

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

In the Matter of:)	
)	
BWG)	Order No.: 2020-269
)	
2911 Hunter Mill Road, Suite 303)	
Oakton, VA 22124)	
)	
<i>Advisory Opinion</i>)	
)	

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

PARTIES: Frank Knizner, Counsel, on behalf of BWG

**ADVISORY OPINION ON COMPLIANCE
WITH D.C. OFFICIAL CODE §§ 25-302 AND 25-825**

In a letter dated May 8, 2020, BWG requested an advisory opinion on whether it was eligible for an Off-Premise Retailer’s Class A or B License. *BWG Letter*, at 1. In BWG’s letter, it indicated that it currently operates as a “wine importer, wholesaler, and off-premises retail in California” *Id.* BWG is owned by two persons, who both serve as “officers, directors, and shareholders.” *Id.* In light of these facts, BWG asks whether one of the owners of BWG may obtain an Off-Premise Retailer’s License and satisfy the requirements of D.C. Official Code § 25-302 and other conflict of interest laws. *Id.* at 1-4.

The District of Columbia’s alcohol laws create a three-tier system that generally require the separation of manufacturers, wholesalers and retailers. In that vein, D.C. Official Code § 25-302 requires the following:

In the case of an application for a . . . retailer's license of any class . . . before issuing . . . or renewing a license, the Board shall further determine that:

- (1) No . . . wholesaler, or shareholder holding 25% or more of the common stock of, or equity interest in, a . . . wholesaler, or officer of a . . . wholesaler

corporation, or . . . member of a . . . limited liability company owning 25% or more of its equity interest, has such a substantial interest, direct or indirect, in the applicant's business or establishment that the applicant would be influenced to purchase alcoholic beverages from the . . . wholesaler; and

(2) The business for which the license is sought has not been, and will not be, conducted with money, equipment, furniture, fixtures, or property (A) rented from, (B) loaned from, (C) given by, or (D) sold for less than fair market value, upon a conditional sale agreement, or a chattel trust from, a . . . wholesaler, shareholder holding 25% or more of the common stock of, or equity interest in, a . . . wholesaler, or officer of a . . . wholesaler corporation, or . . . limited liability company owning 25% or more of its equity interest.

D.C. Code § 25-302.

Furthermore, D.C. Official Code § 25-825 provides that:

If a wholesaler of alcoholic beverages, whether licensed under this title or not, shall have such a substantial interest, whether direct or indirect, in the business of any retail licensee or in the premises on which the licensee's business is conducted as may tend to influence the licensee to purchase beverages from the wholesaler, the Board may revoke the license of the licensee.

D.C. Code § 25-825. Together D.C. Official Code §§ 25-302 and 25-825 do not create an absolute prohibition on the issuance of retail licenses to someone involved in an out of state wholesale business so long as the owner abides by certain conditions.

Specifically, in light of the proposed applicant's role as an officer and shareholder in BWG, a California alcohol wholesaler, and the statutes indicated above, the issuance and maintenance of an off-premise retailer's license is conditioned on compliance with the following:

- (1) The D.C. licensed retailer shall not purchase alcohol from any alcohol importer, wholesaler, or any other business where the proposed applicant has an ownership interest, and
- (2) The D.C. licensed retailer shall not be conducted with money, equipment, furniture, fixtures, or other property provided, rented, loaned, sold at less than fair market value, or gifted to by any business in which the proposed applicant has an ownership interest.

The Board warns BWG that the failure to abide by these conditions may result in a violation of the District's alcohol laws, which may result in the denial of any pending license applications, the revocation of any issued licenses, and the denial of any renewal applications that may be filed in the future.

ORDER

Accordingly, on this 26th day of August 2020, the above represents the **ADVISORY OPINION** of the Board pursuant to 23 DCMR § 1902.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamllessDocs.com
Donovan Anderson
Key: ac437e9d9a2576e4e7300931d1c2ff

Donovan Anderson, Chairperson

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James Short
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James Short, Member

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Bobby Cato
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Bobby Cato, Member

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Rema Wahabzadah, Member
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Edward Grandis, Member
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Edward S. Grandis, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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, 430 E St NW, Washington, D.C. 20001; (202/879-1010). 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).