

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

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In the Matter of:	)	
	)	
SST Management, LLC	)	Case No.: 19-CMP-00050
t/a Bin 1301	)	License No.: ABRA-91682
	)	Order No.: 2020-001
Holder of a	)	
Retailer's Class CT License	)	
	)	
at premises	)	
1301 U Street, N.W.	)	
Washington, D.C. 20009	)	

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**BEFORE:** Donovan Anderson, Chairperson  
James Short, Member  
Bobby Cato, Member  
Rafi Aliya Crockett, Member

**ALSO PRESENT:** SST Management, LLC, t/a Bin 1301, Respondent  
  
David Bailey, Designated Representative, on behalf of the Respondent  
  
John Liu, Assistant Attorney General  
Office of the Attorney General for the District of Columbia  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds that SST Management, LLC, t/a Bin 1301, (hereinafter "Respondent" or "Bin 1301") violated § 25-823(a)(7) by illegally exceeding its occupancy of 30 persons on March 23, 2018. The Board advises the Respondent that it must file a substantial change application in order to increase the occupancy of the premises. The Respondent shall pay a fine of \$4,000 for the violation.

## ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 6, 2019. *ABRA Show Cause File No. 19-CMP-00050*, Notice of Status Hearing and Show Cause Hearing, 2 (Aug. 6, 2019). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1301 U Street, N.W., Washington, D.C., on August 6, 2019. *ABRA Show Cause File No. 19-CMP-00050*, Service Form. 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 March 23, 2018,] [y]ou failed to follow the terms of your Board-approved license by increasing the occupancy of the licensed establishment, in violation of D.C. Official Code § 25-823(a)(7).

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

The Respondent failed to appear at the Show Cause Status Hearing on September 18, 2019. The parties proceeded to a Show Cause Hearing and argued their respective cases on December 4, 2019.

## **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:

1. Bin 1301 holds a Retailer's Class CT License at 1301 U Street, N.W., Washington, D.C. *ABRA License No. 91682*. The Respondent's Certificate of Occupancy (COO) on file with ABRA provides for a maximum occupant load of 30 persons. *Case Report No. 19-CMP-00050, Exhibit No. 1.*<sup>1</sup> Likewise, the Respondent's liquor license provides for a maximum interior capacity of 30 persons. *Id. at Exhibit No. 2.*
2. On March 23, 2019, ABRA Lead Investigator Felicia Dantzler, ABRA Investigators Mark Ruiz and George Garcia were assigned to the Noise Task Force. *Transcript (Tr.)*, December 4, 2019 at 7-8. As part of the task force, they were assigned to visit the Respondent's establishment. *Id.* at 8. Inside, Investigator Garcia then performed a check with a counter and counted 63 people inside the premises. *Id.* at 9.

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<sup>1</sup> While the Respondent argued that this COO only had a limit of 30 seats and no limit on standing, this misreads the COO, which lists 30 in the "Occupant Load" line and leaves the "No. of Seats" line blank. *Transcript (Tr.)*, December 4, 2019 at 22, 32; *Case Report No. 19-CMP-00050, Exhibit No. 1*. Thus, the current COO on file with ABRA limits the occupancy to 30 people both seated and standing. If the Respondent seeks a larger occupancy, then it must file and obtain approval for a substantial change. Nevertheless, for the purposes of this case, the figure on the COO is irrelevant because the liquor license limits the Respondent's total capacity to 30 patrons as well.

## CONCLUSIONS OF LAW

3. 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).

4. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2020). 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).

5. The Respondent violated the capacity limit listed on its license on March 23, 2018. D.C. Official Code § 25-823(a)(7) requires that all license holders follow the terms of their license, which includes the capacity figure listed on its license. Nevertheless, on March 23, 2018, the Respondent permitted 63 patrons inside the establishment despite being restricted to only 30 patrons by the terms of its license. *Supra*, at ¶¶ 1-2. For this reason, the Board sustains Charge I.

6. The present offense constitutes a third level primary tier violation. *Case Report No. 19-CMP-00050*, 2. A third level primary tier offense has a fine range of \$4,000 to \$6,000. 23 DCMR § 801.1(c) (West Supp. 2020).

## ORDER

Therefore, the Board, on this 8th day of January 2020, finds SST Management, LLC, t/a Bin 1301, guilty of violating D.C. Official Code § 25-823(a)(7). The Board imposes the following penalty on Bin 1301:

(1) For the violation described in Charge I, Bin 1301 shall pay a fine of \$4,000.

**IT IS FURTHER ORDERED** that the Respondent must pay all fines imposed by the Board within thirty (30) 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 § 800.1, the violation found by the Board in this Order shall be deemed a primary 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

  
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Donovan Anderson, Chairperson

  
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James Short, Member

  
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Bobby Cato, Member

  
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Rafi Aliya Crockett, 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).