

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

In the Matter of:	)	
	)	
Indriana International, Inc.	)	License No. 76399
t/a Southeast Market	)	Case No. 09-CMP-00815
	)	Order No. 2010-546
Holder of a Retailer's Class B License	)	
at premises	)	
1500 Independence Avenue S.E.	)	
Washington, D.C.	)	

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

ALSO PRESENT: Kalawane Palitha, on behalf of the Respondent  
  
Maureen Zaniel, Senior Assistant Attorney General  
District of Columbia  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

On June 24, 2010, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated June 23, 2010, on Indriana International, Inc. t/a Southeast Market (Respondent), at premises 1500 Independence Ave., S.E., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent failed to comply with the provisions of the Voluntary Agreement that was approved by the Board, in violation of D.C. in violation of D.C. Official Code § 25-446 (2001) for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823 (6) (2001).

Charge II: The Respondent failed to post in a conspicuous place on the front window or front door of the licensee's premises, the correct name or names of the licensee and the class and number of the license in plain and legible lettering, not less than one inch nor more than 1.25 inches in height, in violation of D.C. Official Code § 25-711(b) (2001) for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823 (3) (2001).

The matter proceeded to a Show Cause Hearing on October 13, 2010, in accordance with D.C. Official Code § 25-601 (2001). The Respondent stipulated to the Charges and oral argument was received on the penalty portion of the hearing. The Board, having considered the evidence, the arguments of the parties, and the documents comprising the Board's files, makes the following:

#### FINDINGS OF FACT

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated June 23, 2010. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 09-CMP-00815.) The Respondent holds a Retailer's Class B License and is located at 1500 Independence Ave., S.E., Washington D.C. (*See* ABRA Licensing File Number 76399.)

2. The Show Cause Hearing in this matter was held on October 13, 2010. The Respondent was charged with two violations enumerated above. (*See* ABRA Show Cause File Number 09-CMP-00815.)

3. The Government presented its case through the admission of photographs, marked as Government's Exhibits Nos. 3, 4, and 5. *Transcript, October 13, 2010* (hereinafter "*Tr.*"), at 11. Government's Exhibit No. 3 is a photograph that depicts 22 bottles of alcoholic beverages, each marked with a sales price of \$2.69. *Tr.*, 10/13/10 at 14. The Government argued that the display of single containers of malt beverages for sale is in violation of the Respondent's Voluntary Agreement. *Tr.*, 10/13/10 at 14. With respect to Charge II, the Government argued that window lettering is typically on the interior of the establishment's window, making it very difficult for an individual to scrape it off the glass. *Tr.*, 10/13/10 at 14.

4. Kalawane Palitha, on behalf of the Respondent, stipulated to the two Charges set forth in the Notice. *Tr.*, 10/13/10 at 9, 13. Mr. Palitha presented no witnesses or exhibits and instead stated to the Board that his failure to comply with the law was an honest

mistake and he asked the Board to waive the Charges. *Tr.*, 10/13/10 at 7. Mr. Palitha stated that he has been open for four years and he has never had any previous violations. *Tr.*, 10/13/10 at 9.

5. With respect to Charge I regarding the violation of the Voluntary Agreement prohibiting the sale of single containers of malt beverages, the Respondent informed the Board that staff people, in particular a new employee, received the product and placed it in the refrigerator. *Tr.*, 10/13/10 at 7, 10, 15. The new employee does not know the law and the manager was too busy to instruct him not to make the product available for sale. *Tr.*, 10/13/10 at 10, 15. With respect to Charge II regarding the absence of window lettering, the Respondent informed the Board that somebody removed the lettering and he wasn't aware of it. *Tr.*, 10/13/10 at 16. The Respondent requested that the Board waive both Charges and stated to the Board that he fully intends to comply with the law. *Tr.*, 10/13/10 at 16.

### CONCLUSIONS OF LAW

6. 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.*

7. With regard to Charge I, the Board must determine whether the Respondent failed to comply with the provisions of the Voluntary Agreement that was approved by the Board; and with regard to Charge II, the Board must determine that the Respondent failed to post in a conspicuous place on the front window or front door of the licensee's premises, the correct name or names of the licensee and the class and number of the license in plain and legible lettering, not less than one inch nor more than 1.25 inches in height. Inasmuch as the Respondent has stipulated to these two Charges, the Board finds that the Respondent failed to comply with the terms and conditions of its Voluntary Agreement, in violation of D.C. Official Code § 25-446 (2001) and the Respondent failed to post in a conspicuous place on the front window or front door of the licensee's premises, the correct name or names of the licensee and the class and number of the license in plain and legible lettering, not less than one inch nor more than 1.25 inches in violation of D.C. Official Code § 25-711(b) (2001).

8. Based upon the above, the Board finds that the Respondent's violation of D.C. Official Code § 25-446 (2001) as set forth in Charge I, and § 25-711(b) (2001), as set forth in Charge II, warrants the imposition of a six hundred dollar (\$600.00) fine payable within 30 (thirty) days of receipt of this Order.

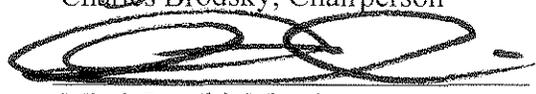
**ORDER**

Based on the foregoing findings of fact and conclusions of law, the Board, on this 3<sup>rd</sup> day of November, 2010, finds that the Respondent, Indriana International, Inc. t/a Southeast Market, Holder of a Retailer's Class B License, violated D.C. Official Code § 25-446 (2001) and § 25-711(b) (2001). The Board hereby **ORDERS** that the Respondent shall pay a fine in the amount of six hundred dollars (\$600.00) payable within thirty (30) days from the date of this Order.

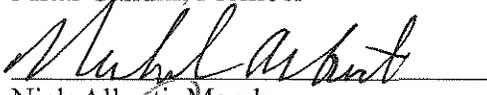
District of Columbia  
Alcoholic Beverage Control Board



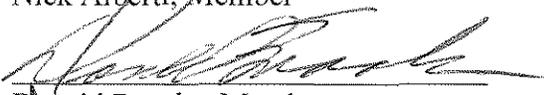
Charles Brodsky, Chairperson



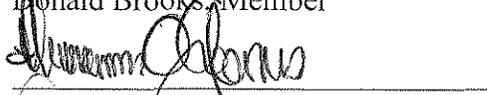
Mital Gandhi, Member



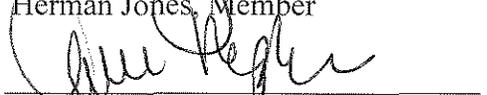
Nick Alberti, Member



Donald Brooks, Member



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).