

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

In the Matter of:)

Yohannes A. Woldemichael)
t/a Capitol Fine Wine and Spirits)

Holder of a)
Retailer's Class A License)

at premises)
415 H Street, N.E.)
Washington, D.C. 20002)

Case No.: 18-CMP-00194
License No.: ABRA-82981
Order No.: 2019-176

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Bobby Cato, Member

ALSO PRESENT: Yohannes A. Woldemichael, t/a Capitol Fine Wine and Spirits,
Respondent

Amy Schmidt, 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 Yohannes A. Woldemichael, t/a Capitol Fine Wine and Spirits, (hereinafter "Respondent" or "Capitol Fine Wine and Spirits") violated D.C. Code § 25-701 by failing to have a licensed manager or owner present while open for business on August 6, 2019. In light of this offense, the Respondent shall pay a fine of \$2,000.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on December 4, 2018. *ABRA Show Cause File No. 18-CMP-00194*, Notice of Status Hearing and Show Cause Hearing, 2 (Dec. 4, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 415 H Street, N.E., Washington, D.C., on December 14, 2018. *ABRA Show Cause File No. 18-CMP-00194*, 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 August 6, 2018,] [y]ou failed to have an owner or Board approved manager on site during the sale, service or consumption of an alcoholic beverage, in violation of D.C. Official Code § 25-701 and 23 DCMR § 707.1, for which the Board may [enforce] . . . pursuant to D.C. Official Code § 25-823(a)(3).

Notice of Status Hearing and Show Cause Hearing, 2-3.

Both the Government and Respondent appeared at the Show Cause Status Hearing on January 16, 2019. The parties proceeded to a Show Cause Hearing and argued their respective cases on March 6, 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. Capitol Fine Wine and Spirits holds a Retailer's Class A License at 415 H Street, N.E., Washington, D.C. *ABRA License No. 82981*. The Respondent's licensed hours of operation start at 9:00 a.m. and end at midnight. *Id.* On Monday, August 6, 2019, at around 8:30 p.m., ABRA Investigator Vernon Leftwich visited the Respondent's establishment to deliver a service form. *Transcript (Tr.)*, March 6, 2019 at 6, 10. Inside the establishment, the investigator spoke with a cashier who indicated that no licensed manager or owner was present. *Id.* at 6. After waiting for 20 minutes, the owner finally entered the premises. *Id.* at 7-8. The owner, Yohannes Woldemichael, testified that he had left the establishment to move his car to a new location. *Id.* at 20, 22.

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).

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. 2019). 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 Licensed Manager in Violation of D.C. Official Code § 25-701(a-1)(1).

4. Under § 25-701(a-1)(1), “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). In this case, the Respondent did not have a licensed manager or owner present when the investigator entered the premises on August 6, 2019. *Supra*, at ¶ 1. Therefore, the Board sustains Charge I.

III. Penalty

5. The present offense constitutes a fifth level secondary tier offense. 23 DCMR § 800 (West Supp. 2019). The fine range for the present offense falls between \$2,000 and \$4,000. 23 DCMR § 804.1(D).

ORDER

Therefore, the Board, on this 10th day of April 2019, finds Yohannes A. Woldemichael, t/a Capitol Fine Wine and Spirits, guilty of violating D.C. Official Code § 25-701(a-1)(1). The Board imposes the following penalty on Capitol Fine Wine and Spirits:

- (1) For the violation described in Charge I, Capitol Fine Wine and Spirits shall pay a \$2,000 fine.

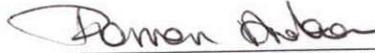
IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within ninety (90) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800.1, the 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



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



Bobby Cato, 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).