

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

<b>In the Matter of:</b>	)	
Lucky 7, LLC	)	
t/a Lucky 7 Liquor	)	
Holder of a	)	Case No. 15-CMP-00272
Retailer's Class A License	)	License No. ABRA-090270
at premises	)	Order No. 2016-390
2314 Rhode Island Avenue, N.E.	)	
Washington, D.C. 20018	)	

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
Ruthanne Miller, Member  
James Short, Member

**PARTIES:** Lucky 7, LLC, t/a Lucky 7 Liquor, Respondent  
  
Wendell C. Robinson, Counsel, on behalf of the Respondent  
  
Louise Phillips Assistant Attorney General  
Office of the Attorney General for the District of Columbia

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

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**INTRODUCTION**

The Alcoholic Beverage Control Board finds that Lucky 7, LLC, t/a Lucky 7 Liquor (Respondent), violated District of Columbia (D.C.) Official Code §§ 25-701 and 25-711(b) on March 21, 2015. As a result, the Respondent must pay a \$2,000 fine.

*Procedural Background*

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Alcoholic Beverage Control Board executed on August 20, 2015. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2314 Rhode Island Avenue, N.E., Washington, D.C., on September 4, 2015.

The Notice charged the Respondent with the following violations:

**Charge I:** [On Saturday, March 21, 2015] [y]ou failed to have a Board approved manager on site, in violation of D.C. Official Code § 25-701...

**Charge II:** [On Saturday, March 21, 2015] [y]ou failed to post on the front window or front door the correct name or names of the licensee(s) and the class and number of the license in plain and legible letters, in violation of D.C. Official Code § 25-711(b)...

*ABRA Show Cause File No., 15-CMP-00272, Notice of Status Hearing and Show Cause Hearing, 2-3 (August 20, 2015).*

On March 27, 2015, Citation #5151 was issued to the Respondent in the amount of \$1,500—the minimum fine—for violating D.C. Official Code §§ 25-701 and 25-711(b). On April 20, 2015, the Respondent requested a hearing. On November 18, 2015, the Board held a Show Cause Status Hearing. There was no settlement of the matter and it proceeded to a Show Cause Hearing on January 20, 2016.

The Respondent failed to appear at the Show Cause Hearing held on January 20, 2016. The Board proceeded to hearing pursuant to D.C. Official Code § 25-447(e), which allows for an ex parte proceeding.

The Board granted a motion for rehearing filed by Lucky 7 because the notice of the date for the show cause hearing was not sent to Lucky 7's counsel. *In re Lucky 7, LLC, t/a Lucky 7 Liquor*, Case No. 15-CMP-00272, Board Order No. 2016-223, 1 (D.C.A.B.C.B. Apr. 27, 2016). The Board noted in its order that it would take “official notice of the record, testimony, and exhibits produced at the original Show Cause Hearing . . . on January 20, 2016.” *Id.*

The second Show Cause Hearing in this matter was held on May 11, 2016.

## FINDINGS OF FACT

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all 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 August 20, 2015. *See ABRA Show Cause File No. 15-CMP-00272. Lucky 7, LLC, t/a Lucky 7 Liquor, holds a Retailer's Class A License, ABRA License No. ABRA-090270. See ABRA Licensing File No. ABRA-090270. The establishment is located at 2314 Rhode Island Avenue, N.E., Washington, D.C. See ABRA Licensing File No. ABRA-090270.*

2. The Show Cause Hearing was held on January 20, 2016. The Notice charges the Respondent with two violations enumerated above. *See ABRA Show Cause File No. 15-CMP-00272.*

## II. Testimony of ABRA Investigator Shawn Townsend

3. The Government presented its case through the testimony of one witness, ABRA Investigator Shawn Townsend. *Transcript (Tr.)* 1/20/16 at 5-6.
4. Investigator Townsend authored the Investigative Report, whose contents and exhibits serve as the basis of the present charges. *Tr.* 1/20/16 at 14. Government's Exhibit 1.
5. On March 21, 2015, Investigator Townsend visited the Respondent's establishment to conduct a Regulatory Inspection. *Tr.* 1/20/16 at 7. Investigator Townsend identified himself to a female employee and asked to speak to the owner or an ABC-licensed Manager. *Tr.* 1/20/16 at 8. Neilia Drummond, the Respondent's employee, informed Investigator Townsend that there was no ABC-licensed manager or the owner on the premises. *Tr.* 1/20/16 at 8-9. During this visit, Investigator Townsend observed an alcoholic beverage sales transaction take place while the establishment was operated by Ms. Drummond. *Tr.* 1/20/16 at 13.
6. Ms. Drummond telephonically contacted the owner. *Tr.* 1/20/16 at 9. Investigator Townsend advised the owner via telephone that the establishment was in violation for selling alcoholic beverages without having an ABC-licensed manager or an owner present. *Tr.* 1/20/16 at 9. Investigator Townsend then conducted a regulatory inspection. *Tr.* 1/20/16 at 9.
7. During the Regulatory Inspection, Investigator Townsend also found that the Respondent did not have window lettering posted. *Tr.* 1/20/16 at 9. Investigator Townsend also advised the owner via telephone about this violation. *Tr.* 1/20/16 at 9. Investigator Townsend provided Ms. Drummond with temporary window lettering. *Tr.* 1/20/16 at 9.
8. On March 27, 2015, Investigator Townsend made a second visit to the Respondent's establishment to issue a citation to the Respondent for not having an ABC-licensed Manager on duty and window lettering posted on March 21, 2015. *Tr.* 1/20/16 at 10-11. *See* ABRA Show Cause File No. 15-CMP-00272. During this second visit, Meskrem Mehri, owner, was present. *Tr.* 1/20/16 at 11. Investigator Townsend advised Ms. Mehri again about the violations observed on March 21, 2015. *Tr.* 1/20/16 at 10-11. In addition, Investigator Townsend issued to the Respondent a warning for not having the ABC license conspicuously posted, in violation of D.C. Official Code § 25-711(a). *Tr.* 1/20/16 at 11. *See* ABRA Show Cause File No. 15-CMP-00272.
9. Ms. Mehri indicates that she left the establishment to pick up her son who asked her to pick him up because he was sick. *Tr.*, May 11, 2016 at 54-55.
10. Tsegaye Tadesse helps his wife, Ms. Ms. Mehri, with the business. *Id.* at 73. He admitted that the business took down the license when it expired in order to renew it. *Id.* at 74. He indicated that he believed he had to take the license down to renew it. *Id.* at 71.

