised security plan.

It is further **ORDERED** that the Respondent's establishment shall not reopen until an ABRA Investigator reviews the Respondent's camera system for purposes of ensuring that all identified blind spots have been addressed and are covered by the security camera system.

It is further **ORDERED** that this matter shall be referred to the OAG for show cause review.

A copy of this Order shall be sent to the Respondent and to the Government.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

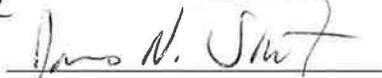
Nick Alberti, Member



Ruthanne Miller, Member



Mike Silverstein, Member



James Short, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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, 2000 14th Street, NW, 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, 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 (2008) 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).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Public Interest Division

OFFER IN COMPROMISE¹

In the Matter of: Down Under Inc. t/a Bravo Bravo

Case number: 16-251-00067. Hearing Date: March 30, 2016

Incidents occurring on: March 21, 2016

For the Charge of: Summary Suspension proceeding.

Statutory Authority: D.C. Official Code §25-826(a) (2012 Repl.).

This offer in compromise (OIC) will be presented to the Alcoholic Beverage Control Board (Board) by the Assistant Attorney General (OAG) at the Summary Suspension hearing. Please be advised that this is a proposed compromise. Accordingly, it is the discretion of the Board to accept or reject this offer.

The offer in compromise consists of the following terms:

- (1) Down Under Inc. t/a Bravo Bravo (“Respondent”) shall submit a revised security plan to ABRA and OAG by no later than 5:00 p.m. on Wednesday March 30, 2016. The revised security plan shall be reviewed and accepted by the Board prior to the reopening of the establishment. The security plan shall be in full compliance with all applicable laws and regulations including all requirements for a security plan under Title 25 of the D.C. Official Code, and which incorporates all of the matters set forth below. The security plan will also address additional conditions not set forth in Title 25 which are also described below.
- (2) The Respondent shall document and submit to the Board the name and employment status of all security personnel by no later than 5 p.m. on Wednesday March 30, 2016. The respondent shall document and submit to the Board by no later than 5 p.m. on Wednesday March 30, 2016, the number of security personnel that will wear identifiable clothing with the word “Security” during the establishment’s hours of operation as well as the names of the security personnel that will wear identifiable clothing with the word “Security”.
- (3) The revised security plan shall detail the minimum number of security personnel that will be on-duty each day and their specific duty hours. The security plan shall detail the placement of

¹ Authorized under 23 DCMR 1604.5 (2012 Repl.).

security personnel within the establishment and shall include an explanation of the rationale regarding that placement.

- (4) The Respondent shall utilize a minimum of two (2) MPD Reimbursable Detail Officers (RDO) on Friday night through Sunday night between the hours of 11:30 p.m. and 4:00 a.m.
- (5) The Respondent agrees to no longer have the live band called Back Yard Band or a band having a similar compilation of its members play at the establishment.
- (6) The revised security plan shall contain detailed procedures on how the Respondent's security personnel are to handle violent altercations in the establishment, including appropriate methods for separating and handling victims and aggressors, detaining and controlling aggressive patrons, and handing victims and aggressive patrons over to MPD RDO.
- (7) The Respondent shall escort violent aggressors to the MPD Reimbursable Detail officer or officers customarily posted immediately in front of the establishment when such Detail is utilized.
- (8) The Respondent shall not clean up a crime scene under any circumstances, nor authorize anyone to clean up the crime scene, without the prior consent of MPD. The revised security plan shall address the establishment's procedure for preserving a crime scene.
- (9) The revised security plan shall indicate that the Respondent shall be responsible for turning on its lights and turning off its music within one minute of a violent incident occurring. The revised security plan shall detail the establishment's procedures for ensuring that lights are turned on and music is turned off within the one minute requirement.
- (10) The Respondent shall maintain an incident log recording all violent incidents that occur inside of and in front of the establishment. The licensee's security plan shall address the proper protocol for drafting and maintaining incident log entries, to include the names and contact information of any victims and witnesses to an incident. The Respondent shall make the incident log available to MPD and ABRA investigators upon request.
- (11) The revised security plan shall indicate the hours and days of the week that the establishment will utilize wands on all patrons prior to the patrons' entry into the establishment. The purpose of wand use will be for the detection of metal objects, including weapons, that may be carried by patrons. The wands will be used on every patron who enters the establishment and will be used in conjunction with physical "pat down" searches to be specified in the Respondent's security plan.
- (12) The revised security plan shall indicate the procedures for having patrons remove their hats and hooded garments in order to be searched for weapons by security personnel.
- (13) The Respondent shall document the date on which any weapons are recovered from patrons as part of the incident log. The Respondent will surrender confiscated weapons to MPD for disposition of the weapons. The Respondent will document the date and time of the consultation with MPD and will include the officer's name and badge number. The Respondent shall post a sign indicating that any weapon recovered from patrons will be confiscated and surrendered to MPD.
- (14) The revised security plan shall state that cameras utilized by the establishment will be operational and cover existing blind spots. The revised plan shall detail how the cameras are to

be mounted to best observe patrons while they are in the establishment. No camera shall be blocked by a curtain or other barrier. The security plan shall also state that any footage of a crime of violence or a crime involving a weapon will be maintained for 30 days and that any security footage will be made available within 48 hours upon request from ABRA or MPD.

- (15) Prior to the establishment re-opening, an ABRA investigator shall review the establishment's camera system to ensure that all identified blind spots have been addressed and are covered by the camera system.
- (16) The revised security plan shall set forth what disciplinary actions will apply for any security personnel who does not comply with the security plan.
- (17) The Respondent shall utilize a counting clicker during its hours of operation to track the number of patrons inside of the establishment. Under no circumstances shall the number of patrons inside of the establishment exceed the Respondent's approved Certificate of Occupancy.
- (18) Patrons shall not be permitted to exit the rear of the establishment, except in the case of an emergency or to separate patrons involved in a physical altercation.
- (19) The revised security plan, shall detail procedures for ensuring that patrons exit the establishment in an orderly manner, and at the end of the night, security personnel shall be posted outside to assist in the patrons departure.
- (20) No tents or other temporary structures will be erected outside the entrance of the establishment without prior approval of the District of Columbia Department of Transportation.
- (21) All personnel shall be trained on the terms of the revised security plan prior to the reopening of the establishment.
- (22) This matter shall be referred to the OAG for a show cause review.

CONSENT

By this settlement agreement I agree to accept and perform its terms. I acknowledge the validity of the settlement and waive a hearing to which I would have a right under D.C. Official Code § 25-826 (2012 Repl.). I also recognize that I am waiving any right to appeal an adverse ruling of the Board that might have followed any such hearing. By this settlement, I waive all such rights. I sign this settlement agreement without reservation, and I fully understand its meaning and my rights.

 3/30/16

Amy Schmidt
Assistant Attorney General

 3/30/16

Respondent

_____/____/____