

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

**In the Matter of:**

A and A, LLC

t/a Georgia Line Convenience Store

Holder of a

Retailer's Class B License

at premises

5125 Georgia Avenue, N.W.

Washington, D.C. 20011

License No.: ABRA-091196

Case No.: 14-CMP-00460

Order No.: 2015-269

**BEFORE:**

Ruthanne Miller, Chairperson

Donald Brooks, Member

Mike Silverstein, Member

Hector Rodriguez, Member

James Short, Member

**ALSO PRESENT:** A and A, LLC, t/a Georgia Line Convenience Store, Respondent

Alemtsehay Tassew, Owner, on behalf of the Respondent

William Fox, Esq., Counsel for the Respondent

Fernando Rivero, Assistant Attorney General,  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

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The Alcoholic Beverage Control Board (Board) finds that A and A, LLC, t/a Georgia Line Convenience Store (Respondent), violated District of Columbia (D.C.) Official Code § 25-722(a). As a result, the Respondent must pay a \$2,000.00 fine. The Board dismisses Charge II.

***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on November 19, 2014. The Alcoholic Beverage

Regulation Administration (ABRA) served the Notice on the Respondent, located at 5125 Georgia Avenue, N.W., Washington, D.C., on November 22, 2014.

The Notice charged the Respondent with the following violations:

- Charge I: The Respondent made an alcohol sale on a Sunday, outside of the Board-approved sales hours, in violation of D.C. Official Code § 25-722(a) (2012 Repl.), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2012 Repl.).
- Charge II: The Respondent violated its Board-approved Settlement Agreement by selling alcoholic beverages on a Sunday, in violation of D.C. Official Code § 25-823(6) (2012 Repl.), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2012 Repl.).

The factual basis of Charge I and Charge II is an allegation that on Sunday, August 10, 2014 at approximately 12:05 p.m., Alcoholic Beverage Regulation Administration (ABRA) Investigator Dorshae Demby conducted an undercover investigation into a complaint received of alleged sales of alcoholic beverages on Sundays by Georgia Line Convenience Store. Investigator Demby entered the establishment, retrieved one two-pack of canned Bud Light Lime STRAW-BER-RITA Flavored Malt Beverages, and handed it to an unknown male clerk. The male clerk charge Investigator Demby \$5.49 for alcoholic beverages and placed the two-pack in a black plastic bag. The establishment's alcohol license prohibits sales of alcoholic beverages on Sundays. Upon review of ABRA records, the investigator found that page 4 item 4 of the Settlement Agreement entered into by the establishment prohibited the sale of alcoholic beverages on Sundays. Notice at 2-3.

The Respondent failed to appear at the Show Cause Status Hearing held on January 7, 2015. A Show Cause Hearing was scheduled for February 11, 2015, which was rescheduled for April 8, 2015.

The Government and the Respondent appeared at the Show Cause Hearing for this matter on April 8, 2015.

## **FINDINGS OF FACT**

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

### **I. Background**

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated November 19, 2014. *ABRA Show Cause File No. 14-CMP-00460.*
2. The Respondent was charged with two violations enumerated above. Notice at 2.

3. The Show Cause Hearing in this matter was held on April 8, 2015. *ABRA Show Cause File No. 14-CMP-00460.*

4. The Respondent holds a Retailer's Class B License and is located at 5125 Georgia Avenue, N.W., Washington, D.C. *Licensing File No. ABRA-091196.* The establishment's authorized hours of operation are Sunday through Thursday 6:00 a.m. to 10:00 p.m., and Friday and Saturday 6:00 a.m. to 12:00 a.m.; and the hours of sales of alcoholic beverages are Monday through Saturday 9:00 a.m. to 10:00 p.m. No Sunday sales of alcoholic beverages. *Licensing File No. ABRA-091196.*

## II. Testimony of ABRA Investigator Dorshae Demby

5. The Government presented its case through the testimony of one witness, ABRA Investigator Dorshae Demby. *Transcript (Tr.) 4/8/15 at 11.* Investigator Demby authored the investigative report for Case No. 14-CMP-00460. *See Government's Exhibit No. 1; Tr. 4/8/15 at 24.*

