THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

Melles Hospitality Group, LLC t/a The Alibi Restaurant & Lounge	Case Number: License Number:	N/A 93491
Application for a New Retailer's Class CR License	Order Number:	2014-118
at premises 237 2nd 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: Melles Hospitality Group, LLC, t/a The Alibi Restaurant & Lounge
Applicant

Andrew Kline, Counsel, on behalf of the Applicant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING APPLICANT'S MOTION FOR RECONSIDERATION

The Alcoholic Beverage Control Board (Board) received an Application for a New Retailer's Class CR License (Application) from Melles Hospitality Group, LLC, t/a The Alibi Restaurant & Lounge (hereinafter "Applicant" or "Alibi") at premises 237 2nd Street, N.W., Washington, D.C. The Alcoholic Beverage Regulation Administration (ABRA) published notice of the Application in the District of Columbia (D.C.) Register and complied with the notice requirements of D.C. Official Code § 25-421. 60/47 D.C. Reg. 4614695 (Nov. 1, 2013). ABRA posted placards notifying the public of the Application on November 1, 2013. Id.

The Board held a Fact Finding Hearing regarding the Application on January 29, 2014. At the hearing, Martin Scahill stated on the record that he owned an "8 percent" interest in the

formerly licensed Arias, Inc. t/a My Brother's Place, ABRA License Number 071593, (My Brother's Place) located at premises 237 2nd Street, N.W. *Transcript* (*Tr.*), January 29, 2014, at 16-17. Mr. Scahill further stated on the record that he became an owner of My Brother's Place on October 6, 2004. Id. at 19.

In response to this admission, the Board issued Board Order No. 2014-067. In re Melles Hospitality Group, LLC, t/a The Alibi Restaurant & Lounge, License No. 93491, Board Order No. 2014-067, 1 (D.C.A.B.C.B. Feb. 26, 2014). There, the Board found that Question 20, which asks whether any administrative action has been taken against the applicant or persons applying for licensure, should have been answered "Yes," rather than "No" based on Mr. Scahill's prior affiliation with My Brother's Place. Id. at 2-3. Consequently, the Board deemed the Application incomplete, and required the Applicant to submit a new application with a correct answer to Question 20; submit additional information regarding the ownership history of the limited liability company members; and go through a second public notice period under D.C. Official Code § 25-431(g) and 23 DCMR § 500. Id. at 3-4.

Subsequently, the Applicant filed a Motion for Reconsideration, which argued that the Board's Order is both factually and legally incorrect. *Mot. for Recon.*, 1. The Applicant argues that D.C. Official Code § 25-104(a) and 25-101(37), which defines a "person," prevent the Board from attributing the violations committed by My Brother's Place to Mr. Scahill.[1] Id. at 2-3.[2] Accordingly, the Board is urged to find that the Applicant answered Question 20 correctly.[3]

At the outset, the Applicant's argument suffers from two flaws. First, the Applicant only considers the term "person," and does not take into account the use of the term "applicant" in Question 20. Second, the Applicant's narrow reading does not take into account D.C. Official Code § 25-301(a-1), which was enacted as part of the Omnibus Alcoholic Beverage Regulation Amendment Act of 2012 (effective May 1, 2013; D.C. Law 19-310).

---

[1] The Board's prior Order identified the licensee by its license number but did not indicate the corporate entity holding the license in the Order.

[2] D.C. Official Code §§ 25-101(37) (defining a person as including "an individual, partnership, corporation, limited liability company, and an unincorporated association"); 25-104(a) ("The Board may issue licenses to persons who meet the requirements set forth in this title").

[3] The Applicant did not challenge the Board's interpretation of § 25-431(g) and 23 DCMR § 500—only the underlying basis. Nevertheless, the Board notes that the legislative history of the Alcoholic Beverage Control Act supports the Board's interpretation of § 25-431(g) and 23 DCMR §500, which requires the replacarding of a notice where the application contains insufficient or incorrect information regarding an applicant's fitness for licensure. 1 Legislative History of the District of Columbia Beverage Control Act at 79 ("We feel that people who live in a neighborhood should be the judge of whether or not they want licenses to be issued in that locality, and [while] a man might be able to slip through . . . if you . . . [give protestants an] opportunity to be heard before the license is granted, it seems to me that you have an excellent check upon the character of the individual . . ."]), 80 (Corporate Counsel Bride stated, ". . . this business is charged with [the] public interest and . . . the people ought to be fully informed as to the character of the man . . . .); 276 (Rep. Black describing the policy of the repeal of prohibition as making the traffic in liquor ". . . legal and licensed, so that everybody in the community could know who was in the traffic, [and] what their characters were . . . .")

