

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

In the Matter of:)	
Da Luft DC, Inc.)	
t/a Da Luft Restaurant & Lounge)	
Holder of a)	Case No.: 15-251-00081
Retailer's Class CR License)	License No.: ABRA-087780
at premises)	Order No.: 2015-210
1242 H Street, N.E.)	
Washington, D.C. 20002)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ALSO PRESENT: Murray Kivitz, Esq., on behalf of Da Luft DC, Inc. t/a Da Luft Restaurant & Lounge

Christine Gephardt, Assistant Attorney General, on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER APPROVING THE OFFER-IN-COMPROMISE

This case arises from a Notice of Summary Suspension (Notice) issued by the Alcoholic Beverage Control Board (Board) in the matter of Da Luft DC, Inc. t/a Da Luft Restaurant & Lounge (Respondent) located at 1242 H Street, N.E., Washington, D.C. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice in Case Number 15-251-00081 on the Respondent on April 15, 2015. *ABRA Show Cause File*

15-251-00081, Service Form. The Notice sets forth grounds for a summary suspension, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent's license.

Pursuant to the Notice, the Board ordered the suspension of Respondent's license in accordance with D.C. Official Code § 25-826 (2008) and 25-827(a) (2005). The suspension was based upon an investigation conducted by Alcoholic Beverage Regulation Administration (ABRA) Investigator Felicia Dantzler as the result of receiving the PD-251, CCN #15050751 incident report from the Metropolitan Police Department (MPD). D.C. Official Code § 25-827 (2001).

Additionally, the Board's suspension of the Respondent's license was based upon the written request of the Chief of Police Cathy L. Lanier, MPD, dated April 11, 2015, pursuant to D.C. Official Code § 25-827(a), which included a determination made by Chief Lanier that the establishment presented an imminent danger to the health and safety of residents and visitors in the District of Columbia. Notice of Summary Suspension, 2-4 (April 14, 2015).

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." § 25-826(c).

Subsequently, the Respondent requested a Summary Suspension Hearing pursuant to D.C. Official Code § 25-826(c), which was held on April 23, 2015. At the time of the hearing, the Parties submitted to the Board, a proposed Offer in Compromise (OIC) pursuant to 23 DCMR § 1604.5 (2009). The OIC has been reduced to writing and has been properly executed and filed with the Board. The Respondent is a signatory to the OIC. The Board formally accepts the OIC which is appended to this Order.

ORDER

Therefore, the Board, on this 23rd day of April, 2015, hereby **APPROVES** the OIC submitted on April 23, 2015, and **ORDERS** Da Luft DC, Inc. t/a Da Luft Restaurant & Lounge to operate in accordance with the terms of the OIC.

IT IS ORDERED that the Board accepts the terms set forth in the OIC. In addition to the OIC, the Licensee is required to comply with the following terms:

- (1) The Respondent shall provide the W-4 forms of all personnel on staff at the establishment. The W-4 forms are to be appropriately redacted to protect confidential information of the establishment's employees.

- (2) (1)(i) of the submitted OIC terms is hereby amended to include the following: The Respondent shall, in addition to the use of security wands, physically search purses and handbags after 9:00 p.m. every night that the establishment is in operation.
- (3) (5) of the submitted OIC terms is hereby amended to include the following: The Respondent shall provide documentation certifying the completion of first aid training for all employees. The Respondent shall also provide documentation verifying that the facilitator of the first aid training is certified to provide such training.
- (4) (7) of the submitted OIC terms is hereby amended to include the following: The Respondent shall at all times maintain a list of personnel who have access to and the ability to review the establishment's video footage. This list shall be made available upon the request of MPD or ABRA.
- (5) All video footage shall be made available upon request of MPD or ABRA. All video footage must be maintained for a minimum of thirty (30) days. All video of violent incidents must be archived into perpetuity.
- (6) (8) of the submitted OIC terms is hereby amended to include the following: The Respondent shall ensure the completion of a security training of all staff.
- (7) (12) of the submitted OIC terms is hereby amended as follows: The Respondent shall maintain a list of all personnel employed by the establishment which will be kept on premises, with the job title or role of each employee listed. Such list shall be updated upon the hiring or termination of each employee, and shall be available at the establishment upon request by MPD or ABRA.
- (8) (13) of the submitted OIC terms is hereby amended as follows: The Respondent shall conduct and complete training for all existing personnel to include all procedures described in this agreement and in the revised Security Plan prior to the establishment opening. All future employed security personnel shall receive security training at the time of hire. A refresher security training shall be provided to all employees on a bi-annual basis.
- (9) The Respondent must notify the Board a minimum of one week prior to all scheduled training sessions of its employees.
- (10) Should the Respondent's hiring practice of personnel deviate from the practices currently in place, the Respondent must first notify the Board in writing. If the establishment contracts for services currently being performed by any and all employees, the Respondent must first notify the Board in writing within thirty (30) days. Training requirements shall also apply to contracted employees.

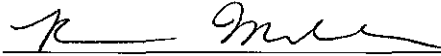
- (11) The Respondent shall secure MPD Reimbursable Detail (RDO) for Friday and Saturday nights from 11:30 p.m. to 3:30 a.m. The RDO must consist of no fewer than two officers whenever a live band or disc jockey is offered by the establishment.

IT IS FURTHER ORDERED that the Respondent shall abide by all laws and regulations of the District of Columbia, shall operate its establishment in a safe and competent manner, and shall refrain from engaging in the type of activity that led to this disciplinary action. “If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, fine, or restrict, without a hearing, the license to sell alcoholic beverages in the District.” D.C. Official Code § 25-826(a).

