

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

<b>In the Matter of:</b>	)	
	)	
Columbia Station, Inc.	)	
t/a Columbia Station	)	
	)	Case No. 10-CMP-00644
Holder of a Retailer's Class CR License	)	License No. ABRA-024834
at premises	)	Order No. 2011-181
2325 18 <sup>th</sup> Street, N.W.	)	
Washington, D.C. 20009	)	

**BEFORE:** Charles Brodsky, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ALSO PRESENT:** Mehari Woldemariam, on behalf of the Respondent

Amy Caspari, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

On January 19, 2011, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated January 12, 2011, on Columbia Station, Inc., t/a Columbia Station (Respondent), at premises 2325 18<sup>th</sup> Street N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Licensee failed to comply with the January 16, 2001 Voluntary Agreement (VA), paragraph 3. Specifically, the licensee did not close the doors during business hours while loud music was being played or a sound amplification device was being used as required by D.C. Official Code § 25-823(6) (2001), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

Charge II: The Licensee failed to make a copy of the VA immediately accessible to an ABRA investigator upon request, in violation of D.C. Code § 25-711(a), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823 (2001).

The Board held a Show Cause Status Hearing on March 9, 2011. There was no settlement of the matter and it proceeded to a Show Cause Hearing on March 30, 2011. The Board having considered the evidence, the testimony of the witnesses, the arguments of parties, 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 January 12, 2011. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 10-CMP-00644. The Respondent holds a Retailer's Class CR license and is located at 2325 18<sup>th</sup> Street N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-024834.
2. The Show Cause Hearing was held on March 30, 2011. The Notice charges the Respondent with the two violations enumerated above. *See* ABRA Show Cause File No. 10-CMP-00644. The Respondent admitted Charge II; he failed to make a copy of the VA available to the ABRA Investigator. *Transcript (Tr.)* 3/30/11 at 9, 11. As a result of the admission, the Government proceeded with its case on Charge I only.
3. The Government called ABRA Investigator Tyrone Lawson as its witness. *Tr.* 3/30/11 at 14. Investigator Lawson has been employed by ABRA since October 2009, and his job responsibilities include conducting regulatory inspections and investigations of ABC-licensed establishments in the District of Columbia. *Tr.* 3/30/11 at 14.
4. Investigator Lawson is familiar with the Respondent's establishment, which he visited on September 23, 2010 to investigate alleged noise emanating from the establishment. *Tr.* 3/30/11 at 15. Investigator Lawson testified that he was driving in the Adams Morgan neighborhood monitoring ABC-licensed establishments. *Tr.* 3/30/11 at 15. He heard very loud music and when he looked out of his car window, he saw Mr. Woldemarian, the owner of Columbia Station, sitting in a chair next to the establishment's open door. *Tr.* 3/30/11 at 15, 28, 30.
5. Investigator Lawson stated that he proceeded to another establishment, where he also heard loud music and observed open doors and windows. *Tr.* 3/30/11 at 15. He parked the car between the two establishments and first addressed the alleged violations at the second establishment. *Tr.* 3/30/11 at 16. He was there about 15 minutes and then left to investigate the alleged violations at Columbia Station. *Tr.* 3/30/11 at 15, 29, 32. He could still hear loud music emanating from Columbia Station when he was leaving the other establishment. *Tr.* 3/30/11 at 16, 33-34.
6. Investigator Lawson noted that when he arrived at Columbia Station, Mr. Woldemarian was still sitting outside the front door with the door propped wide open. *Tr.*

3/30/11 at 17, 29. He asked the owner if the establishment was permitted to keep its doors open and the owner said he didn't know. *Tr.* 3/30/11 at 17-19, 29. The owner later stated that he was not permitted to have the door open. Investigator Lawson testified that Mr. Woldemarian then stood up and released the string or coat hanger that was attaching the open door to the railing. *Tr.* 3/30/11 at 17, 33.