In light of these deficiencies, the Board finds the following to be the correct interpretation of Question 20 and Title 25 of the D.C. Official Code (Title 25): when a corporation or limited liability company is found to have committed a violation under Title 25, that action is imputed to the individual shareholders or owners of the corporation for the purposes of Question 20 and Title 25.[4]

In its argument, the Applicant concludes that its interpretation is "plain"; however, as noted previously by Senior Judge Schwelb, "[p]lainness, like beauty, is apparently in the eye of the beholder." Mallof v. D.C. Alcoholic Beverage Control Bd., 43 A.3d 916, 924 n. 5 (D.C. 2012) (Schwleb, S.J., concurring); *Mot. for Recon.*, 3. Question 20 must be examined in light of Title 25, where the phrase "administrative action taken against" may have many meanings, and is not specifically defined in Title 25, and the terms "applicant" and "person" in Question 20 have multiple definitions. D.C. Official Code §§ 25-101(6), (37).

Contrary to the reading proposed by the Applicant, a proper reading of Question 20 requires the Board to consider the language of Question 20 and Title 25 as a whole, as well as their "purpose in the statutory scheme." D.C. Appleseed Ctr. for Law & Justice, Inc. v. D.C. Dep't of Ins., Sec., & Banking, 54 A.3d 1188, 1213 (D.C. 2012); Baghini v. D.C. Dep't of Employment Servs., 525 A.2d 1027, 1029 (D.C. 1987) (saying the court must "give effect to the whole statute in light of its underlying objectives"). Finally, "[a] basic principle [of statutory interpretation] is that each provision of the statute should be construed so as to give effect to all of the statute's provisions, not rendering any provision superfluous." Grayson v. AT & T Corp., 15 A.3d 219, 238 (D.C. 2011) (quotation marks removed).

Section 25-401(a) states, "The application shall contain . . . any additional information that the Board may require." D.C. Official Code § 25-401(a). In turn, Question 20 of the ABRA Application asks, "Has there been any administrative action taken against the *applicant* or any person listed above regarding ABC violations in the District of Columbia or any state?" *Fact Finding File No. 93491*, ABRA Application (see Question 20) (emphasis added).[5] The term "applicant" is defined "as the context requires, the individual applicant, each member of an applicant partnership or limited liability company, or each of the principal officers, directors, and shareholders of an applicant corporation, or, if other than an individual, the applicant entity." D.C. Official Code § 25-101(6) (emphasis added). Consequently, it is clear that the mere creation of a corporate entity does not shield the individuals holding an interest in a corporation or limited liability company from having their records as owners scrutinized by the Board.

The purpose and intent of Question 20 is to allow the Board to ascertain factually whether the owners that make up the Applicant meets the character and fitness criteria of D.C. Official Code § 25-301. Under § 25-301(a), "Before issuing . . . a license . . . the Board shall

---

[4] The Board emphasizes that the mere fact that an individual has had administrative actions taken against one of the establishments he or she owns does not preclude the individual from holding a license.

[5] See also D.C. Official Code § 25-401(a) ("The application shall contain . . . any additional information that the Board may require.")

determine that . . . [t]he applicant is of good character and generally fit for the responsibilities of licensure." D.C. Official Code § 25-301(a)(1). Section 25-301(a-1) then adds, "To determine whether an applicant for a new license meets the criteria of subsection (a)(1) of this section, the Board shall examine records, covering the last 10 years from the date of application, maintained by ABRA regarding prior violations of the District's alcohol laws and regulations by the applicant or establishments owned or controlled by the applicant." D.C. Official Code § 25-301(a-1).

