

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

In the Matter of:	)	
	)	
Caribbean Vibes, Inc.	)	
t/a Club Timehri	)	
	)	
Applicant for a New	)	Case No. 12-251-00103
Retailer's Class CT License	)	License No. ABRA-077730
	)	Order No. 2013-093
at premises	)	
2439 18 <sup>th</sup> Street, N.W.	)	
Washington, D.C. 20009	)	

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Mike Silverstein, Member

**ALSO PRESENT:** Christopher Wells, on behalf of Caribbean Vibes, Inc., t/a Club Timehri, Respondent

Michael Stern, Senior Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

**ORDER GRANTING IN PART THE RESPONDENT'S ORAL MOTION FOR  
RECONSIDERATION OF BOARD ORDER NO. 2012-379 AND AMENDING  
BOARD ORDER NO. 2012-379**

This matter arises from the Notice of Status Hearing and Show Cause Hearing (Notice), dated May 2, 2012, served on the Respondent, located at premises 2439 18<sup>th</sup> Street, N.W., Washington, D.C., on May 12, 2012. *ABRA Show Cause File No.* 12-251-00103.

The Notice enumerated two charges. First the Government charged the Respondent with failure to follow its Security Plan in violation of District of Columbia Official Code § 25-823(6). Second, the Government charged the Respondent with allowing the establishment to be used for an unlawful or disorderly purpose in violation of

District of Columbia Official Code § 25-823(2). The Notice also provided the Respondent with the date and time of the Show Cause Status Hearing and the Show Cause Hearing.

Notwithstanding the personal service of the Notice on the Respondent, the Respondent failed to appear at the Show Cause Status Hearings held on June 13 and July 11, 2012. The Respondent also failed to appear at the Show Case Hearing held on July 25, 2012. The Board proceeded to a hearing pursuant to D.C. Official Code § 25-447(e), which allows for an ex parte proceeding.

On October 24, 2012, the Alcoholic Beverage Control Board (Board) found the Respondent, Caribbean Vibes, Inc., t/a Club Timehri, in violation of §§ 25-823(2) and 25-823(6) of Title 25 of the District of Columbia (D.C.) Official Code, by failing to comply with its security plan and for allowing the establishment to be used for an unlawful and disorderly purpose. Caribbean Vibes, Inc., Board Order No. 2012-379.

As a result of the Board's findings, the Respondent was ordered to pay a total fine of \$4,000.00 and his license was suspended for twenty (20) days; ten (10) days were to be served and ten (10) days were stayed for one (1) year pending no further violations. The Board ordered that the ten (10) suspension days were to be served from December 7, 2012 through December 17, 2012. *See* Board Order No. 2012-379.

By letter dated October 30, 2012, the Respondent informed the Board that he believed there was a misunderstanding regarding the dates he was required to appear for the hearings. As a result, he did not attend the Show Cause Status Hearings held on June 13 and July 11, 2012, or the Show Case Hearing held on July 25, 2012. The Respondent further requested that the Board hold a new Show Cause Hearing to allow him to present evidence to challenge the penalty. *See* ABRA Show Cause File No. 12-251-00103.

The Board granted the Respondent's request for a new hearing. *See* ABRA Show Cause File No. 12-251-00103. At the hearing held on March 13, 2013, the Respondent orally moved the Board to reconsider part of the penalty imposed in Case No. 12-251-00103, Board Order No. 2012-379, dated October 24, 2012. *Transcript (Tr.)*, 3/13/13 at 4.

The Respondent requested that he be credited with the twenty (20) suspension days already served resulting from the original Summary Suspension. He pointed out to the Board that his establishment was closed twenty (20) days as a result of the original Summary Suspension; specifically, from the date of the incident on March 10, 2012 to March 30, 2012. *Tr.*, 3/13/13 at 5. Thus he requested that the Board reduce the current penalty by applying the twenty (20) days that the establishment was closed during the Summary Suspension to the twenty (20) suspension days imposed by the Board in Order No. 2012-379. *Tr.*, 3/13/13 at 5-6. The Respondent argued that to do otherwise would subject his establishment to a total of forty (40) suspended days. *Tr.*, 3/13/13 at 6.

The Government did not object to the Respondent's Oral Motion for Reconsideration of Board Order No. 2012-379, nor did it challenge the Respondent's arguments for a reduced penalty. It characterized the requested reduction in suspension days as a "fair request.", *Tr.*, 3/13/13 at 7.

The Board acknowledges that the Respondent was in fact closed for twenty (20) days under the written request of the Chief of Police Cathy L. Lanier, Metropolitan Police Department (MPD) for the Summary Suspension. The Board has weighed this fact as well as the circumstances underlying Respondent's failure to appear at the show cause hearing against the serious nature of the violations that led to the Board's imposition of the initial penalty. Therefore, upon consideration of the Respondent's request to reconsider the twenty (20) suspension days imposed by the Board in Board Order No. 2012-379, the Board agrees to partially modify the penalty imposed in Board Order No. 2012-379 by reducing the number of suspension days that resulted from the Show Cause Hearing held July 25, 2012.

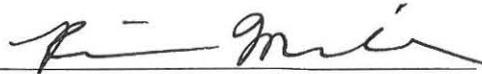
The Board will reduce the ten (10) suspension days to be served, to five (5) suspension days to be served and retain the ten (10) stayed suspension days for one (1) year pending no further violations. The fine imposed by the Board in Board Order No. 2012-379 remains unchanged.

### **ORDER**

Therefore, the Board, this 1st day of May, 2013, **GRANTS IN PART** the Respondent's Oral Motion for Reconsideration. The Board **AMENDS** Board Order No. 2012-379, as follows:

1. The ten (10) suspension days to be served under Board Order no. 2012-379, shall be reduced to five (5) suspension days to be served with ten (10) stayed suspension days for one (1) year pending no further violations;
2. The Respondent's five (5) suspension days shall be served beginning on May 20, 2013 through May 24, 2013;
3. All other terms and conditions of Board Order No. 2012-379 shall remain in full force and effect; and
4. Copies of this Order shall be sent to the Government and the Respondent.

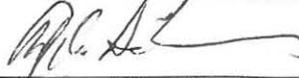
District of Columbia  
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson

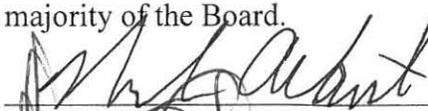


Donald Brooks, Member



Mike Silverstein, Member

We dissent from the decision reached by the majority of the Board.



Nick Alberti, Member



Herman Jones, 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, Reeves Center, 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) (2004).