

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

In the Matter of:)	
)	
Big D Corporation)	Case No.: 21-CMP-00029
t/a Big D Liquors)	License No.: ABRA-98255
)	Order No.: 2022-002
Holder of a)	
Retailer's Class A License)	
)	
at premises)	
4173 Minnesota Avenue, N.E.)	
Washington, D.C. 20019)	

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

ALSO PRESENT: Big D Corporation, t/a Big D Liquors, Respondent

James Jordan, 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**

INTRODUCTION

The Alcoholic Beverage Control Board (Board) finds that Big D Corporation, t/a Big D Liquors (hereinafter "Respondent" or "Big D Liquors") violated D.C. Official Code § 25-701 and 23 DCMR § 707.1 by failing to have a licensed manager on duty on June 9, 2021. The Respondent shall pay a fine of \$2,000 based on its prior history of violations.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 9, 2021. *ABRA Show Cause File No. 21-CMP-00029*, Notice of Status Hearing and Show Cause Hearing, 2 (Aug. 9, 2021). The Notice charges the Respondent with one violation, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent’s license.

Specifically, the Notice charges the Respondent with the following violation:

Charge I: [On June 9, 2021,] [y]ou failed to superintend in person or keep a licensed ABC Manager on duty at all times, in violation of D.C. Code § 25-701 and 23 DCMR § 707.1, for which the Board may take the proposed action under D.C. Code § 25-823(a)(1).

Notice of Status Hearing and Show Cause Hearing, at 2.

Both the Government and Respondent appeared at the Show Cause Status Hearing on October 20, 2021. The parties proceeded to a Show Cause Hearing and argued their respective cases on November 3, 2021.

FINDINGS OF FACT

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board’s official file, makes the following findings:

I. Background

1. The Respondent holds a Retailer’s Class A License at 4173 Minnesota Avenue, N.E., Washington, D.C. *ABRA License No. 98255*. The owner of the establishment admitted that he was not present at the establishment on June 9, 2022, even though the store was in operation, and did not contest the facts presented in the notice. *Transcript (Tr.)*, November 3, 2021 at 12. The owner explained that the violation occurred because he was experiencing a staff shortage. *Id.* at 15.

CONCLUSIONS OF LAW

2. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia (D.C.) Official Code pursuant to D.C. Code § 25-823(a)(1). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Code § 25-447.

I. Standard of Proof

3. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2022). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep't of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) *citing Children's Defense Fund v. District of Columbia Dep't of Employment Servs.*, 726 A.2d 1242, 1247 (D.C.1999).

II. The Respondent Failed to Have a Manager or Owner Present as Required by Law.

4. Section 701(a-1)(1) provides that “an establishment’s owner or Board-approved manager shall be present on the premises at all times during the establishment’s hours of sale, service, and consumption of alcoholic beverages.” D.C. Code § 25-701(a-1)(1); 23 DCMR § 707.1 (West Supp. 2022). Nevertheless, on June 9, 2021, the store was in operation without a licensed manager or owner present. *Supra*, at ¶ 1. Therefore, the Board sustains Charge I.

III. Penalty

5. Based on the violation identified above and the Respondent’s prior history of violations, the Respondent shall pay a fine of \$2,000. The Board considered issuing a warning but did not believe a warning was warranted based on the Respondent’s history of prior violations.

ORDER

Therefore, the Board, on this 12th day of January 2022, finds Big D Corporation, t/a Big D Liquors, guilty of violating D.C. Official Code § 25-701(a-1)(1) and 23 DCMR § 707.1. The Board imposes the following penalty on the Respondent:

(1) For the violation described in Charge I, the Respondent shall pay a fine of \$2,000.

IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within one hundred and twenty (120) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800 (West Supp. 2022), the violations found by the Board in this Order shall be deemed a secondary tier violation.

IT IS FURTHER ORDERED that the Board’s findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac430b06b9d5f0be4c730009d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547ae373820de6ac8d1b332ad2d48e

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fca1fba148d7f4b75bd7817d20d

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b560e91845e1f9e4016155e5c12f81cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 82172981f2509447491b566e2a41889

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward S. Grandis, Member
Key: 5027bda7ff9f0040ec14adeb525410eb

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, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 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 Street, N.W., Washington, D.C. 20001; (202-879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 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).