

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

In the Matter of:)	
JVLHC, LLC)	License No.: 76330
t/a Jimmy Valentine's Lonely Hearts Club)	Case No.: 10-251-00204
Holder of a Retailer's Class CT License)	Order No.: 2011-396
at premises)	
1103 Bladensburg Road, N.E.)	
Washington, D.C. 20002)	

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

ALSO PRESENT: JVLHC, LLC, t/a Jimmy Valentine's Lonely Hearts Club, Respondent

 Matthew LeFande, on behalf of the Respondent

 Amy Caspari, Assistant Attorney General,
 on behalf of the District of Columbia

 Martha Jenkins, General Counsel
 Alcoholic Beverage Regulation Administration

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

On April 28, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated April 20, 2010, on JVLHC, LLC, t/a Jimmy Valentine's Lonely Hearts Club (Respondent), at premises 1103 Bladensburg Road, N.E., Washington, D.C., charging the Respondent with the following violation:

Charge I: The Respondent sold, served, or permitted the consumption of alcoholic beverages on the licensed premises beyond the establishment's authorized hours, in violation of D.C. Official Code § 25-723(b)(2) and 23 DCMR §

705.9, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

The Government requested that the Board amend the Notice and the Board granted the motion, without objection from the Respondent. *Transcript (Tr.)*, June 15, 2001, at 10. As amended, the Amended Notice now reads:

Charge I: The Respondent violated D.C. Official Code § 25-823(6) by failing to follow its Voluntary Agreement, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (Supp. 2011).

We note the Respondent waived his right to notice and service of the Amended Notice in the interest of expediency. *Tr.*, 6/15/11 at 6. Based on the amendment submitted by the Government, the Respondent is no longer charged with operating after its Board-approved hours and, instead, has been charged with violating its Voluntary Agreement.

The Board, having considered the evidence, the arguments of the parties, and all 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 April 20, 2010. See *ABRA Show Cause File No. 10-251-00204*. The Respondent holds a Retailer's Class CT License and is located at 1103 Bladensburg Road, N.E., Washington, D.C. See *ABRA Licensing File No. 78475*.
2. A Status Hearing related to this matter was held on May 25, 2011. *ABRA Show Cause File No. 10-251-00204*. The Show Cause Hearing in this matter was originally scheduled for June 8, 2011, but the hearing was rescheduled and held on June 15, 2011. *ABRA Show Cause File No. 10-251-00204*. The Notice to Show Cause, dated April 20, 2010, charges the Respondent with the violation enumerated in the Amended Notice above. See *ABRA Show Cause File No. 10-251-00204*. We note the Board rejected two offer-in-compromises submitted by the parties. *Tr.*, 6/15/11 at 15-16, 31-32. The first offer-in-compromise would have required the Respondent to pay a \$500.00 fine and the second offer-in-compromise would have settled the matter for \$750.00. *Tr.*, 6/15/11 at 15-16, 31-32.
3. The establishment's Voluntary Agreement, approved July 11, 2007, states:
 - a. Applicant will abide by prohibitions in its license against live entertainment, including:
 1. Entertainment that has nude performances
 2. Entertainment that has performed music
 3. Entertainment that requires a stage
 - b. Applicant will notify the Board in writing 30 days in advance of any attempt to change or modify Applicant's license.

JVLHC, LLC, t/a Jimmy Valentine's Lonely Hearts Club, Board Order No. 2007-066 (D.C.A.B.C.B. Jul. 11, 2007).

4. The parties agreed to stipulate to the facts. *Tr.*, 6/15/11 at 35. On Monday, September 6, 2010, after 3:00 a.m., a DJ was playing music and entertaining patrons inside the establishment, even though the establishment's entertainment hours cease at 2:00 a.m. on Monday. *Tr.*, 6/15/11 at 33; *ABRA Show Cause File No. 10-251-00204, Case Report, 2*. The Respondent did not dispute that this violates the Voluntary Agreement. *Tr.*, 6/15/11 at 38.

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) (2001). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines and reduce an ABC establishment's hours of operation. D.C. Code § 25-830 (2001); 23 DCMR §§ 705.10, 800, *et seq.* (2008).

6. We find that the Respondent violated the terms of its Voluntary Agreement. The law states that it is a violation for a licensee to "fail[] to follow its voluntary agreement, security plan, or Board order." D.C. Code § 25-823(6) (2001); see also D.C. Code § 25-724. The Respondent has admitted to having a DJ perform in its establishment past 3:00 a.m., even though the establishment's Board-approved entertainment hours cease at 2:00 a.m. The establishment's Voluntary Agreement requires the establishment to abide by the entertainment restrictions contained in its license, which we interpret to include complying with its Board-approved hours. *ABRA Show Cause File No. 10-251-00204, Voluntary Agreement, § 3(a)*; D.C. Code § 25-723. As such, we find the establishment violated the terms of its Voluntary Agreement in violation of § 25-823(6).

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 14th day of September 2011, finds that the Respondent, JVLHC, LLC, t/a Jimmy Valentine's Lonely Hearts Club, at premises 1103 Bladensburg Road, N.E., Washington, D.C., holder of a Retailer's Class CT License, violated D.C. Code § 25-823(6). The Board hereby **ORDERS** that:

1. 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.
2. The Respondent is no longer permitted to utilize the soft-closing period granted by the Board. As such, the establishment's hours of operation shall conform to its hours of sale, service, and consumption of alcoholic beverages.

2. The Respondent is no longer permitted to utilize the soft-closing period granted by the Board. As such, the establishment's hours of operation shall conform to its hours of sale, service, and consumption of alcoholic beverages.

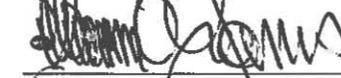
District of Columbia
Alcoholic Beverage Control Board



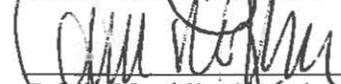
Nick Alberti, Interim Chairperson



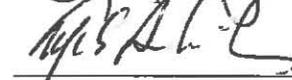
Donald Brooks, Member



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, Reeves Center, 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) (2004).