

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

In the Matter of:)	
)	
Parki, Inc.)	
t/a Imperial Liquors)	
)	Case No. 10-CMP-00033
Holder of a Retailer's Class A License)	License No. ABRA-074960
at premises)	Order No. 2011-177
1050 17 th Street, N.W.)	
Washington, D.C. 20036)	

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

ALSO PRESENT: Louise Phillips, 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 October 5, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice) dated September 15, 2010 on Parki, Inc. t/a Imperial Liquors (Respondent), at premises 1050 17th Street N.W., Washington, D.C., charging the Respondent with the following violation:

Charge I: The Licensee posted advertisements in the front windows of its establishment which was in excess of 10 feet square in the aggregate, exceeded 25% of the window space and were displayed on the exterior or interior of any door, in violation of D.C. Official Code § 25-763 and 25-765(a), (b) (2009), for which the board may take proposed action pursuant to D.C. Official Code § 25-823 (1) (2009).

The matter proceeded to a Show Cause Hearing on January 26, 2011. The Respondent failed to appear and the Board proceeded with the Show Cause Hearing pursuant to D.C. Official Code § 25-447(e) which allows for an ex parte proceeding. The Government presented evidence through the testimony of one witness. The Board having considered the evidence, the testimony of the Government's witness, 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 September 29, 2010. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 10-CMP-00033. The Respondent holds a Retailer's Class A license and is located at 1050 17th Street N.W., Washington, D.C. *See* ABRA Licensing File No. 74960.
2. The Show Cause Hearing was held on January 26, 2011. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 10-CMP-00033. Respondent failed to appear at the Show Cause Hearing, notwithstanding receiving personal service of the Notice on September 24, 2010. *See* ABRA Show Cause File No. 10-CMP-00033.
3. The Government presented its case through the testimony of one witness, ABRA Investigator Donnell Butler. *Transcript (Tr.)*, 01/26/11 at 5. Investigator Butler is an investigator with ABRA and in that capacity, he conducts investigations and regulatory inspections of ABC licensed establishments within the District of Columbia. *Tr.*, 01/26/11 at 6.
4. Investigator Butler visited the Respondent, Imperial Liquors, on January 20, 2010, to investigate the signs located in the establishment's windows. *Tr.*, 01/26/11 at 7. He discovered excessive signs relating to the advertising of alcoholic beverages were displayed in the licensee's window fronts and on the door. *Tr.*, 01/26/11 at 7. Investigator Butler testified that the window advertisements related to prices of different alcoholic beverages and that the signs covered more than fifty (50%) of the window. *Tr.*, 01/26/11 at 8.
5. Investigator Butler identified a color photograph of the Licensee's windows that displayed a Heineken advertisement for \$8.99 for a six pack of bottled beer. *Tr.*, 01/26/11 at 9-10. Investigator Butler testified that the color photograph demonstrated that the window advertisements cover an excess of twenty five (25%) of the window. *Tr.*, 01/26/11 at 11. Investigator Butler's believed that the establishment was clearly in violation of the statute governing the amount of space occupied by window advertisements. *Tr.*, 01/26/11 at 11. *See* Government's Exhibit No. 1. He mentally measured the window space covered by the advertisements and determined that more than one fourth of the space was covered by the signs. *Tr.*, 01/26/11 at 15.
6. Investigator Butler also identified a photograph of the establishment's employees and one of the owners removing some of the advertisements from the exterior doors. *Tr.*, 01/26/11 at 12. *See* Government's Exhibit No. 3. Investigator Butler indicated that the owner removed the signs in order to comply with the statute. *Tr.*, 01/26/11 at 13.

Investigator Butler also conducted a regulatory inspection of the establishment during his visit. *Tr.*, 01/26/11 at 14. He indicated that he has monitored the establishment since the January 2010 incident and that the establishment remains in compliance with the laws and regulations governing ABC licensed establishments. *Tr.*, 01/26/11 at 15.

CONCLUSIONS OF LAW

7. 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.*
8. 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).
9. With regard to the single charge of posting advertisements in excess of twenty-five (25%) of the storefront windows in violation of § 25-763 and 25-765(a), (b), the Board finds that the Respondent did have excessive alcoholic beverage advertisements on its windows. The Board makes this finding based on the credible testimony of Investigator Butler who stated that he observed the window advertisements and determined that it exceeded the amount of space permitted by law. Investigator Butler also identified photographs that demonstrated the amount of space covered by the window advertisements. Lastly, Investigator Butler testified that the owner and his employees removed the excessive signage and the signs were still absent on subsequent monitoring trips.
10. The Respondent was not present at the hearing to refute the testimony of Investigator Butler. Thus, the Board finds that the Government has proven the charge against the Respondent as set forth in the Notice dated September 15, 2010.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 13th day of April 2011, finds that the Respondent, Parki, Inc., t/a Imperial Liquors, at 1050 17th Street N.W., Washington, D.C., holder of a Retailer’s Class A license, violated § 25-763 and 25-765(a), (b) (2009).

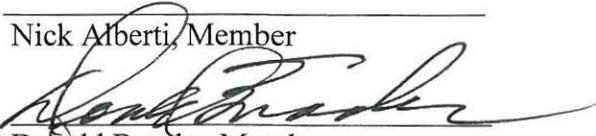
The Respondent shall pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions. Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia
Alcoholic Beverage Control Board

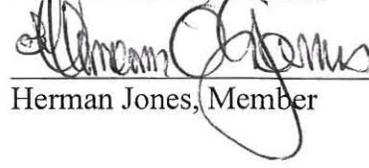


Charles Brodsky, Chairperson

Nick Alberti, Member

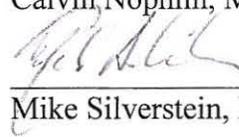


Donald Brooks, Member



Herman Jones, Member

Calvin Nophlin, Member



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 14th Street, N.W., Fourth Floor, 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).