

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

In the Matter of:)		
)		
Jonai Morse)		
t/a Sierra Catering)		
Applicant for a Temporary License)	Case No.	11-CMP-00141
)	License No.	ABRA-86514
)	Order No.	2012-115
1354 Leegate Road, N.W.)		
Washington, D.C. 20012)		

BEFORE: Ruthanne Miller, Chair
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member
Jeannette Mobley, Member

ALSO PRESENT: Amy Schmidt, 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 December 8, 2011, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated November 16, 2011, on Jonai Morse, t/a Sierra Catering (Respondent), located at premises 1354 Leegate Road, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent made false statements on its application for a temporary license, in violation of D.C. Official Code § 25-401(c) in that the Licensee indicated that there would only be 600 guests at a black tie affair, that Allied Security Company was to provide security, and that food would be served, for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

- Charge II: The Respondent failed to post a warning sign in a conspicuous place, regarding the dangers of alcohol consumption during pregnancy, in violation of D.C. Official Code § 25-712(a), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(3) (2001).
- Charge III: The Respondent failed to remain on the premises of a catered event, or have a designated manager present at the event, in violation of D.C. Official Code 23 DCMR § 2000.2, 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 January 18, 2012. There was no settlement of the matter and it proceeded to a Show Cause Hearing on February 15, 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 argument 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 November 16, 2011. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 11-CMP-00141. The Notice charges the Respondent with the three violations enumerated above. *See* ABRA Show Cause File No. 11-CMP-00141.
2. The Respondent was an applicant for a Temporary License to be used on February 26, 2011, for an event at The Historical Society of Washington, D.C. *See* ABRA Licensing File No. ABRA-86514. The hours of the event were from 9:00 p.m. to 3:00 a.m., and the hours of sale and consumption of alcoholic beverages were from 9:00 p.m. to 2:30 a.m. *See* ABRA Licensing File No. ABRA-86514.
3. The Show Cause Hearing was held on February 15, 2012. *See* ABRA Show Cause File No. 11-CMP-00141.
4. The Government presented its case through the testimony of one witness, ABRA Investigator Tyrone Lawson. *Transcript (Tr.)*, 02/15/12 at 6.
5. Inv. Lawson was assigned to monitor the event that was held at The Washington Historical Society Building on February 26, 2011. *Tr.*, 02/15/12 at 6, 28. His responsibilities included ensuring that the Respondent was in compliance with the laws and regulations that govern ABC licensees. *Tr.*, 02/15/12 at 7. Inv. Lawson reviewed a copy of the temporary license application, and the Clean Hands Certificate to familiarize himself with the event. *Tr.*, 02/15/12 at 7; Government's Exhibit No. 1.

6. Inv. Lawson visited the venue twice during the night of the event; once at 9:30 p.m. for half an hour, and again at 11:40 p.m. for an hour. *Tr.*, 02/15/12 at 25, 29, 34. During the first visit, Inv. Lawson walked through the entire venue with ABRA Investigator Donnell Butler, and the promoter of the event, Danny Davies, of Danny D. Productions. *Tr.*, 02/15/12 at 25. There were six operating bars in the venue. *Tr.*, 02/15/12 at 25.

7. The Applicant's name is Jonai Morse and the name of the catering company is Sierra Catering. *Tr.*, 02/15/12 at 7-8. The license application stated that the event would have 600 attendees and that it was a black tie affair for Hampton University College. *Tr.*, 02/15/12 at 8. Allied Security was to have provided the security personnel for the event. *Tr.*, 02/15/12 at 8. Light hors d'oeuvres were to be served at the event. *Tr.*, 02/15/12 at 9. The Clean Hands Certificate indicates that the applicant does not owe more than \$100.00 to the District of Columbia. *Tr.*, 02/15/12 at 9.

8. Inv. Lawson took photographs while at the event, which show a crowd of attendees in excess of 600 people. *Tr.*, 02/15/12 at 19-11, 18-24; Government Exhibits No. 4-8. He observed that the venue was so crowded that people were in the stairwell leading to the first floor. *Tr.*, 02/15/12 at 16. The promoter, Mr. Davies, informed Inv. Lawson that he sold 2,100 tickets for the event. *Tr.*, 02/15/12 at 17-18.