6. Investigator Demby was assigned to monitor the Respondent's establishment for alcohol sales activity on Sunday, August 10, 2014. *Tr. 4/8/15 at 12.* He arrived at the establishment at approximately 12:05 p.m. *Tr. 4/8/15 at 13.* He initially monitored the establishment from his vehicle, watching the pedestrian traffic enter and exit the store. *Tr. 4/8/15 at 14.* He did not observe any patrons exiting the establishment with purchases of alcoholic beverages. *Tr. 4/8/15 at 14.*

7. Investigator Demby then entered the establishment in an undercover capacity. *Tr. 4/8/15 at 14.* He walked past the cash register toward the back of the store where the cooler was located. *Tr. 4/8/15 at 14-15.* He retrieved a Bud Light Lime STRAW-BER-RITA Flavored Malt Beverage and took it to the cash register for purchase and payment. *Tr. 4/8/15 at 14 -15.*

8. Investigator Demby observed two males behind the counter. *Tr. 4/8/15 at 16, 23.* One of the males took the alcoholic beverage from Investigator Demby, placed it in a black plastic bag and charged Investigator Demby for the purchase. *Tr. 4/8/15 at 16.* Investigator Demby presented a ten dollar (\$10.00) bill for the \$5.49 purchase. *Tr. 4/8/15 at 16-17.* He then exited the establishment with the alcoholic beverage in his possession. *Tr. 4/8/15 at 17.*

9. Investigator Demby returned to ABRA's offices and followed standard protocol for preserving the alcoholic beverage as evidence for the hearing. *Tr. 4/8/15 at 17.* He photographed the alcoholic beverages he purchased from the Respondent on the day of the sale and appended the photograph to his investigative report. *Tr. 4/8/15 at 25; see Government's Exhibit 1.*

10. Investigator Demby testified that he has conducted numerous investigations during his tenure at ABRA. *Tr. 4/8/15 at 20.* He does not recall every investigation he has undertaken on behalf of the agency. *Tr. 4/8/15 at 20.* Investigator Demby did not request a receipt for the purchase and the male clerk did not provide one. *Tr. 4/8/15 at 21.*

### **III. Testimony of Respondent, Alemtsehay Tassew**

11. Mr. Tassew is one of two owners of Georgia Line Convenience Store. *Tr.* 4/8/15 at 31, 37-38. Her sister, Ababa Tassew is also an owner. *Tr.* 4/8/15 at 38. The sisters have owned the store since February 2013, and both are responsible for running the day to day operations. *Tr.* 4/8/15 at 37-38, 46-48, 65. They have no other employees, full or part-time, clerks, assistants or independent contractors. *Tr.* 4/8/15 at 38-41, 59. Ms. Tassew was working on the day of the incident and does not recall that Investigator Demby was present. *Tr.* 4/8/15 at 57, 60-61.

12. At the hearing, she introduced a document that listed all of the establishment's sales for Sunday, August 10, 2014. *Tr.* 4/8/15 at 32; Respondent's Exhibit No. 1. The document lists several departments that categorize the type of sale by products so that transactions can be tracked. *Tr.* 4/8/15 at 31-33. Department 15 is for groceries such as food and drink. *Tr.* 4/8/15 at 32. The Respondent \$541.00 worth of goods for Department 15 on August 10, 2014. *Tr.* 4/8/15 at 33. Department 16 lists paper products and other dry goods. *Tr.* 4/8/15 at 32. This department had sales of \$28.89 on August 10, 2014. *Tr.* 4/8/15 at 33. Department 17 lists phone cards and had sales of \$6.00 for August 10, 2014.

13. None of the three departments listed on the Respondent's document reflected sales of alcoholic beverages. *Tr.* 4/8/15 at 34. Ms. Tassew acknowledged that beer and wine sales are recorded under a separate department whose assigned number she could not recall. *Tr.* 4/8/15 at 34-35.

14. The receipt that Ms Tassew produced did not list the name of the store or an address associated with the store. *Tr.* 4/8/15 at 48. The credit card receipts generated from the Respondent's cash register state the name of the establishment. *Tr.* 4/8/15 at 49. The receipt is a summary of the total sales for August 10, 2014. *Tr.* 4/8/15 at 54, 63.