IT IS FURTHER ORDERED that the Board shall forward this matter to the District of Columbia Office of the Attorney General for a Show Cause Hearing.

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

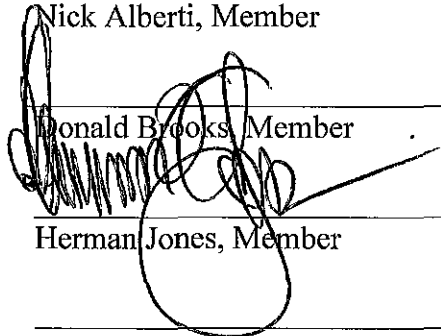
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member



Donald Brooks, Member

Herman Jones, Member

Mike Silverstein, Member

Hector Rodriguez, 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).

OFFER IN COMPROMISE¹

In the Matter of: Da Luft DC, Inc. t/a Da Luft Restaurant & Lounge

Officer/owner: Josephine Ijiti-President

Case number: 15-251-00081

Summary Suspension Hearing Date: April 23, 2015

Incidents occurring on: April 11, 2015

For the Charge of: The Licensee's continued operation presents an imminent danger to the health and safety of the public.

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

This Offer in Compromise ("OIC") will be presented to the Alcoholic Beverage Control Board by the Assistant Attorney General at the summary suspension proceeding. 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 Licensee agreeing to all the following terms:

(1) A security plan shall be submitted by the licensee to ABRA and the OAG by 10 a.m. on Tuesday, April 28. The security plan shall be reviewed and accepted by the ABC Board prior to the establishment opening. The security plan shall be in full compliance with all applicable laws including all requirements for a security plan under Title 25 of the D.C. Official Code, and which incorporates all of the below matters.

- (a) Address the establishment's procedure for preserving a crime scene.
- (b) Address the establishment's procedure for (1) making ownership available to MPD, and (2) maintaining and making staff available at the establishment to be interviewed by MPD.
- (c) The establishment shall have an operational camera system that is accessible to and capable of being reviewed by management. The revised Security Plan shall state the number of cameras that will be utilized by the establishment.
- (d) State that the cameras shall remain operational at all times and reveal no blind spots within the establishment.

¹ Authorized under 23 DCMR 1604.5 (2011).

(e) A diagram of the location of the establishment's floor plan with location of the cameras will be maintained on the premises to facilitate investigations and shall be appended to the Licensee's Security Plan.

(f) The Licensee shall maintain an incident log detailing all violent incidents that occur inside of the establishment. The security plan shall address the establishment's procedures for drafting and maintaining its incident log.

(g) The establishment's process for calling 911 and notifying MPD for assistance; and

(h) The Licensee's patron ejection protocol.

(i) The establishment shall purchase and regularly use a security wand at the entrance.

(2) The security plan shall specify the number and range of the cameras to be utilized. The quality of the video to be utilized by the establishment shall be specified in the security plan and shall meet the approval of the ABC Board. A walk-through of the security system shall be conducted by an ABRA investigator prior to the establishment opening.

(3) The Licensee shall have at least one manager on duty at all times that shall be able to fully operate the equipment necessary to view all cameras in establishment.

(4) The Licensee shall incorporate detailed procedures in its Security Plan on how security personnel are to handle violent altercations in the establishment, including appropriate methods for detaining and controlling aggressive patrons.

(5) The Licensee shall provide its employees with training on how to aid an injured or ill patron inside the establishment, including calling for outside medical services.

(6) The Licensee shall provide its employees with training on situations where it is necessary to contact MPD immediately, such as a violent incident immediately inside or outside of the establishment or when a patron needs or requests medical attention.

(7) The Licensee shall make all future video recordings of a crime of violence available for review immediately upon the request by MPD or ABRA investigators and copies will be given to ABRA investigators or MPD within forty-eight (48) hours of a request. All video footage involving a crime of violence shall be maintained for at least thirty (30) days.

(8) The Licensee shall ensure the completion of a security training of its security staff. This course shall include a training of all security personnel for the establishment that shall cover all items addressed in this Offer in Compromise as well as the items contained in the licensee's security plan.

(9) The Licensee shall immediately call 911 for any altercation or other conduct in the establishment which may violate the law. The licensee shall maintain a logbook documenting its calls to MPD.

(10) All security personnel shall wear uniforms containing the word "Security" in a manner identifiable to patrons.

(11) The Licensee shall submit documentation to the Board establishing the names of those security personnel that are or will be on payroll with the establishment.

(12) The Licensee shall submit a list of all security personnel employed by the establishment which will be kept on premises, with the job title or role of each employee listed. Such list shall be updated upon the hiring or termination of each security employee, and shall be available at the establishment upon request by MPD or ABRA.

(13) The Licensee shall conduct and complete training for all existing security personnel to include all procedures described in this agreement and in the revised Security Plan, within thirty (30) days from the date of this Order. All future employed security personnel shall receive security training at the time of hire. A refresher security training shall be provided to all security employees on a bi-annual basis.

(14) The security training required by this agreement shall be completed prior to the establishment opening. The Licensee shall also submit to the Board prior to opening a copy of (1) the materials that were used to train the security staff and (2) training certificates demonstrating the completion of the training course by all security staff members. The security training course shall be conducted in-person and shall not be an on-line training course.

(15) The matter shall be referred to the Office of the Attorney General for a show cause hearing.

The Licensee hereby agrees to the foregoing conditions in resolution of the summary suspension in this matter.

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JOSEPHINE 13171
Licensee

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Attorney for Licensee
MURRAY A. K... R