9. Another photograph taken by Inv. Lawson depicts the attendees wearing casual clothing and that a few patrons were wearing suit jackets and neck ties. *Tr.*, 02/15/12 at 11. Inv. Lawson did not observe anyone in black tie attire. *Tr.*, 02/15/12 at 11, 27.

10. Security for the evening was provided by Prime Time, Inc. Security, and not Allied Security Company. *Tr.*, 02/15/12 at 12. The owner of the security company informed Inv. Lawson that he had been hired by Mr. Davies to provide 12 security personnel at the event. *Tr.*, 02/15/12 at 12. The security personnel were not equipped with two-way radios; instead they used cellular phones to communicate with one another. *Tr.*, 02/15/12 at 12.

11. Inv. Lawson did not observe any food being served at the event. *Tr.*, 02/15/12 at 13, 26, 33. A flyer used to promote the event did not mention black tie attire or that food would be served. *Tr.*, 02/15/12 at 13.

12. Inv. Lawson did not observe the posting of any signs warning of the dangers of consuming alcoholic beverages while pregnant. *Tr.*, 02/15/12 at 13. Mr. Davies confirmed that there were no warning signs posted anywhere in the building. *Tr.*, 02/15/12 at 14, 25. Neither the applicant nor a licensed manager was present when Inv. Lawson was monitoring the event. *Tr.*, 02/15/12 at 14, 31-32. The license application indicated that the applicant would be in attendance at the event. *Tr.*, 02/15/12 at 14.

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 false statements on its application for a temporary license, in violation of D.C. Official Code § 25-401(c). The Board makes this finding based on the testimony of Investigator Lawson.

16. With regard to Charge II, the Board finds that the Respondent failed to post a warning sign in a conspicuous place, in violation of D.C. Official Code § 25-712(a). The Board makes this finding based on the testimony of Investigator Lawson.

17. With regard to Charge III, the Board finds that the Respondent failed to remain on the premises of the event, in violation of D.C. Official Code § 23 DCMR § 2000.2. The Board makes this finding based on the testimony of Investigator Lawson.

18. Therefore, based upon the above, the Board finds that the Respondent’s violation of D.C. Official Code §§ 25-401(c), 25-712(a), and 23 DCMR § 2000.2., as set forth in Charges I, II, and III of the Notice to Show Cause, dated November 16, 2011, warrants the imposition of a fine and other appropriate penalties.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 28th day of March 2012, finds that the Respondent, Jonai Morse, t/a Sierra Catering, located at 1354 Leegate Road, N.W., Washington, D.C., applicant for a Temporary License, violated D.C. Official Code §§ 25-401(c), 25-712(a), and 23 DCMR § 2000.2.

The Board hereby **ORDERS** that:

- 1) The Respondent shall pay a fine in the amount of \$2,600.00 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) Neither the Respondent, nor any entity or licensee with whom the Respondent is affiliated, shall be approved for Temporary or One Day Substantial Change Licenses for one year from the date of this Order.

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

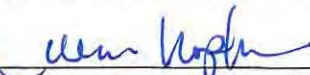
District of Columbia
Alcoholic Beverage Control Board



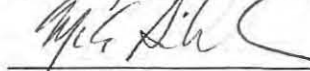
Ruthanne Miller, Chair



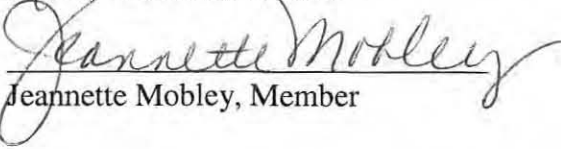
Donald Brooks, Member



Calvin Nophlin, Member



Mike Silverstein, Member




Jeannette Mobley, Member

We agree with the majority of the Board as to the finding that the Respondent violated D.C. Official Code §§ 25-401(c), 25-712(a), and 23 DCMR § 2000.2, as set forth in the Notice, but we dissent as to the penalty.



Nick Alberti, Interim Chairperson



Herman Jones, 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).