

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

In the Matter of:)	
)	
De Amigo, LLC)	Case Number: 11-251-00372
t/a Sesto Senso/Andulo/Spot/Lupe/MIA)	License Number: 81092
)	Order Number: 2014-284
Holder of a)	
Retailer's Class CT License)	
)	
at premises)	
1214 18th Street, N.W.)	
Washington, D.C. 20036)	
)	

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

ALSO PRESENT: De Amigo, LLC, t/a Sesto Senso/Andulo/Spot/Lupe/MIA,
Respondent

Emanuel N. Mpras, on behalf of the Respondent

E. Louise R. Phillips, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ORDER GRANTING RESPONDENT'S MOTION TO STAY BOARD ORDER
PENDING APPEAL**

On June 18, 2014, the Alcoholic Beverage Control Board found De Amigo, LLC, t/a Sesto Senso/Andulo/Spot/Lupe/MIA (hereinafter "Respondent" or "MIA") in violation of one count of violating D.C. Official Code § 25-823(2) and two counts of violating § 25-823(6). In re De Amigo, LLC, t/a Sesto Senso/Andulo/Spot/Lupe/MIA, Case Number 11-251-00372, Board Order No. 2014-252, 1 (D.C.A.B.C.B. Jun. 18, 2014). In total, the Board imposed a fine of \$18,000 and placed fifteen suspension days on the Respondent's

license, with nine of those days to be served, and six days to be conditionally stayed for one year. *Id.* at 1-2. Subsequently, the Respondent filed an appeal with the District of Columbia Court of Appeals and the Board received a petition to stay the Board's prior order. Because once served, a suspension cannot be undone, the Board will hold its decision in this matter in abeyance until the court rules on the Respondent's petition. Kuflom v. District of Columbia Bureau of Motor Vehicle Services, 543 A.2d 340, 344 (D.C. 1988).¹

The Board notes that the Respondent solely filed a request for a stay and has not filed a motion for reconsideration with the Board at this time. Consequently, the Respondent has waived its opportunity to file a motion for reconsideration under D.C. Official Code § 25-433(d)(1).²³

ORDER

Therefore, the Board, on this 11th day of July 2014, here **STAYS** Board Order No. 2014-252. Copies of this Order shall be sent to the Government and the Respondent.

¹ The Board notes that the Respondent's Certificate of Service does not indicate that the Government has been served with the Respondent's motion. The Board renders the current decision, despite the failure to properly serve the Government, based on the filing of the appeal and the Board's belief that granting the request for a stay will not prejudice the Government. 23 DCMR § 1703.8.

² The Board notes that the Respondent continues to argue that the Civil Infractions Act applies to this proceeding before the Alcoholic Beverage Control Board. *Petition*, 20. However, this line of argument ignores D.C. Official Code § 25-831, which states

A civil fine may be imposed as an alternative sanction for any violation of this title *for which no specific penalty is provided*, or any rules or regulations issued under the authority of this title, under Chapter 18 of Title 2. Adjudication of an infraction of this chapter shall be under Chapter 18 of Title 2.

D.C. Official Code § 25-831(d) (emphasis added). Because § 25-823 provides for fines in accordance with the civil penalty schedule, suspensions, and revocations as a penalty in this case, the Civil Infractions Act does not apply. D.C. Official Code § 25-823.

³ The Respondent further raises the issue of whether video records must be produced upon request under § 25-823(5); however, that is not the issue in the present case. Compare *Petition*, 28 n. 5 with *In re De Amigo, LLC, t/a Sesto Senso/Andulo/Spot/Lupe/MIA*, Board Order No. 2014-252, ¶ 73 (saying "[t]he Respondent's security plan requires the establishment to maintain seven security cameras that are able to record for thirty days."). Instead, the issue is whether the Respondent complied with the terms of its security plan.

The Board recognizes that the court has previously questioned whether an establishment must turn over security footage upon request. Nevertheless, this question has been answered by the enactment of § 25-402(d)(3)(G). D.C. Official Code § 25-402(d)(3)(G), (iii) ("In the event that cameras are required to be installed by the Board or in accordance with the establishment's security plan, the establishment shall ensure . . . [t]he security footage is made available within 48 hours upon the request of ABRA or the Metropolitan Police Department.").

District of Columbia
Alcoholic Beverage Control Board



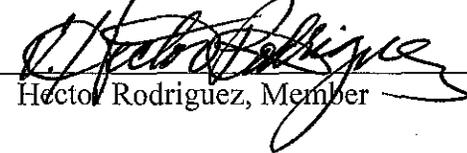
Ruthanne Miller, Chairperson



Nick Alberti, Member

Donald Brooks, Member

Mike Silverstein, Member



Hector Rodriguez, Member

James Short, Member

Pursuant to 23 DCMR § 1719.1, 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, 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).