The legislative history of § 25-301 further supports the conclusion that the mere formation of a limited liability company or corporation does not shield an individual's activity conducted under the auspices of such an entity from review by the Board when determining an individual's fitness for licensure. The character and fitness requirement comes from the Alcoholic Beverage Control Act (Act). See *Alcoholic Beverage Control Act*, 48 Stat. 327 (Jan. 24, 1934). The congressional record of the joint meeting between the House and Senate committees proposing the Act noted that the Board must investigate the character of every applicant. 1 Legislative History of the District of Columbia Beverage Control Act P.L. 73-85 1 1934, 78-79 771 (Jan. 5. 1934) (statement of Corporate Counsel Bride to Rep. Dirksen); see also id. at 771 (statement of Rep. Reynolds).[6] The record noted that the ". . . board has been clothed with the full administrative and executive power to examine into the character and fitness of the men who make application [for licensure] . . . ." Id. at 269 (statement of Rep. Dirksen). The Act further "provides for a meticulous examination of the character of the manager . . . as well as the owner or applicant" and, that ". . . if anyone, in the estimation of the liquor board, is not of proper character . . . no license will be issued." Id. at 270 (statement of Rep. Dirksen). According to Rep. Reynolds, the drafters ". . . endeavored . . . to cover every single man who would dispense strong drink; who would make sale of even light wines and beers" and "that every man who receives a license . . . shall be a man of good character . . . [and have] good standing in his community . . . . " Id. at 771 (statement of Rep. Reynolds). Rep. Reynolds further added, "The character and standing of every single man who has anything to do with [a licensed] establishment must be inquired into and passed upon by the members of the board of control." Id. at 773. In light of this legislative history, the Board sees no evidence that the drafters or the Council intended to offer applicants an opportunity to shield their prior bad acts from scrutiny by the mere creation of a corporation or a limited liability company.

Consequently, Question 20 must be read in light of § 25-301(a-1) and the legislative history behind the character and fitness requirement. Specifically, Alibi is a new application; therefore, it triggers the character and fitness review required by § 25-301(a-1). Under § 25-301(a-1), the Board must consider Mr. Scahill's record as a shareholder, officer, and owner of My Brother's Place—despite the fact that the license is held by a corporation—because (1) the term "applicant" in § 25-301(a-1) includes shareholders and officers, and (2) the phrase "owned or controlled by the applicant" in § 25-301(a-1) clearly applies to all establishments owned or controlled by the applicant, regardless of the size of the interest.[7]

---

[6] The citation is from the legislative history database maintained by HeinOnline.

[7] The Board is also satisfied that Mr. Scahill served as a principal officer of My Brother's Place based on ABRA's records, which show that Mr. Scahill had an active role in the management and operation of the establishment. *Case Report 10-AUD-0032*, 2 (Date of Occurrence: Jul. 29, 2010) (During an audit conducted at My Brother's Place on

Indeed, if the Board adopted the interpretation proposed by the Applicant this would create a number of issues.

First, the Applicant's interpretation would render § 25-301(a-1) superfluous. By using the term "applicant" and referring to establishments "owned or controlled by the applicant" the Council of the District of Columbia (Council) clearly intended the Board to consider an individual shareholder, officer, director, managing member, or owner's record of violations. To hold otherwise, would simply ignore the broad definition of the term "applicant" provided by § 25-101(6), as well as the plain language of § 25-301(a-1).

Second, the Board's interpretation of Question 20 and § 25-301(a-1) is consistent with the Board's prior precedent. In Romeo & Juliet, the Board similarly found that the owner answered Question 20 incorrectly, and had to answer Question 20 in the affirmative based on the applicant's history of violations at other establishments owned by the applicant. In re 301 Romeo, LLC t/a Romeo & Juliet, Case No. 13-PRO-00136, Board Order No. 2014-045, 11 (D.C.A.B.C.B. Jan. 29, 2014).[8] In that case, the Board attributed the history of violations to the owner, even though ABRA's records show that the owner held its additional licenses through limited liability companies. Id. at ¶¶ 17-19, 39.[9]

Similarly, in Panutat, the District of Columbia Court of Appeals has found it "eminently reasonable" for the Board to disregard the fact that two establishments are separate corporate entities when they share similar management and have overlapping ownership. Panutat, LLC v. D.C. Alcoholic Beverage Control Bd., 75 A.3d 269, 275 (D.C. 2013). According to the Court,

