

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

In the Matter of:)	
)	
DM Incorporated)	License Number: 78697
t/a Shashemene Ethiopian Restaurant)	Case Number: 10-CMP-00109
)	Order Number: 2010-562
Holder of a Retailer's Class CR License)	
at premises)	
1909 9th Street, N.W.)	
Washington, D.C. 20001)	

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: DM Incorporated, t/a Shashemene Ethiopian Restaurant, Respondent

Louise Phillips, Assistant Attorney General
Office of Attorney General, District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

On July 27, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated July 21, 2010, on DM Incorporated, t/a Shashemene Ethiopian Restaurant (Respondent), at premises 1909 9th Street, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent failed to have an owner or ABC Manager present while patrons were consuming alcohol on the premises, in violation of D.C. Code, in violation of D.C. Official Code § 25-701 (2001), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

Charge II: The Respondent served alcoholic beverages after the hours of sale and delivery permitted by its license, in violation of D.C. Code § 25-723(b) (2001) and 23 DCMR § 705.9 (2008), for which the Board may take the proposed action pursuant to D.C. Code § 25-823(1).

The matter proceeded to a Show Cause Hearing where the Government and the Respondent presented evidence through the testimony of witnesses and the submission of documentary evidence. The Board, having considered the evidence, the testimony of witnesses, 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 July 21, 2010. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 10-CMP-00109). The Respondent holds a Retailer's Class CR License and is located at 1909 9th Street, N.W., Washington D.C. (*See* ABRA Licensing File No. 78697).
2. The Show Cause Hearing in this matter was held on October 20, 2010. The Notice to Show Cause, dated July 21, 2010, charges the Respondent with the two violations enumerated above. (*See* ABRA Show Cause File Number 10-CMP-00109).
3. The Government presented its case through the testimony of one witness, ABRA Investigator Jabriel Shakoor. *Transcript (Tr.)*, 10/20/10 at 7. The Government also submitted Investigator Shakoor's report to the Board. (*See* ABRA Show Cause File Number 10-CMP-00109, Exhibit A).
4. Investigator Shakoor testified that he entered the Respondent's establishment on March 19, 2010. *Tr.*, 10/20/10 at 9. He stated that he arrived at the establishment at 3:20 a.m. and left the establishment at 3:40 a.m. *Tr.*, 10/20/10 at 9, 12. He stated that he was observing 9th Street, N.W., in order to monitor for "after-hours issues." *Tr.*, 10/20/10 at 17.
5. Investigator Shakoor stated that the establishment should have been closed at 3:00 a.m. *Tr.*, 10/20/10 at 9. Nevertheless, he witnessed ten to 15 people inside the establishment and observed that many "still had beverages in front of them." *Tr.*, 10/20/10 at 9-10.
6. Investigator Shakoor stated that he also observed patrons enter the establishment after he spoke with the bartenders. *Tr.*, 10/20/10 at 10. He stated that he observed the patrons enter and sit at the establishment's bar. *Tr.*, 10/20/10 at 10. However, he did not see the new patrons purchase alcohol because he became occupied by his compliance investigation. *Tr.*, 10/20/10 at 10. Investigator Shakoor testified that the establishment appeared to still be serving alcoholic beverages. *Tr.*, 10/20/10 at 19.

7. Investigator Shakoor testified that when he requested to speak to an ABC Manager the establishment presented Mr. Yenesew. *Tr.*, 10/20/10 at 11. According to Investigator Shakoor, Mr. Yenesew admitted during the investigation that he was a manager but was not licensed as an ABC licensed manager. *Tr.*, 10/20/10 at 11-12. Mr. Yenesew also informed Investigator Shakoor that the owner was not present. *Tr.*, 10/20/10 at 11.

8. Investigator Shakoor's case report indicated that he observed patrons dancing and drinking alcoholic beverages at 3:20 a.m. (*See* ABRA Show Cause File Number 10-CMP-00109, Exhibit A). According to Investigator Shakoor's report, patrons were specifically consuming Heineken and Miller Light beer. (*See* ABRA Show Cause File Number 10-CMP-00109, Exhibit A).

9. The Respondent presented its case through the testimony of one witness, Abunei Yenesew. *Tr.*, 10/20/10 at 20. Mr. Yenesew stated that he serves as a shift manager at the establishment and is currently an ABC licensed manager. *Tr.*, 10/20/10 at 20.

