

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

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In the Matter of:	)	
	)	
Prospect Dining, LLC	)	Case No.: 17-CC-00113
t/a Chinese Disco	)	License No.: 78058
	)	Order No.: 2018-427
Holder of a	)	
Retailer's Class CR License	)	
	)	
at premises	)	
3251 Prospect Street, N.W.	)	
Washington, D.C. 20007	)	

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**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
James Short, Member  
Donald Isaac, Sr., Member  
Bobby Cato, Member  
Rema Wahabzadah, Member

**ALSO PRESENT:** Prospect Dining, LLC, t/a Chinese Disco, Respondent

Walter Adams, 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 Prospect Dining, LLC, t/a Chinese Disco, (hereinafter "Respondent" or "Chinese Disco") violated D.C. Official Code §§ 25-781 and 25-783 on October 1, 2017. Chinese Disco shall pay a fine of \$5,000 and serve between five and ten suspension days depending on whether it complies with the conditions outlined below.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on April 13, 2018. *ABRA Show Cause File No. 17-CC-00113*, Notice of Status Hearing and Show Cause Hearing, 1 (Apr. 13, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 3251 Prospect Street, N.W., Washington, D.C., on April 19, 2018. *ABRA Show Cause File No. 17-CC-00113*, Service Form. The Notice apprised the Respondent of the date and time of the Show Cause Status Hearing and Show Cause Hearing and charges the Respondent with multiple violations, 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 violations:

**Charge I:** [On October 1, 2017,] [y]ou sold and permitted the consumption of alcoholic beverages to persons under 21 years of age in violation of D.C. Code §[§] 25-781(a)(1) . . . [and] 27-781(b)(1) . . .

**Charge II:** [On October 1, 2017,] [y]ou, your agent, or your employee did not take steps reasonably necessary to ascertain whether the persons to whom you sold, served, or delivered alcoholic beverages to were of legal drinking age, in violation of D.C. Code § 25-783(b) . . .

*Notice of Status Hearing and Show Cause Hearing*, 1-4.

Only the Government appeared at the Show Cause Status Hearing on May 23, 2018. The Respondent did not appear at the Show Cause Hearing on January 31, 2018, and the Government proceeded ex parte.

### **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. Chinese Disco holds a Retailer's Class CR License at 3251 Prospect Street, N.W., Washington, D.C. *ABRA License No. 78058*.
2. On October 1, 2017, ABRA Investigator Kevin Puentes participated in an underage drinking compliance program with ABRA Investigators Jason Peru and Shawn Townsend and Metropolitan Police Department (MPD) Detectives David Carter and Scott Emmons. *Transcript (Tr.)*, October 1, 2017 at 12-13. The investigative team arrived at Chinese Disco around 12:45 a.m. *Id.* at 12.

