

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

In the Matter of:)	
)	
AG Corporation, Inc.)	License Number: 80900
t/a Fairmont Liquor and Grocery)	Case Numbers: 09-CMP-00725
)	09-CMP-00726
Holder of a Retailer's Class A License)	09-CMP-00758
at premises)	Order Number: 2011-097
2633 Sherman Ave., N.W.)	
Washington, D.C. 20001)	

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

ALSO PRESENT: AG Corporation, Inc., t/a Fairmont Liquor and Grocery, Respondent

Amy Schmidt, Assistant Attorney General
Office of the Attorney General, District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

On October 19, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated October 13, 2010, on AG Corporation, Inc. t/a Fairmont Liquor and Grocery (Respondent), at premises 2633 Sherman Avenue, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent failed to comply with the terms of a Board Order by failing to pay a fine of \$2,750.00 for violations of D.C. Official Code

§ 25-722; sale after 10:00 p.m., § 25-724; sale after hours, and § 25-741(a); providing go-cups to customers, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2009).

The Board held a Show Cause Status Hearing on November 17, 2011. There was no settlement of the matter and it proceeded to a Show Cause Hearing on January 5, 2011. The Board, having considered the evidence, the testimony of witnesses, the arguments of counsel, 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 October 13, 2010. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No.s 09-CMP-00725, 09-CMP-00726 and 09-CMP-00758). The Respondent holds a Retailer's Class A License and is located at 2633 Sherman Avenue, N.W., Washington, D.C. (*See* ABRA Licensing File No. 80900).
2. The Show Cause Hearing in this matter was held on January 5, 2011. The Notice to Show Cause charged the Respondent with the single violation enumerated above. (*See* ABRA Show Cause File No.s 09-CMP-00725, 09-CMP-00726 and 09-CMP-00758).
3. The Government presented no witnesses and represented to the Board that the Respondent stipulated to the fact that he had not paid the fine levied by the Board in Board Order No. 2010-358, dated June 16, 2010. *Transcript (Tr.)*, 1/5/11 at 5-7.
4. The Respondent testified that he has not paid the fine due to financial difficulties. *Tr.*, 1/5/11 at 7, 9. He stated that he knew he was ordered by the Board to pay the fine, but his inventory purchases have almost brought him to the point of closing the store. *Tr.*, 1/5/11 at 7, 11. He further testified that he is willing to pay the fine through a structured payment plan. *Tr.*, 1/5/11 at 9. The Respondent stated that imposing the stayed suspension days from Board Order No. 2010-358 would make it difficult for him to raise the revenue necessary to pay the fine. *Tr.*, 1/5/11 at 17.

CONCLUSIONS OF LAW

5. 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.*
6. The Board finds that the Government has proven the charge against the Respondent. The Respondent admitted that he failed to comply with the terms of Board Order No. 2010-358 by failing to pay his \$2,750.00 fine within thirty (30) days from receipt of the Order in

violation of D.C. Official Code § 25-823 (2009). Therefore, based on the Respondent's own admission, the Board finds that the Government has proven this Charge.

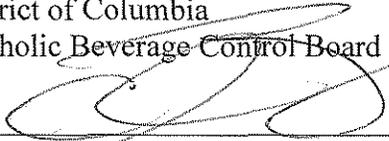
ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 26th day of January 2011, finds that the Respondent, AG Corporation, Inc. t/a Fairmont Liquor and Grocery (Respondent), at premises 2633 Sherman Avenue, N.W., Washington, D.C., holder of a Retailer's Class A License, violated D.C. Code § 25-823.

The Board hereby **ORDERS** that:

1. The Respondent shall pay the fine issued in Board Order No. 2010-358 in the amount of \$2,750 by no later than thirty (30) days from the date of this Order.
2. In addition, the Respondent shall pay another fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order for violating D.C. Code § 25-823 by failing to pay the fine originally levied by the Board in Order No. 2010-358.
3. The Respondent shall receive a suspension of its license for three (3) days, all three days served on March 1, 2 and 3, 2011. These three suspension days are activated from the three stayed days imposed by the Board in Board Order No. 2010-358, dated June 16, 2010.
4. Additionally, the Respondent shall receive a suspension of ten (10) days; all ten days stayed for one year, provided that the Respondent pays both fines contained in this Order with the thirty (30) day period. If the Respondent fails to pay both fines within the thirty (30) period contained in this Order, then the Respondent's license will be suspended for ten (10) days from March 4, 2011 through March 13, 2011.

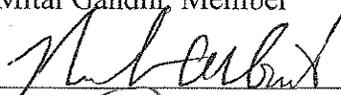
District of Columbia
Alcoholic Beverage Control Board



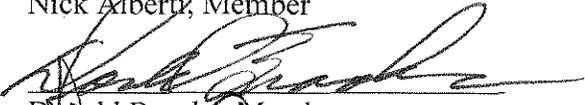
Charles Brodsky, Chairperson



Mital Gandhi, Member



Nick Alberti, Member



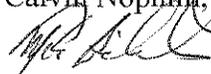
Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, 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, 1250 U Street N.W., Suite 300, 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).