---

July 29, 2010, Mr. Scahill represented the establishment and presented himself as the establishment's "Event Coordinator."); *Case Report 12-251-00129*, 4 (Date of Occurrence: Feb. 26, 2012) (As part of an underage drinking investigation, Mr. Scahill called ABRA Investigator Erin Mathieson on February 28, 2012, and referred to himself as an owner of My Brother's Place.); In re Arias, Inc. t/a My Brother's Place, Case No. 12-CMP-00538, Board Order No. 2013-182, ¶¶ 3, 11 (D.C.A.B.C.B. May 22, 2013) (A 2013 Board Order shows that Mr. Scahill presented himself as the Respondent's General Manager to former ABRA Investigator Tyrone Lawson during a books and records investigation in 2012); *Tr.*, 1/29/14 at 50, 52-56; *Case Report No. 12-CC-00117*, Exhibit No. 3 (Date of Occurrence: Oct. 26, 2012) (Email from Martin Scahill to Rachel Wainer, Catholic University of America (Sept. 25, 2012)) (Mr. Scahill has further admitted that he worked at the establishment every weekend and checked identifications.)

[8] Similar to the present Applicant, the Board has determined that the error is not fatal to Alibi's Application. In re 301 Romeo, LLC t/a Romeo & Juliet, Case No. 13-PRO-00136, Board Order No. 2014-045, ¶ 39 (D.C.A.B.C.B. Jan. 29, 2014). The Board notes there was no need to require replacarding in Romeo & Juliet, because the protestant in that case was able to present a full case regarding the applicant's fitness and appropriateness. Furthermore, any potential protestants prejudiced by the error had their interests represented by the protestants. Here, unlike the applicant in Romeo & Juliet, the Board finds that replacarding the Application is necessary, because the incorrect answer to Question 20 may have prejudiced potential protestants who may have been dissuaded from protesting the present Application based on the incorrect information contained in the Application.

[9] The Board's records indicate that the owner held the license of Dirty Martini Inn Bar/Dirty Bar through Inner Circle 1223, LLC; held the license of Tattoo through Inner Circle 1413, LLC; held the license of Midtown through Hak, LLC; and held the license of Lotus through Inner Circle 1420, LLC. *ABRA Licensing File No. 083919,* CAP Summary (Dirty Martini); *ABRA Licensing File No. 075156*, CAP Summary (Tattoo); *ABRA Licensing File No. 072087*, CAP Summary (Midtown); *ABRA Licensing File No. 075162*, CAP Summary (Lotus).

this type of evidence would assist the Board in determining whether the "new owner will operate the establishment without a detrimental impact on the neighborhood." Id. at 275 (quotation marks removed). While the court was only speaking to the issue of appropriateness in Panutat, the Board sees no reason why the court's reasoning should not apply to character and fitness under § 25-301(a)(1) as well. Consequently, adopting the position of the Applicant would be an unreasonable departure from both the precedent of the Board and the reasoning of the court.[10]

Third, even if the Applicant were correct that it answered Question 20 properly, this would mean that the ABRA Application provided by the Board is not providing the information that the Board needs to evaluate the application correctly under the law. The District of Columbia Court of Appeals has held that the Board must perform a character and fitness review before approving an application. Craig v. D.C. Alcoholic Beverage Control Bd., 721 A.2d 584, 590 (D.C. 1998) (saying ". . . nothing in the statute . . . relieves the Board from its obligation to determine that the applicant is of good moral character and generally fit for the responsibilities of licensure before issuing the license . . . . This obligation is not dependent upon whether or not anyone makes a character challenge . . . .") (citations and quotation marks removed). If an application does not provide the required information, the Board cannot reasonably claim that it made the required findings, even if the matter is uncontested. See Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd., 288 A.2d 666, 669 (D.C. 1972) (saying "the Board has a public interest function to perform unlike that of a court in private civil litigation between two contesting parties where relevant and material allegations made by the plaintiff are taken as admitted if not contested . . . and [its] findings must be based only upon evidence in the public record . . . .") As a result, the Applicant's proposed interpretation is not reasonable, because it would result in the Board approving licenses without making the necessary findings under § 25-301(a-1), and render the ABRA Application inconsistent with both the letter and spirit of Title 25.