3. Upon arriving at the establishment, the investigative team observed a group of 10 to 15 people approach the entrance. *Id.* at 13. Many people in the group appeared to be underage. *Id.* Based on this observation, Detective Emmons pulled multiple members of the group aside and checked their identification. *Id.* at 14. He then made three arrests for presenting false identification. *Id.* at 13-14. After making the arrests, the investigative team entered Chinse Disco and performed a walkthrough. *Id.* at 14-16.
4. While walking through the establishment, a patron approached Detective Carter and, while laughing, grabbed Detective Carter's hood, and pulled it over the detective's face. *Id.* at 16. Investigator Puente observed that the patron was holding a Budweiser beer and appeared intoxicated. *Id.* Investigator Puente also noticed that the patron was consuming the beer in his hand as he pulled the detective's hood. *Id.* at 21.
5. In response, Detective Carter and Investigator Puente identified themselves to the patron and the detective requested the patron's identification. *Id.* at 17. The patron tried to apologize, and provided Detective Carter with a Georgetown University student identification card. *Id.* The picture on the identification card appeared very young and indicated a class year of 2022. *Id.* at 18. The student identification identified the patron as Lucas Wittenberg. *Id.* at 17. Investigator Puente also observed that the patron had two driver's licenses in his wallet when he pulled out the student identification card. *Id.* at 19.
6. Detective Carter then asked the patron for his driver's license. *Id.* The first driver's license displayed by the patron was a New York driver's license with its corner broken off and a picture that did not match the male patron. *Id.* Investigator Puente also observed that the name on the driver's license did not match the name on the student identification. *Id.* at 20, 33-34. Mr. Wittenberg admitted that he used the New York identification to get into the establishment. *Id.* at 33.
7. In response, Detective Carter asked him to cooperate and requested his true identification. *Id.* The male patron then provided his real identification which indicated that Mr. Wittenberg was 20 years old. *Id.* Upon reviewing the identification, they escorted Mr. Wittenberg out, warned him about his behavior, and let him leave the area. *Id.* at 21.
8. After speaking with the manager, the pair went back inside the establishment to determine if anyone else was underage. *Id.* at 22. Once inside, they observed a young looking female patron consuming a Bud Light beer. *Id.* at 23.
9. The pair approached the female patron and requested her identification. *Id.* at 23. The female patron handed over a Connecticut driver's license but Detective Carter indicated that he wanted to see her real identification. *Id.* at 24. As she was taking the first identification out of her wallet, Investigator Puente noticed a second driver's license in her wallet. *Id.* She complied and also pulled out a student identification that identified her as Suzanne Dannheim. *Id.* at 25. Her actual identification indicated that Ms. Dannheim was 20 years old. *Id.* at 26.
10. Upon examining the identifications, Investigator Puente noticed that the picture on the Connecticut identification did not match the female patron. *Id.* at 25-26. The Connecticut

driver's license also identified her as Erin Rose Boudreau, which was incorrect. *Id.* at 26. The female patron advised the team that she used the Connecticut identification to enter Chinese Disco. *Id.* at 27. The pair then escorted the female patron out of the establishment and informed the manager about the incident. *Id.*

## CONCLUSIONS OF LAW

11. 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. Official Code § 25-823(a)(1).

### I. Standard of Proof

12. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2018). 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. Chinese Disco Permitted Two Minors to Consume Alcohol Inside the Establishment on October 1, 2017 in Violation of § 25-781(b).

13. The Board sustains Charge I because the Government demonstrated through substantial evidence that Chinese Disco allowed two minors to consume alcohol on the premises in violation of § 25-781(b).

14. Section 25-781(b)(1) states that “A retail licensee shall not permit at the licensed establishment the consumption of an alcoholic beverage by any . . . person under 21 years of age.” D.C. Code § 25-781(b), (b)(1). The term “permit,” among other definitions, means “to allow” or “to give opportunity for.” PERMIT, BLACK'S LAW DICTIONARY (10TH ED. 2014). Previously, the Board has indicated that “the mere fact that a licensee clears a minor to drink by allowing him or her inside and the minor consumed alcohol, whether provided by the establishment or not, [may] be sufficient to find a violation of § 25-781(b). *In re Prospect Dining, LLC, t/a Chinese Disco*, Case No. 17-CMP-00020, Board Order No. 2018-172, ¶ 35 (D.C.A.B.C.B. May 2, 2018).

15. In this case, Chinese Disco was checking patron identifications outside the entrance. *Supra*, at ¶ 3. While inside the premises, Investigator Puente and Detective Carter identified and observed two minors consuming beer inside the premises. *Supra*, at ¶¶ 4, 8. There is no evidence that the two minors snuck into the establishment and they admitted that the establishment checked their identification before allowing them to enter, despite showing identification that did not match the patrons. *Supra*, at ¶¶ 6, 10. Under these circumstances, the Board finds that Chinese Disco allowed two minors to consume alcohol at the establishment on October 1, 2017.

