

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

In the Matter of:)	
)	
Lace Hospitality, LLC)	
t/a Lace)	
)	Case No. 12-251-00064
Holder of a Retailer's)	License No. ABRA-076369
Class CT License)	Order No. 2013-001
)	
at premises)	
2214 Rhode Island Avenue, N.E.)	
Washington, D.C. 20018)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member

ALSO PRESENT: Lace Hospitality, LLC, Respondent

Louise Phillips, 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 June 29, 2012, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated June 27, 2012, on Lace Hospitality, LLC, t/a Lace (Respondent), at premises 2214 Rhode Island Avenue, N.E., Washington, D.C., charging the Respondent with the following violation:

Charge I: The Licensee were operating after its ABC Board approved hours, in violation of 23 DCMR § 705.10, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The Board held a Show Cause Status Hearing on August 8, 2012. There was no settlement of the matter and it proceeded to a Show Cause Hearing on October 31, 2012.

The Board having considered the evidence, the testimony of the witnesses, the arguments of parties, 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 June 27, 2012. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 12-251-00064. The Respondent holds a Retailer's Class CT license and is located at 2214 Rhode Island Avenue, N.E., Washington, D.C. *See* ABRA Licensing File No. ABRA-076369. The establishment's authorized hours of operation on the day of the incident were 5:00 P.M. to 12:00 A.M. during the week. *See* ABRA Licensing File No. ABRA-076369.
2. The Show Cause Hearing was held on October 31, 2012. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 12-251-00064.
3. The Government presented its case through the testimony of one witness, ABRA Investigator Vincent Parker. *Transcript (Tr.)*, 10/31/12 at 7.
4. Investigator Parker testified that he was made aware of an incident that occurred at Respondent's establishment on Thursday, February 17, 2012, when he received a 251 Incident Report from Officer Larry Roberts of the Metropolitan Police Department (MPD), 5th District. *Tr.*, 10/31/12 at 8. Investigator Parker conducted an investigation on February 23, 2012, and completed an investigative report. *See* Government's Exhibit 1.
5. Investigator Parker interviewed Linda McAllister, owner of the licensed establishment, and Raymond Crook, the Respondent's ABC Licensed Manager. *Tr.*, 10/31/12 at 11. ABRA investigators conducted a regulatory inspection at the time they investigated the incident, and confirmed that the Respondent was authorized to operate until midnight on Thursday, February 17, 2012. *Tr.*, 10/31/12 at 12. The MPD 251 Incident Report documents the incident ending at 1:45 A.M. on Thursday, February 17, 2012. *Tr.*, 10/31/12 at 13.
6. Mr. Crook informed Investigator Parker that an altercation occurred between two male patrons outside of the establishment. *Tr.*, 10/31/12 at 14. MPD arrived on the scene at 1:40 A.M. to address the incident. *Tr.*, 10/31/12 at 14, 21, 23. The Respondent was in the process of closing, and there were a few patrons still inside the establishment. *Tr.*, 10/31/12 at 14-15. Mr. Crook also informed Investigator Parker that the establishment had closed one hour prior to the incident. *Tr.*, 10/31/12 at 15, 22-23. Investigator Parker advised Mr. Crook again on April 19, 2012, of the Respondent's authorized hours of operation, and that the Respondent was in violation. *Tr.*, 10/31/12 at 16.
7. Mr. Crook testified on behalf of the Respondent. *Tr.*, 10/31/12 at 28. He has been employed as an ABC Licensed Manager for the Respondent for two years. *Tr.*, 10/31/12 at 42. Prior to his employment with the Respondent, he served as the food and beverage director for the Mayflower Hotel. *Tr.*, 10/31/12 at 42. Mr. Crook handles the opening and

closing of the establishment, and all personnel matters such as hiring and terminating employees. *Tr.*, 10/31/12 at 44.