---

[10] The Board is also persuaded by the reasoning of the Supreme Court of Appeals of West Virginia in Jules Inc. v. Boggs. There, the court held that the "ABC Commissioner [is allowed] to inquire into the reputation of the corporate officers and stockholders and impute that reputation to the corporate applicant . . . . in deciding whether to grant a private club license." Jules Inc. v. Boggs, 165 W. Va. 510, 517, 521 (W.V. 1980). According to the court, "the legislature intended the ABC Commissioner to investigate into the background of the corporate applicant" by permitting the commissioner to "make . . . reasonable inquiries about the corporate applicant and to investigate any felony convictions or convictions for crimes involving moral turpitude by the directors and officers of the corporation." Id. at 516. The goal of this policy is to ". . . minimize infractions at private clubs by restricting those who may apply for a license." Id. The court further added that holding otherwise would "frustrate" the chosen policy of the legislature to deny licenses to individuals lacking "good character." Id. at 517-18. Specifically, the court feared that "[i]f we look only to the corporate reputation, individuals operating a private club could disincorporate once they earned a "bad reputation," incorporate a new company with no reputation and get a new private club license." Id. at 517-18. As noted by the court, "[t]he corporate entity does not exist separate from its board of directors, its officers and its stockholders, for they are the ones who formulate the actions of the corporation. Their actions will earn the corporation its good or bad reputation." Id. at 518. Furthermore, the court noted that "[m]any courts have also recognized the need to disregard the corporate entity in the area of administrative law" and that an agency ". . . can look beyond the corporate entity to prevent the frustration of a statutory purpose." Id. at 519. Thus, the court concluded that the commissioner was entitled "to disregard the corporate entity because the interests of justice and public policy dictate that applicants [with bad reputations] should not be able to operate private clubs." Id. at 520 (quotation marks removed).

Fourth, relying on the Applicant's interpretation would be detrimental to public safety. For example, an applicant with a history of operating establishments that attract violence and antisocial behavior would be able to obtain another license, merely because their prior licenses are held by corporate entities. Consequently, the Applicant's interpretation would merely protect owners with poor operating histories, and allow them to obtain new licenses without scrutiny of their past behavior.

ORDER

Therefore, for the reasons stated above, the Board on this 9th day of April 2014, **DENIES** the Motion for Reconsideration filed by Melles Hospitality Group, LLC, t/a The Alibi Restaurant & Lounge

IT IS FURTHER ORDERED that the information filed by the Applicant shall be considered an amendment. Therefore, the Application, even if incorrect, is still properly before the Board. For this reason, the Board strikes the advisory portion of the Board's prior Order on page 4. Based on the Board's review of the Application, the history of My Brother's Place, ABRA's records, and the information obtained at the January 29, 2014 Fact Finding Hearing, the Board is ready to proceed with a character and fitness hearing. The official notice of this action is being issued simultaneously with the Board's approval of this Order.

IT IS FURTHER ORDERED that all other terms and conditions of Board Order No. 2014-067 remain in full force and effect.

District of Columbia
Alcoholic Beverage Control Board

Donald Brooks, Member

Herman Jones, Member

Hector Rodriguez, Member

James Short, Member

I agree with the Board's decision in this matter, but write separately to address the position taken by the dissent.

The dissent takes the position that D.C. Official Code § 25-402 should control in this matter, because it requires applicants to disclose ". . . the corporation's principal officers, directors, and shareholders holding directly or beneficially, 10% or more of its common stock." D.C. Official Code § 25-402. The dissent then concludes that because Mr. Scahill was only an 8% stockholder, he answered question 20 properly.

Yet, in footnote 7 of the Order, the Board finds that Mr. Scahill qualifies as a principal officer based on his status as the establishment's general manager and evidence of involvement in the establishment's operations. As a result, even if the Board adopted the dissent's view, the Board's order would be correct—albeit for different reasons.

However, I also take issue with interpretation proposed by the dissent, because it fails to consider the impact of D.C. Official Code § 25-301(a-1), a newly enacted statute the Board has never before addressed in detail. Section 25-301(a-1) states in full,

> To determine whether an applicant for a new license meets the criteria of subsection (a)(1) of this section, the Board shall examine records, covering the last 10 years from the date of application, maintained by ABRA *regarding prior violations of the District's alcohol laws and regulations by the applicant or establishments owned or controlled by the applicant.*

§ 25-301(a-1) (emphasis added). As noted by the majority, Mr. Scahill's ownership history must be examined under § 25-301(a-1), because he is a 49 percent owner. The dissent then concludes that the Board must then apply an additional 10 percent threshold test provided by § 25-402 before considering the record of any establishment related to the applicant; however, I see no language in the law that supports the creation of this additional test.