**III. Chinese Disco Failed to Take Reasonable Steps to Ascertain the Age of the Two Minors Consuming Alcohol on the Premises on October 1, 2017 in Violation of § 25-783(b).**

16. On October 1, 2017, Chinese Disco failed to take reasonable steps to ascertain the age of the two minors identified in this case. Under § 25-783(b), “a licensee or his agent or employee shall take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or serves an alcoholic beverage is of legal drinking age.” D.C. Code § 25-783(b). In *DC Shenanigans*, the Board indicated that “checking whether the picture on the identification document matches the bearer is the hallmark of a responsible and reasonable identification checking” program, and there is no excuse for failing to do so. *In re Twin T’s LLC, t/a DC Shenanigans*, Case Nos. 12-CC-000057, 12-CC-00051, Board Order No. 2013-181, ¶ 18 (D.C.A.B.C.B. May 22, 2013) (citation removed). In this case, both minors displayed identifications with pictures that did not match the bearers to Chinese Disco’s staff, which should have been rejected. *Supra*, at ¶¶ 6, 10. There is also no evidence in the record that the minors snuck alcohol into the establishment or procured the beers from a third party. Under these circumstances, the Board sustains Charge II.

**IV. Penalty**

17. In this case, the two offenses represent primary tier offenses. 23 DCMR § 800 (West Supp. 2018). Based on the date of adjudication of Chinese Disco’s prior offenses, the two violations in this case are fined as first time offenses, even though they are not first time offenses. A first level violation of § 25-781 has a fine range of between \$2,000 and \$3,000 and permits the imposition of suspension of five days that may be stayed at the discretion of the Board. D.C. Code § 25-781(f)(1). A first level violation of § 25-783(b) has a fine range of between \$1,000 and \$2,000 that may be stayed at the discretion of the Board if the Respondent meets certain training requirements. D.C. Code § 25-783(c)(1). The Board mandates the maximum fine and suspensions for the violations based on Chinese Disco’s prior history of violations. The Board will not stay the suspension for the violation of § 25-781; however, the Board will give the Respondent the option of completing the training condition provided by § 25-783 in order to avoid a second mandatory suspension.

**ORDER**

Therefore, the Board, on this 11th day of July 2018, finds that Prospect Dining, LLC, t/a Chinese Disco, guilty of violating §§ 25-781 and 25-783. The Board imposes the following penalty on Chinese Disco:

- (1) For the violation described in Charge I, Chinese Disco shall pay a fine of \$3,000. The licensee shall also serve a suspension of five days.
- (2) For the violation described in Charge II, Chinese Disco shall receive a fine of \$2,000. Chinese Disco shall also receive five suspension days. These suspension days may be stayed, and only go into effect if Chinese Disco is found to have committed another violation within one (1) year from the date of this Order, if, within three months from the

date of this Order, the licensee provides proof (e.g., certificates of completion) to the Board that all employees, including security staff and managers, have attended and completed an alcohol training program within the three month period.

**IT IS FURTHER ORDERED** that the suspension related to Charge I shall begin at 12:01 a.m. on Friday, August 31, 2018, and end at midnight on September 4, 2018.

**IT IS FURTHER ORDERED** that the suspension related to Charge II, if not stayed, shall begin at 12:01 a.m. on Tuesday, November 20, 2018, and end at 11:59 p.m. on November 24, 2018.

**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 violations found by the Board in this Order shall be deemed two separate primary tier violations.

**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.

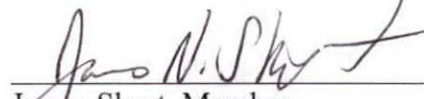
District of Columbia  
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member

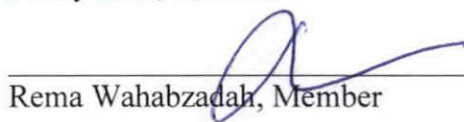


James Short, Member



Donald Isaac, Sr., Member

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Bobby Cato, Member



Rema Wahabzadah, 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).