

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

In the Matter of)	
Aniket Shah)	License No: N/A
t/a Ultra)	Case No.: N/A
at premises)	Order No: 2014-271
360 West 43rd Street, Suite S2M)	
New York, N.Y. 10036)	

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

ORDER TO CEASE AND DESIST

On June 25, 2014, the Alcoholic Beverage Control Board (Board) reviewed a case report dated June 10, 2014, written by Alcoholic Beverage Regulation Administration Investigator Abyie Ghenene. The report alleges that the Respondent, Aniket Shah, operating under the trade name Ultra, is engaging in the illegal sale of alcoholic beverages in violation of District of Columbia (D.C.) Official Code § 25-102.

The case report filed by Investigator Ghenene indicates that Ultra operates a website from New York City. *Case Report*, 1 (Jun. 10, 2014). The website permits customers to access the website and select alcoholic beverages for purchase. *Id.* Customers using the website provide Ultra with their credit card information. *Id.* Ultra collects the money directly from the customer and charges a five dollar delivery fee. *Id.* The money is then forwarded to the licensee, minus an agreed upon percentage with the licensee that Ultra retains. *Id.* Currently, the Respondent's sole customer in the District of Columbia is 1 West DuPont Circle Wine & Liquors (ABRA License No. 074429) (1 West). *Id.* The report shows that 1 West has delivered beverages to customers in the District of Columbia based on orders generated by Ultra. *Id.* at 1-2. The Board has never issued Ultra a license.

Under § 25-102(a), "[n]o person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title." D.C. Official Code § 25-

102(a). Title 25 of the D.C. Official Code (Title 25) defines “sale” or “sell” as “soliciting orders for sale,” among other definitions. D.C. Official Code § 25-101(45).

In 2013, the Board issued an advisory opinion related to the operations of a similar website. In re BeerRightNow.com, LLC, t/a BeerRightNow.com, Board Order No. 2013-062, 3 (D.C.A.B.C.B. Mar. 20, 2013). There, the Board defined the term “solicit” to mean, “. . . [t]o try to obtain by entreaty, persuasion, or formal application.” Id. at ¶ 4. The Board then reasoned, “. . . when a third party participates or has a substantial interest in the exchange of money between the consumer and the retailer this constitutes solicitation, and thus, requires the third party to obtain a license from the Board.” Id. at ¶ 5.¹ The Board further explained that if a third party “handle[s] or receive[s] money or credit card information from the consumer—even if it only forward[s] money or a credit card number to the retailer for processing,” this constitutes solicitation under Title 25. Id.

In this case, the website operated by Ultra solicits alcoholic beverage orders by taking credit card information from consumers and receiving money from the consumer when the consumer makes an order for the delivery of alcoholic beverages on the website. The Board further notes that Ultra does not possess a liquor license in the District of Columbia. Under these facts, it is clear that Ultra’s operations amount to the sale of alcohol without a license in violation of § 25-102(a).

Under § 25-829,

If the Board or the Mayor, after investigation but before a hearing, has cause to believe that a person is violating any provision of this title and the violation has caused, or may cause, immediate and irreparable harm to the public, the Board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation.

D.C. Official Code § 25-829(a). In the District of Columbia, the illegal sale of alcoholic beverages is considered misdemeanor criminal activity. D.C. Official Code § 25-831. Therefore, the Board concludes that the continuation of this activity on the part of Ultra causes immediate and irreparable harm to the public.

ORDER

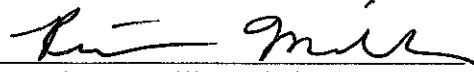
Therefore, the Board on this 25th day of June 2010, hereby orders Aniket Shah, operating under the trade name Ultra, to **CEASE AND DESIST** selling or soliciting the sale of alcoholic beverages in the District of Columbia in accordance with D.C. Official Code § 25-829(a).

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you may be subject to the maximum civil and criminal penalties provided by the law.

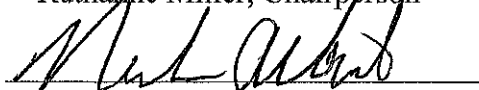
¹ The Board notes that there is no license available that authorizes the activity described in this Order. Therefore, this business model is not permitted under the laws of the District of Columbia.

ABRA shall deliver this Order by certified mail or personal delivery in accordance with D.C. Official Code § 25-829(a).

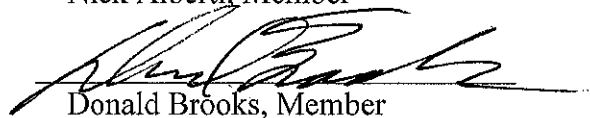
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member

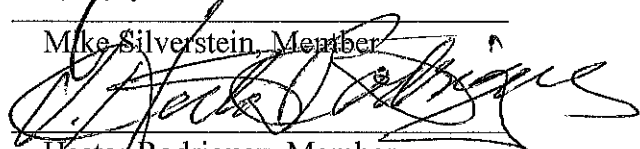


Donald Brooks, Member

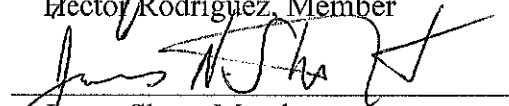
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member



Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you may submit a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. A written request for a hearing should be addressed to the Board and sent to the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.