Instead, a correct reading of the law is that § 25-301(a-1) applies to any ". . . establishments owned or controlled by the applicant"; therefore, it is clear that the review contemplated by § 25-301(a-1) is broader than the threshold provided by § 25-402. Therefore, in this case, because Mr. Scahill held an 8 percent interest in My Brother's Place, under § 25-301(a-1), this qualifies as an "establishment owned" by the applicant. Consequently, it does not matter whether Mr. Scahill held a 100 percent interest, a 10 percent interest, or a 0.001 percent interest; the mere fact that Mr. Scahill held any interest, no matter how small, is sufficient to trigger a review of records related to other establishments he owns.

This dissent is confident that the Board will be able to obtain the needed information if the Board adopts the proposed threshold test. Yet, I fail to see how allowing applicants to file incorrect applications adequately serves the interest of the public, who deserve (and are entitled to) the opportunity to review a correct and complete application to determine whether they support or wish to oppose the licensing of a new establishment. See supra, at 2 n. 3.

Nick Alberti, Member

Mike Silverstein, Member

I dissent to this order on the grounds that the majority's interpretation and application of Question 20 of the Alcoholic Beverage Control Act License Application, in my view, is inconsistent with the statutory scheme set forth in Title 25.

Question 20 asks the following: "Has there been any administrative action taken against the applicant or any person listed above regarding ABC violations in the District of Columbia or any state?" "[L]isted above" refers to Question 18 which states: "List all Corporate Officers, LLC Managing Members, General Partners by name and title who have ownership interest."

The Applicant, as described on the application, consists of three members, including Mr. Scahill, who is identified as having a 49% ownership interest. The Applicant answered no to Question 20. The majority rules in this opinion and in its prior order, Order Requiring Resubmission and Replacarding of Application, February 26, 2014, that the Applicant should have answered yes to Question 20 because Mr. Scahill had an 8% interest in the license of a previous establishment, My Brother's Place, that was the subject of administrative actions for ABC violations.

Respondent argues in its Motion for Reconsideration that Mr. Scahill was not required to answer yes to Question 20 because the license was held by a corporation, and administrative action against a corporation does not constitute administrative action against a shareholder. While I do not agree with Respondent's thesis that all individual shareholders are shielded from disclosing violations of the ABC laws by corporations in which they have an ownership interest, I also do not agree with the majority's view that Question 20 is directed at any shareholder regardless of how small an interest that shareholder may have.

The answer to Question 20 turns on an interpretation of the term "Applicant." Applicant is defined in Section 25 -101 (6) of the statute as follows:

> "Applicant" means, as the context requires, the individual applicant, each member of an applicant partnership, or limited liability company or each of the principal officers, directors, and shareholders of an applicant corporation, or if other than an individual, the applicant entity.

(emphasis added) I understand this provision to mean that principal officers or shareholders are intended when the term Applicant is used **with respect to a corporation**, not just any officer or shareholder as the majority rules, and not excluding all individual shareholders as argued by Respondent.

Further D.C. Official Code § 25-402 sets forth the provisions governing new license applications for manufacturers, wholesalers, or retailers. Question 20 on the application is governed by this provision. § 25-402 states in relevant part:

(a) The application of a person applying for a manufacturer's, wholesaler's, or retailer's license shall include:

(1) ...in the case of a corporate applicant the legal name, trade name, place of incorporation, principal place of business, and **the names and addresses of each of the corporation's principal officers, directors, and shareholders holding directly or beneficially, 10% or more of its common stock.**

(emphasis added). Accordingly, this statutory provision seems to indicate that "principal officers, directors and shareholders" refers to those with a 10 % or more interest in the corporation's common stock.

Mr. Scahill owned an 8% interest in the license that had been subject to administrative actions for violation of ABC laws. Because he owned less than 10% he was not a principal shareholder and not an Applicant under the Act. Further, no administrative action had been taken against him as a person for violation of any ABC laws. Therefore, I conclude that he did not falsely answer Question 20.

Finally, I find unpersuasive the majority's statement that without such a broad ruling to include every shareholder that the Board would not get the information it needs to evaluate the application under the law. As is evident from the facts in this case, the Board had sufficient information in its own records to initiate a fact finding hearing to explore Mr. Scahill's involvement in My Brother's Place.

Ruthanne Miller, Chairperson

Under 23 DCMR § 1719.1 (2008), 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, under 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 under 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).