

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

In the Matter of:	)	
	)	
Queen of Sheba, Inc.	)	
t/a Queen of Sheba	)	
Holder of a	)	License No.: ABRA-073644
Retailer's Class CR License	)	Case No.: 12-AUD-00033 (NCBO)
	)	Order No.: 2014-096
at premises	)	
1503 9th Street, N.W.	)	
Washington, D.C. 20001	)	

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Mike Silverstein, Member  
Hector Rodriguez, Member  
James Short, Member

**ALSO PRESENT:** Queen of Sheba, Inc., t/a Queen of Sheba, Respondent  
  
Embzam Misgina, on behalf of the Respondent  
  
Maureen Zaniel, Senior Assistant Attorney General,  
on behalf of 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 Queen of Sheba, Inc./t/a Queen of Sheba (Respondent) violated a Board Order by failing to pay a fine of \$4,000.00 for previous ABRA violations in a timely manner. As a result, § 25-823(6) requires the Board to impose an additional penalty on the Respondent in the amount of \$1,000.00.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on November 6, 2013. *See* ABRA Show Cause File

No. 12-AUD-00033(NCBO), Notice of Status Hearing and Show Cause Hearing. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1503 9th Street, N.W., Washington, D.C. 20001, on November 13, 2013. *See* ABRA Show Cause File No. 12-AUD-00033(NCBO), Service Form.

The Notice charges the Respondent with failure to follow an order of the Board, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC license. Specifically, the Notice, charges the Respondent with the following violation:

Charge I: The Respondent failed to follow a Board Order, in violation of D.C. Official Code § 25-823(6) (2001) in that the Respondent failed to pay a fine as ordered by the Board on August 14, 2013, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6) (2001).

The Board ordered that the Respondent submit to ABRA, no later than thirty (30) days from the date of the order, the amount of \$4,000.00 for the violation of D.C. Official Code § 25-113(b)(2)(A).

The Show Cause Status Hearing occurred on January 15, 2014. The Government and the Respondent appeared at the Show Cause Hearing for this matter on February 26, 2014.

### 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:

1. The Respondent holds a Retailer's Class CR License, License Number ABRA-073644. *See* Licensing File No. ABRA-073644. The establishment's premises are located at 1503 9<sup>th</sup> Street, N.W., Washington, D.C. 20001. *See* Licensing File No. ABRA-073644.
2. On August 14, 2013, the Board issued Board Order No. 2013-350, which found that the Respondent violated D.C. Official Code § 25-113(b)(2)(A) on May 1, 2012. *See* ABRA Show Cause File No. 12-AUD-00033(NCBO), Board Order No. 2013-350. In response, the Board imposed a \$4,000.00 fine to be paid no later than thirty (30) days from the date of the Board Order No. 2013-350, dated August 14, 2013. *See* ABRA Show Cause File No. 12-AUD-00033(NCBO), Board Order No. 2013-350.
3. The Government presented its case through the testimony of one witness, ABRA Public Information Officer, William Hager. *Transcript (Tr.)*, 2/26/13 at 15. The Board issued Board Order No. 2013-350, on August 14, 2013, that required the Respondent to pay a fine in the amount of \$4,000.00 within thirty (30) days. *Tr.*, 2/26/13 at 16-17. Mr.

Hager testified that the Respondent did not pay the \$4,000.00 fine by September 14, 2013, the deadline to pay the fine. *Tr.*, 2/26/13 at 17. After the payment due date had passed, ABRA staff sent a delinquency letter to the Respondent on September 25, 2013, but no response or payment was received by ABRA. *Tr.*, 2/26/13 at 17-18. The Respondent failed to pay this fine in a timely manner, but ultimately made late payment on February 21, 2014. *Tr.*, 2/26/13 at 18.

4. At the hearing, Mr. Embzam Misgina stipulated that he did not pay the levied fine of \$4,000.00 by the deadline of September 14, 2013. *Tr.*, 2/26/13 at 19. Mr. Misgina stated that he was unable to pay the fine amount on time because his business was “very slow.” *Tr.*, 2/26/13 at 20. Mr. Misgina indicated that he paid the fine the week before this hearing. *Tr.*, 2/26/13 at 20.

### CONCLUSIONS OF LAW

5. 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 D.C. Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2013). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830.

6. The Board determines that the Respondent violated a Board Order by failing to remit payment on a fine levied by the Board by the required deadline of September 14, 2013, in violation of D.C. Official Code § 25-823(6). The provision states, in part, “The Board may fine, as set forth in the schedule of civil penalties established under § 25-830, and suspend, or revoke the license of any licensee during the license period if... The licensee fails to follow its voluntary agreement, security plan, or Board order.” D.C. Official Code § 25-823.

7. The Board makes this finding based on the testimony of Mr. Hager and the evidence in the record that shows that the fine was not paid. Furthermore, the Respondent stipulated to the fact that while he paid the fine at issue, he failed to do so by the specified deadline of September 14, 2013. By failing to remit timely payment of this fine, the Respondent violates the conditions of the Board Order No. 2013-350, which the Board issued on August 14, 2013.

8. Based on the Respondent’s violation, the Board has the authority to “fine, as set forth in the schedule of civil penalties established under § 25-830” and may “suspend, or revoke the license.” D.C. Official Code § 25-823. A violation of a Board order is fined as a primary tier violation. D.C. Official Code § 25-830(f).

9. The Respondent’s Investigative History shows that the Respondent has not committed any previous primary tier violations in the past four years. *Licensing File No. ABRA-073644*, Investigative History. Thus, the present violation shall be fined as a first primary tier violation and the Board may fine the Respondent between \$1,000.00 and \$2,000.00. *Licensing File No. ABRA-073644*, Investigative History; DCMR § 23-801.

## **ORDER**

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 26th day of March, 2014, finds Queen of Sheba, Inc., t/a Queen of Sheba, is guilty of Charge I. Accordingly, it is **ORDERED** that:

- (I) For the violation described in Charge I, the Respondent shall pay a fine of \$1,000.00 within thirty (30) days from the date of this order.

**IT IS FURTHER ORDERED** that Respondent shall pay the fine levied by the Board within thirty (30) days from the date of this order or its license shall be suspended until all outstanding fines are paid.

**IT IS FURTHER ORDERED** based on the present violation, the Respondent's Investigative History shall show that it committed an unlisted violation on the date of this order.

The ABRA shall deliver copies of this order to the Government and the Respondent.

District of Columbia  
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

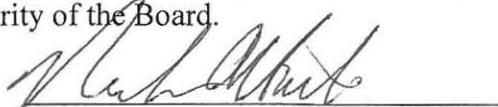


Hector Rodriguez, Member



James Short, Member

I concur with the majority's decision as to its finding of the Respondent's liability, but I dissent as to the penalty selected by the majority of the Board.



Nick Alberti, 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to D.C. Official Code § 25-433, 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).