15. Ms. Tassew understands and abides by the terms of her Settlement Agreement with the Advisory Neighborhood Commission that prohibits the sale of alcoholic beverages on Sunday. *Tr.* 4/8/15 at 41-42, 58. The cooler containing the alcoholic beverages is secured by a rope so that patrons cannot access it on Sundays. *Tr.* 4/8/15 at 43-44. The rope is tied through the door handles of the cooler. *Tr.* 4/8/15 at 44, 61-62. One half of the cooler also contains sodas, milk and juice products *Tr.* 4/8/15 at 55-56.

### **IV. Testimony of Tigist Tassew**

16. Tigist Tassew is the niece of Alemtsehay Tassew. *Tr.* 4/8/15 at 67. She has never observed any employees, male or female assisting her mother and aunt at the store. *Tr.* 4/8/15 at 68. She confirmed that the cooler is secured by a rope that runs from one end of the refrigerator to the other end through the two door handles. *Tr.* 4/8/15 at 69. It is impossible for patrons to access the cooler with the rope tied off. *Tr.* 4/8/15 at 69. She does not recall if she was present at the establishment on the day of the incident. *Tr.* 4/8/15 at 69.

## CONCLUSIONS OF LAW

17. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia Official Code pursuant to District of Columbia Official Code § 25-823(1), D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2013). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Official Code § 25-447.

### I. THE RESPONDENT VIOLATED § 25-722(a)

18. The Board finds that the Respondent violated the terms of its license by selling alcoholic beverages to an ABRA investigator on Sunday, August 10, 2014. The Respondent’s license clearly prohibits the sale of alcoholic beverages on Sundays. The record shows that on Sunday, April 10, 2014, the Respondent sold a Bud Light Lime STRAW-BER-RITA Flavored Malt Beverage. The Board credits the testimony of Investigator Demby who conducted an undercover operation at the Respondent’s establishment on a Sunday afternoon and successfully purchased an alcoholic beverage as a result of that investigation. The Board further credits the photographic evidence of the purchased alcohol supported by Investigator’s Demby testimony as to its authentication. Therefore, the Board finds the Respondent guilty of Charge 1.

19. The Board does not credit Ms. Tassew’s testimony that neither she, nor her sister nor anyone else sold the alcoholic beverage to the investigator. It may very well be that only Ms. Tassew and her sister were working that day and that a male clerk did not sell the alcoholic beverages to Investigator Demby. But the Board is convinced that Investigator Demby purchased the alcoholic beverage at the Respondent’s establishment, regardless of who sold it to him. The production of an undated receipt by Ms. Tassew demonstrating the absence of alcohol sales is not enough to refute the documented evidence provided by Investigator Demby.

20. Having found the Respondent guilty of Charge I regarding the Sunday sales of alcoholic beverages, the Board also finds the Respondent guilty of Charge II regarding the violation of the Settlement Agreement which prohibits the sale of alcoholic beverages on Sunday. However, in this instance, the Board finds no need to pursue this duplicative charge and will dismiss it.

### II. PENALTY

21. The Board finds that Charge I is the Respondent’s first primary tier violation and the Board imposes a fine of \$2,000.00. *Licensing File No. ABRA-091196*, Investigative History; D.C. Official Code § 25-722(a).

22. The Board finds that Charge II is duplicative of Charge I and dismisses it.

## **ORDER**

Based on the foregoing findings of fact and conclusions of law, the Board, on this 20<sup>th</sup> day of May, 2015, finds that the Respondent, A and A, LLC, t/a Georgia Line Convenience Store, located at 5125 Georgia Avenue, N.W., Washington, D.C., holder of a Retailer's Class B License, violated D.C. Official Code § 25-722(a).

The Board hereby **ORDERS** that:

- 1) Charge I: Respondent must pay a fine in the amount of \$2,000.00 by no later than thirty (30) days from the date of this Order or its license shall be suspended until all outstanding fines are paid.
- 2) Charge II: Dismissed.

Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia  
Alcoholic Beverage Control Board



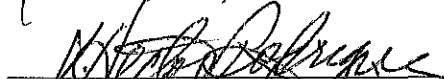
Ruthanne Miller, Chairperson




Donald Brooks, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433, 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, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). 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).