

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

In the Matter of:)	
)	
Ameda Sofenias)	
t/a Queen Makeda)	
)	Case No. 11-251-00349
Holder of a Retailer's Class CR License)	License No. ABRA-60510
at premises)	Order No. 2012-251
1917 9th Street, N.W.)	
Washington, D.C.)	

BEFORE:

Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Michael Stern, Senior 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 March 6, 2012, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated February 22, 2012, on Ameda Sofenias, t/a Queen Makeda (Respondent), at premises 1917 9th Street, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Licensee made a substantial change in the format of the licensed establishment without first obtaining approval of the Board in violation of D.C. Official Code § 25-762(a), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823 (1) (2001).

Charge II: The Licensee sold or served alcoholic beverages after 2:00 a.m. in violation of D.C. Official Code § 25-723(b), for which the Board

may take proposed action pursuant to D.C. Official Code § 25-823 (1) (2001).

The Board held a Show Cause Status Hearing on April 4, 2012. There was no settlement of the matter and it proceeded to a Show Cause Hearing on May 9, 2012. The Respondent failed to appear at the Show Cause Hearing and the Board proceeded ex parte pursuant to D.C. Official Code § 25-447(e).

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 February 22, 2012. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 11-251-00349. The Respondent holds a Retailer's Class CR license, and is located at 1917 9th Street, N.W., Washington, D.C. *See* ABRA Licensing File No. 60510. The Respondent's closing hours are 2:00 a.m., Sunday through Thursday, and 3:00 a.m. on Friday and Saturday. *See* ABRA Licensing File No. 60510.
2. The Show Cause Hearing was held on May 9, 2012. *See* ABRA Show Cause File No. 11-251-00349. The Notice charges the Respondent with the two violations enumerated above. *See* ABRA Show Cause File No. 11-251-00349.
3. The Government presented its case through the testimony of one witness, ABRA Investigator Earl Jones. *Transcript (Tr.)*, 5/9/12 at 3.
4. Investigator Jones testified that he was made aware of an incident that occurred at Respondent's establishment on Thursday, November 3, 2011, when he received a report from the Metropolitan Police Department (MPD). *Tr.*, 5/9/12 at 5. Investigator Jones conducted an investigation, and completed an investigative report. *See* Government's Exhibit 1.
5. At 2:00 a.m. on November 3, 2011, MPD Officer Jonathan Roff monitored the Respondent's establishment where he observed patrons consuming alcoholic beverages while they were inside the establishment. *Tr.*, 5/9/12 at 5, 16. Officer Roff waited until 2:05 a.m. to ascertain if the consumption of alcoholic beverages would cease. *Tr.*, 5/9/12 at 5, 20. Officer Roff then heard an argument coming from the second floor of the establishment, so he entered the premises, and proceeded upstairs. *Tr.*, 5/9/12 at 5-6, 20.
6. As Officer Roff proceeded upstairs, he observed several patrons descending the interior stairwell with alcoholic beverages in their hands. *Tr.*, 5/9/12 at 6, 20. At the top of the stairwell, Officer Roff observed an altercation between the establishment's management and a female patron. *Tr.*, 5/9/12 at 5. Officer Roff also observed ten to 20 other patrons who had alcoholic beverages in their hands. *Tr.*, 5/9/12 at 6, 16, 18. All

observations made by Officer Roff were between 2:05 a.m. and 2:25 a.m. when all patrons finally exited the establishment. *See* Notice, p. 2.

7. On November 15, 2011, Investigator Jones visited the establishment and spoke to ABC-licensed managers, Reginald Eliason and Molisa Fisher. *Tr.*, 5/9/12 at 7. Mr. Eliason and Ms. Fisher denied that the establishment was open and operating after hours on November 3, 2011, and they were unaware that patrons were consuming alcoholic beverages on the first floor. *Tr.*, 5/9/12 at 7, 16.