## CONCLUSIONS OF LAW

11. 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 (D.C.) Official Code pursuant to D.C. Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2016). 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. Standard of Proof

12. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2016). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep't of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) *citing Children's Defense Fund v. District of Columbia Dep't of Employment Servs.*, 726 A.2d 1242, 1247 (D.C.1999).

### II. Violations

13. The Board finds the Respondent guilty of both charged offenses.

**a. The Respondent failed to have a manager present while operating in violation of § 25-701.**

14. The Board finds the Respondent liable for permitting the licensed establishment to operate on March 21, 2015, without either the licensee or an ABC-licensed Manager superintending during the hours of alcoholic beverages sales in violation of D.C. Official Code § 25-701.

15. ABRA’s regulations are clear that either the licensee or an ABC-licensed Manager must be present while the establishment is operating. Title 23 of the DCMR § 707.1 provides that in the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises.

16. The Board finds that the facts set forth in the Investigative Report support the charge and support a finding of liability as to the Respondent. It is unrefuted that on March 21, 2015 at approximately 10:40 p.m., there was no ABC-licensed manager or owner on the premises. Furthermore, the Respondent was open and operating during Investigator Townsend’s visit.

**b. The Respondent failed to have the appropriate window lettering posted in violation of § 25-711.**

17. The Board further finds that the Respondent did not have the ABRA license information posted on the front door or exterior window. The Board credits Investigator

Townsend, who personally observed, on March 21, 2015, that the Respondent did not have the window lettering posted as required by D.C. Official Code § 25-711(b).

### III. Penalty

18. The Respondent's Investigative History shows that these are the Respondent's third secondary tier violations within three years. *Licensing File No. ABRA-090270*, Investigative History; 23 DCMR § 802. Thus, the Board may fine the Respondent between \$750 and \$1,000 for each offense. *Licensing File No. ABRA-090270*, Investigative History; § 23-802.

19. On a final note, the Board recognizes that the Respondent did not materially contest the charges. Instead, the Respondent argues that she should be excused from liability because the owner was picking up their adult child at the University of Maryland. *Tr.*, 5/11/16 at 54-55. The Respondent further argues that taking down the window lettering was merely mistake.

20. The Board is not inclined to issue a warning related to these offenses because they are not first offenses and show a general lack of knowledge about the basic responsibilities of licensure. Moreover, there is no excuse for not having a manager when the owner was not personally incapacitated and could have ordered her employee to shut the store down while she was out.

21. If the Respondent lacks sufficient knowledge about the responsibilities of licensure, then it is imperative that the Respondent immediately educate herself about these requirements. For example, the Respondent could attend some of the free trainings that ABRA frequently offers or read the educational materials provided by the agency.<sup>1</sup>

### ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 22nd day of June 2016, finds that the Respondent, Lucky 7, LLC, t/a Lucky 7 Liquor, located at 2314 Rhode Island Avenue, N.E., Washington, D.C., holder of a Retailer's Class A license, violated D.C. Official Code §§ 25-701 and 25-711(b).

The Board hereby **ORDERS** that:

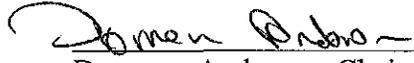
- 1) Charge I: Respondent must pay a fine in the amount of \$1,000.
- 2) Charge II: Respondent must pay a fine in the amount of \$1,000.
- 3) In total, the Respondent must pay a fine in the amount of \$2,000 by no later than thirty (30) from the date of this Order or its license shall be suspended until all outstanding fines are paid.

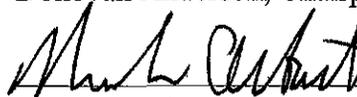
Copies of this Order shall be sent to the Respondent and the Government.

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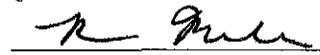
<sup>1</sup> A written guide for Class A license holders may be found on ABRA's website at <http://abra.dc.gov/node/668192>.

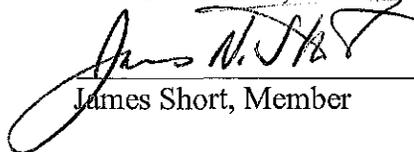
District of Columbia  
Alcoholic Beverage Control Board

  
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Donovan Anderson, Chairperson

  
\_\_\_\_\_  
Nick Alberti, Member

  
\_\_\_\_\_  
Mike Silverstein, Member

  
\_\_\_\_\_  
Ruthanne Miller, Member

  
\_\_\_\_\_  
James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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).