7. Investigator Lawson then requested to see the Respondent's VA. *Tr.* 3/30/11 at 17. Investigator Lawson testified that Mr. Woldemarian was unable to locate it. *Tr.* 3/30/11 at 17, 19. Investigator Lawson stepped inside the establishment and determined that the source of the noise was a live jazz band playing. *Tr.* 3/30/11 at 18. The band had a drummer and a bass player and a few other instruments. *Tr.* 3/30/11 at 18.

8. Investigator Lawson testified that the Respondent was cooperative and there were no other violations found during the inspection. *Tr.* 3/30/11 at 19, 23, 28. When the owner informed Investigator Lawson that he couldn't locate the VA, Investigator Lawson returned to the ABRA offices and reviewed the copy kept there. *Tr.* 3/30/11 at 20. The VA requires the Respondent to keep the doors and windows closed. *Tr.* 3/30/11 at 20.

9. The Respondent closed the door before Investigator Lawson left the establishment. *Tr.* 3/30/11 at 20, 26-27. Investigator Lawson did not witness anyone walking in and out of the establishment carrying equipment. *Tr.* 3/30/11 at 35.

10. Mahari Woldemarian testified on behalf of the Respondent. *Tr.* 3/30/11 at 37. He explained that the door was open because the bass player in the jazz band was taking his equipment in and out of the establishment. *Tr.* 3/30/11 at 39.

### CONCLUSIONS OF LAW

11. 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) (2009). 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.*

12. In order to hold a Licensee liable for a violation of the ABC laws, the Government must show that there is substantial evidence to support the charge. Substantial evidence is defined as evidence that a "reasonable mind[] might accept as adequate to support the conclusion" and there must be a "rational connection between facts found and the choice made." 2461 Corp. v. D.C. Alcoholic Bev. Control Bd., 950 A.2d 50, 52-53 (D.C. 2008)

13. The Board finds that the Government has proven Charge I against the Respondent; the Respondent failed to comply with the terms of its VA by not closing its doors while loud music was being played.

14. The Board relies on the very credible testimony of Investigator Lawson who observed the owner; not once, but twice, setting in a chair next to the establishment's open door while a jazz band was paying inside. When the owner could not produce a copy of

the VA, Investigator Lawson retrieved the copy kept at ABRA's offices to confirm the violation. The Board commends Investigator Lawson for his diligence.

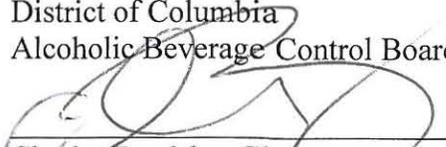
15. Thus, based on Investigator Lawson's testimony and the inability of the Respondent to refute it with any credible evidence, the Board finds that the Respondent did violate the terms of its VA.

### **ORDER**

Based on the foregoing findings of fact and conclusions of law, the Board, on this 4<sup>th</sup> day of May 2011, finds that the Respondent, Columbia Station, Inc., t/a Columbia Station, at 2325 18<sup>th</sup> Street N.W., Washington, D.C., holder of a Retailer's Class CR license, violated § 25-763 and 25-765(a), (b) (2009).

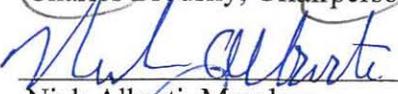
The Respondent shall pay a fine in the amount of \$1,500.00 by no later than thirty (30) days from the date of this Order. The Respondent shall also serve a five (5) day suspension on May 25, 2011 through May 29, 2011. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions. Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia  
Alcoholic Beverage Control Board



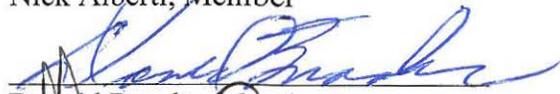
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Charles Brodsky, Chairperson



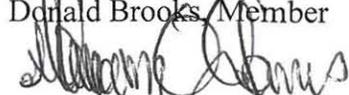
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Nick Alberti, Member



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Donald Brooks, Member

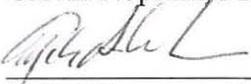


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Herman Jones, Member

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Calvin Nophlin, Member



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Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 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).