8. He stated that on the night of the incident, the establishment was hosting a private birthday party. *Tr.*, 10/31/12 at 28, 49. He closed the bar around 12:00-ish and there were patrons still inside the establishment. *Tr.*, 10/31/12 at 28, 39, 55-57, 61, 65-69. The patrons who were present after 12:00 midnight were not consuming alcoholic beverages. *Tr.*, 10/31/12 at 57-58, 65. MPD officers were already present at the establishment because the night shift often eats there. *Tr.*, 10/31/12 at 28-31, 46-47, 62-63.

9. Mr. Crook was unaware that the establishment was not permitted to have patrons inside the establishment after midnight. *Tr.*, 10/31/12 at 29, 41. Mr. Crook admitted there were other occasions where patrons remained after closing hours. *Tr.*, 10/31/12 at 41. He further admitted that the establishment's authorized hours of operation are posted inside the establishment, but he did not understand that patrons were required to vacate the premises by closing time. *Tr.*, 10/31/12 at 43-44.

10. Mr. Crook admitted that he told Investigator Parker that the establishment was closed an hour before the incident, but he did not know that the incident was documented by MPD as a verbal incident that occurred inside the establishment at 1:40 A.M. *Tr.*, 10/31/12 at 29, 59. Mr. Crook was also unaware that an altercation had occurred outside the establishment until MPD brought it to his attention. *Tr.*, 10/31/12 at 30, 69. He also stated that the cook brought the incident to his attention. *Tr.*, 10/31/12 at 68, 70.

11. Mr. Crook testified that the establishment does not have a Security Plan nor does it maintain an incident log. *Tr.*, 10/31/12 at 46-47.

CONCLUSIONS OF LAW

12. 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.*

13. 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).

14. With regard to Charge I, the Board finds that the Respondent was operating beyond its Board-approved hours. The Board makes this finding based on the testimony of Investigator Parker and the documentary evidence admitted as Government's Exhibit 1. Moreover, the Respondent's witness, Mr. Crook, an experienced ABC Licensed Manager, admitted that there were patrons still inside the establishment after closing time, that he was unaware that patrons could not remain inside the establishment after closing time, and

that this incident was not the only time the Respondent has remained open after Board authorized hours.

15. Therefore, based upon the above, the Board finds that the Respondent's violation of 23 DCMR § 705.10 as set forth in Charge I of the Notice to Show Cause, dated June 27, 2012, warrants the imposition of a fine in the amount of \$2,000.00, and a suspension of the license for two days, both days stayed for one year, provided that the Respondent does not commit any further ABC violations.

ORDER

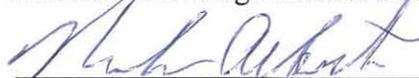
Based on the foregoing findings of fact and conclusions of law, the Board, on this 9th day of January, 2013, finds that the Respondent, Lace Hospitality, LLC, t/a Lace, located at 2214 Rhode Island Avenue, N.E., Washington, D.C., holder of a Retailer's Class CT license, violated D.C. Official Code 23 DCMR § 705.10.

The Board hereby **ORDERS** that:

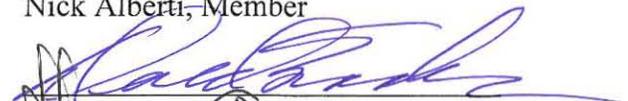
- 1) The Respondent shall pay a fine in the amount of \$2,000.00 by no later than thirty (30) days from the date of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions. The Respondent's license shall also be suspended for two days; both days stayed for one year, provided that the Respondent does not commit any further ABC violations.

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

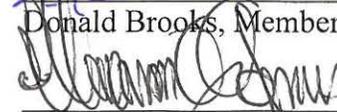
District of Columbia
Alcoholic Beverage Control Board



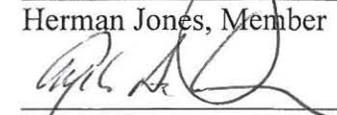
Nick Alberti, Member



Donald Brooks, Member

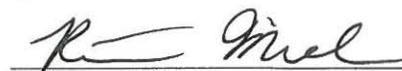


Herman Jones, Member



Mike Silverstein, Member

I concur with the majority's decision as to its finding of the Respondent's liability, but I dissent as to the penalty selected by the majority of the Board.



Ruthanne Miller, 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 (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).