8. The Respondent's Disc Jockey announced "last call" at 1:30 A.M., and patrons began to exit the establishment while discarding their drinks. *Tr.*, 5/9/12 at 8, 17. Mr. Eliason and Ms. Fisher stopped serving alcoholic beverages at "last call". *Tr.*, 5/9/12 at 8.

9. Mr. Eliason and Ms. Fisher indicated that a female patron became irate at closing time. *Tr.*, 5/9/12 at 8. The patron told Ms. Fisher that she had paid too much for her drink, and she did not want to throw it away. *Tr.*, 5/9/12 at 8, 10. The patron intended to stay at the establishment and finish her drink. *Tr.*, 5/9/12 at 8, 17. Ms. Fisher attempted to stop the patron when the patron hit and pulled Ms. Fisher's hair. *Tr.*, 5/9/12 at 10, 12, 18. Mr. Eliason intervened and advised the patron to discard her alcoholic beverage. *Tr.*, 5/9/12 at 11, 18.

10. Mr. Eliason and Ms. Fisher informed Investigator Jones that the patron had calmed down by the time the Officer Roff arrived upstairs. *Tr.*, 5/9/12 at 9. The patron placed her drink on the bar, and proceeded to exit the establishment. *Tr.*, 5/9/12 at 9, 20. Ms. Fisher informed Officer Roff that she had been assaulted by the female patron. *Tr.*, 5/9/12 at 11.

11. Mr. Eliason and Ms. Fisher admitted to Investigator Jones that the promoter had an alcoholic beverage after hours while he was packing his equipment at the end of the performance. *Tr.*, 5/9/12 at 9. The promoter was served prior to closing time, and neither Mr. Eliason nor Ms. Fisher could explain why he had an alcoholic beverage beyond the establishment's closing time. *Tr.*, 5/9/12 at 15.

12. Mr. Eliason and Ms. Fisher denied any knowledge that patrons were consuming alcoholic beverages on the first floor after 2:00 a.m. *Tr.*, 5/9/12 at 12. They were unaware that there were patrons drinking on the first floor after hours because they were engaged on the second floor with the irate female patron. *Tr.*, 5/9/12 at 13, 17-18.

CONCLUSIONS OF LAW

13. 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 DCMR § 800, *et. seq.*

14. 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).

15. With regard to Charge I, the Board finds that the Respondent made a substantial change without receiving prior Board approval in violation of D.C. Official Code §§ 25-762(a) and (b)(13). The Board finds that the Respondent made a substantial change in its operations by operating beyond Board-approved hours. The Board makes this finding based on the testimony of Investigator Jones and the documentary evidence admitted as Government’s Exhibit 1.

16. The Board also finds that the Respondent sold or served alcoholic beverages after 2:00 a.m. in violation of § 25-762(a). The Board makes this finding based on the testimony of Investigator Jones and the documentary evidence admitted as Government’s Exhibit 1.

17. Therefore, based upon the above, the Board finds that the Respondent’s violation of D.C. Official Code § 25-762(a) and § 25-723(b), as set forth in Charge I and Charge II of the Notice to Show Cause, dated February 22, 2012, warrants the imposition of a fine and a suspension of the license.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 11th day of July 2012, finds that the Respondent, Ameda Sofenias, t/a Queen Makeda, located at 1917 9th Street, N.W., Washington, D.C., holder of a Retailer’s Class CR license, violated D.C. Official Code §§ 25-762 (a) and (b)(13).

The Board hereby **ORDERS** that:

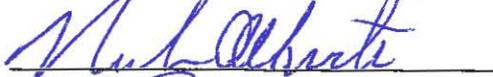
- 1) The Respondent shall pay a fine in the amount of \$2,000.00 no later than thirty (30) days from the date of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions.
- 2) The Respondent shall have its license suspended indefinitely effective July 20, 2012, until such time that all prior outstanding fines owed to ABRA are paid in full; specifically the \$2,000 fine resulting from the Offer in Compromise entered into by agreement of the Government and the Respondent in Case #11-CMP-00261 on February 18, 2012.

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

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Interim 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., 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, 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).