10. Mr. Yenesew testified that the ABC licensed manager left the establishment at 3:00 a.m. *Tr.*, 10/20/10 at 21. He testified that the ABC licensed manager closed the door and turned off the establishment's sign. *Tr.*, 10/20/10 at 21. He stated that the only people in the establishment were the employees and a few patrons. *Tr.*, 10/20/10 at 21. According to Mr. Yenesew, the establishment was attempting to get people to leave. *Tr.*, 10/20/10 at 21. He stated that patrons were making their way towards the door. *Tr.*, 10/20/10 at 22. He stated that the manager, Ms. Fisium, left because of an emergency. *Tr.*, 10/20/10 at 28.

11. He testified that he believes Investigator Shakoor entered the establishment at around 3:07 a.m. but admitted that he is only guessing. *Tr.*, 10/20/10 at 22, 36-37. Mr. Yenesew testified that he and other employees were cleaning the establishment. *Tr.*, 10/20/10 at 23. He testified that there were no alcoholic beverages on the table. *Tr.*, 10/20/10 at 24.

12. Mr. Yenesew testified that people were able to come into the establishment after it closed because an employee left and did not lock the door. *Tr.*, 10/20/10 at 28. He further testified that there were only two customers in the establishment after 3:00 a.m. *Tr.*, 10/20/10 at 31. He testified that the two customers had already finished their drinks. *Tr.*, 10/20/10 at 34.

13. Mr. Yenesew admitted that he was coming back from taking out the trash when he noticed patrons and Investigator Shakoor in the establishment. *Tr.*, 10/20/10 at 41. Mr. Yenesew testified that Investigator Shakoor did not appear to have any alcoholic beverages in his possession. *Tr.*, 10/20/10 at 42.

CONCLUSIONS OF LAW

14. 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. D.C. Code § 25-830 and 23 D.C.M.R. 800, *et seq.*

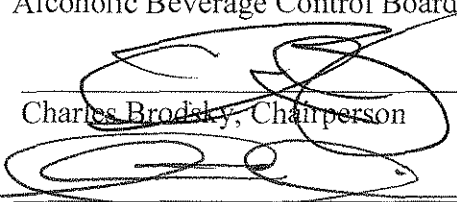
15. The Board finds that the Government has proven the charges against the Respondent. The Respondent violated D.C. Code §§ 25-701, 25-723(b) and 23 DCMR 705.9 by operating after legally approved hours and by not having an ABC licensed manager present while customers consumed alcoholic beverages. The Board credits the testimony of Investigator Shakoor that he entered the establishment at 3:20 a.m., observed patrons dancing and consuming Heineken and Miller Light beer. Investigator Shakoor also determined that no ABC licensed manager or owner was present, which was affirmed by the Respondent's witness, Mr. Yenesew. For these reasons, the Board finds in favor of the Government.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 1st day of December 2010, finds that the Respondent, DM Incorporated, t/a Shashemene Ethiopian Restaurant at premises 1909 9th Street, N.W., Washington, D.C., holder of a Retailer's Class CR License, violated D.C. Official Code §§ 25-701, 25-723(b), and 23 DCMR 705.9. The Board hereby **ORDERS** that:

1. The Respondent shall pay a fine in the amount of \$2,000.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for four (4) days; two (2) days served and two (2) days stayed for one year, provided that the Respondent does not commit any ABC violations. The Respondent shall have its license suspended from December 21, 2010, through December 22, 2010.

District of Columbia
Alcoholic Beverage Control Board

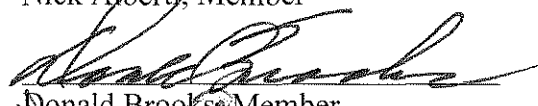


Charles Brodsky, Chairperson

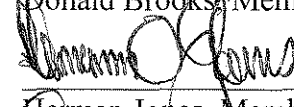
Mital Gandhi, Member



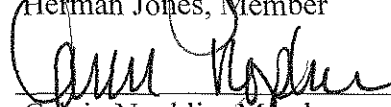
Nick Albert, Member



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Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, Member

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 the 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 (April 2004) 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).