

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

In the Matter of:)	
)	
Brightwood Bistro, LLC t/a)	
Brightwood Bistro,)	License Number: 82911
)	Case Number: 10-CMP-00019
)	Order Number: 2010-349
Holder of a Retailer's)	
Class CR License)	
at premises)	
5832 Georgia Avenue, N.W.)	
Washington, D.C. 20010)	

BEFORE: Nick Alberti, Acting Chairperson
Donald Brooks, Member
Mital Gandhi, Member
Calvin Nophlin, Member
Mike Silverstein, Member

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

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

On March 11, 2010, the Alcoholic Beverage Control Board (Board), pursuant to D.C. Official Code § 25-823 and 23 DCMR § 1502.1, served a Notice to Show Cause (Notice) on Brightwood Bistro, LLC, t/a Brightwood Bistro (Respondent), at premises 5823 Georgia Avenue, N.W., Washington, D.C. 20010, charging the Respondent with a single violation. The charge contained in the Notice is as follows:

- I. The Licensee permitted the service of an alcoholic beverage after the hours of sale and delivery permitted by the license, in violation of D.C. Code § 25-723 (b) (2001), for which the Board may take the proposed action pursuant to D.C. Code § 25-823 (1) (2009). The date of this alleged violation is January 10, 2010.

This matter came before the Board for a Show Cause Hearing on May 5, 2010, in accordance with D.C. Code § 25-447 (2001). The Respondent failed to appear and the Board proceeded with the Show Cause Hearing pursuant to D.C. Code § 25-447(e). The Board, having considered the evidence, the testimony of witnesses, the arguments of counsel, and the documents comprising the Board's files, makes the following:

FINDINGS OF FACT

1. The Board issued a Notice to Show Cause, dated March 3, 2010, to the Respondent. (See Show Cause Case File No. 10-CMP-00019). The Respondent holds a Class CR Retailer's License and is located at 5832 Georgia Avenue, N.W., Washington, D.C. 20010. (See ABRA Licensing File No. 82911).
2. The Board held a Show Cause Hearing in this matter on May 5, 2010. The Notice to Show Cause charges the Respondent with one violation enumerated above. (See Show Cause Case File No. 10-CMP-00019).
3. Respondent failed to appear after receiving sufficient notice of the hearing. *Transcript, May 5, 2010* (hereinafter "*Tr.*"), at 5-6; See Show Cause Case File No. 10-CMP-00019.
4. Counsel for the Government presented its case-in-chief with one witness consisting of ABRA Investigator Susan Mitchell.
5. Investigator Susan Mitchell testified regarding her visit to Respondent's establishment. *Tr.* at 8. On January 10, 2010, at about 12:30 a.m., she received an anonymous complaint regarding noise emanating from the establishment. *Tr.* at 8. Upon arrival at the establishment, Investigator Mitchell did not detect any noise, however she entered the premises to speak to the owner or the licensed ABC manager. *Tr.* at 8. Investigator Mitchell noted that there were patrons inside drinking alcoholic beverages and purchasing alcoholic beverages as well. *Tr.* at 8.
6. Investigator Mitchell spoke to the owner, Demetrius Anderson and informed him that the Class CR license hours of operation were restricted to 12:00 a.m. *Tr.* at 9. She further told him that sale and service of alcoholic beverages were not permitted and that service must cease. *Tr.* at 8. The owner indicated that one of his partners had applied to ABRA to extend the establishment's hours of operation and he believed that the Board had approved that application. *Tr.* at 8. When Investigator Mitchell informed the owner that the Board had not approved the request, the owner apologized and ceased service of alcoholic beverages at that time. *Tr.* at 8, 10.
7. The Board takes administrative notice that on December 29, 2009, the Respondent filed an application to extend its hours of entertainment and its hours of sale

and service of alcoholic beverages, which is now the subject of a Protest Hearing. (See ABRA Licensing File No. 82911).

CONCLUSIONS OF LAW

8. 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). In the present case, the Board finds that the Respondent's violation warrants both a fine and a suspension of the license.

9. The Board finds that the Government has proven the charge against the Respondent. The Respondent violated D.C. Code § 25-723(b) by operating after Board approved hours. The Board makes this finding based on the credible testimony of Investigator Mitchell who testified that when she entered the establishment at 12:30 a.m., on January 10, 2010, there were patrons present who were drinking and purchasing alcoholic beverages. The Respondent's license limits hours of operation to 12:00 a.m.

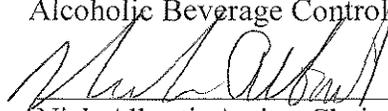
ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 2nd day of June, 2010, finds that the Respondent, Brightwood Bistro, LLC t/a Brightwood Bistro, at premises 5832 Georgia Ave., N.W., Washington, D.C., holder of a Retailer's Class CR License, violated D.C. Code § 25-723(b).

The Board hereby **ORDERS** that:

1. The Respondent shall pay a fine in the amount of \$1,500.00 (fifteen hundred dollars) by no later than thirty (30) days from the date of this Order.
2. The Respondent shall serve a one day suspension on June 11, 2010.

District of Columbia
Alcoholic Beverage Control Board



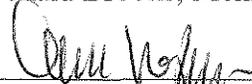
Nick Alberti, Acting Chairperson



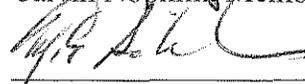
Mital M. Gandhi, Member



Donald Brooks, Member



Calvin Nophlin, Member



Mike Silverstein, 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).