

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

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In the Matter of:	)		
	)		
Decades, LLC	)	Case No.:	18-CMP-00089
t/a Decades	)	License No.:	ABRA-103505
	)	Order No.:	2018-747
Holder of a	)		
Retailer's Class CN License	)		
	)		
at premises	)		
1219 Connecticut Avenue, N.W.	)		
Washington, D.C. 20036	)		

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**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member  
Rema Wahabzadah, Member

**ALSO PRESENT:** Decades, LLC, t/a Decades, Respondent

Amy Schmidt, 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 Decades, LLC, t/a Decades, (hereinafter "Respondent" or "Decades") in violation of D.C. Official Code § 25-113(a)(2)(A)(ii) on February 18, 2018. The Board imposes a fine of \$250 for the offense.

***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 9, 2018. *ABRA Show Cause File No., 18-CMP-00089,*

Notice of Status Hearing and Show Cause Hearing, 2 (Aug. 18, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1219 Connecticut Avenue, N.W., Washington, D.C., on August 16, 2018, along with the Investigative Report related to this matter. *ABRA Show Cause File No., 18-CMP-00089*, 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 February 18, 2018,] [y]ou knowingly allowed a patron to exit the establishment with an alcoholic beverage in an open container in violation of D.C. Official Code § 25-113(a)(2)(A)(ii) . . . .

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

Both the Government and Respondent appeared at the Show Cause Status Hearing on August 9, 2018. The parties proceeded to a Show Cause Hearing and argued their respective cases on November 7, 2018.

## 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. Decades holds a Retailer's Class CN License at 1219 Connecticut Avenue, N.W., Washington, D.C. *ABRA License No. 103505.*

### II. Officer William Parker

2. On February 18, 2018 at 2:05 a.m., Metropolitan Police Department Officer William Parker was standing in the rear alley of 1219 Connecticut Avenue, N.W. *Transcript (Tr.)*, November 7, 2018 at 7-8. At that time, he was writing parking tickets for vehicles illegally parked in the alley. *Id.* at 8. While in the alley, he observed three woman and a man walking through the alley. *Id.* One woman in the group had a cup in her hand. *Id.* The man had the word "security" written on his shirt. *Id.* In response to Officer Parker, the man indicated that he was escorting the group out of the Respondent's premises. *Id.* The man further indicated that he worked for the Respondent. *Id.* at 12.

3. During his conversation with the group, Officer Parker took the cup from the woman's hand and smelled it. *Id.* at 9. As he sniffed the cup, he smelled the odor of alcohol coming from the beverage. *Id.* He then poured it out. *Id.*

4. Officer Parker indicated that he has experience identifying the presence of alcohol. *Id.* at 9-10. First, he has a certification from the National Highway Traffic Safety Administration in Standardized Field Sobriety Testing. *Id.* Second, he has frequently arrested people for alcohol related offenses and smelled alcohol. *Id.*

### **III. ABRA Investigator Anthony Howze**

5. ABRA Investigator Anthony Howze later investigated the incident reported by Officer Parker. *Id.* at 18-19. At the establishment, he spoke with the owner and various employees. *Id.* at 19. Investigator Howze watched video provided by the establishment showing the women being escorted out of the establishment. *Id.* at 21. The owner and the staff indicated that the patron had cranberry juice, not an alcoholic beverage. *Id.* at 22-23.

6. As part of his investigation, Investigator Howze also interviewed Officer Parker. *Id.* at 23. Officer Parker indicated during the interview that the woman told him that the beverage in her hand had alcohol in it. *Id.*

### **IV. Boris Todorovic**

7. An incident report prepared by the establishment indicated that on the day of the incident, at 1:30 a.m., a female patron became sick. *Id.* at 30. Staff offered to provide water and call an ambulance. *Id.* The patron declined and wanted to leave through the rear. *Id.* Security then escorted them out. *Id.*

8. Boris Todorovic was working as security on the night of the incident. *Id.* at 31. He is aware that the female patron was offered water and cranberry juice. *Id.* at 32. He personally gave a bottle of water to the female patron before she left. *Id.* Nevertheless, Mr. Todorovic was not present when the female patrons met Officer Parker outside. *Id.* at 36.

### **V. Arman Amirshahi**

9. Arman Amirshahi was present on the night of the incident. *Id.* at 45. He indicated that the establishment offered the woman water and attempted to escort her to a vehicle with her friends. *Id.* at 47.

## **CONCLUSIONS OF LAW**

10. 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(1). D.C. Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2018).

### **VI. Standard of Proof**

11. 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).

### **VII. The Respondent Violated § 25-113(a)(2)(A)(ii) on February 18, 2018.**

12. The Board sustains Charge I. Under § 25-113(a)(2)(A)(ii), “It shall be a secondary tier violation for an on-premises retailer's class C or D licensee, to knowingly allow a patron to exit the licensed establishment with an alcoholic beverage in an open container.” D.C. Official Code § 25-113(a)(2)(A)(ii). In this case, the Board credits Officer Parker’s testimony that on February 18, 2018, a female patron left the establishment with an alcoholic beverage. *Supra*, at ¶ 3. The Board has no reason to doubt Officer Parker’s nose and his ability to identify an alcoholic beverage based on his prior training and experience. *Supra*, at ¶ 4. While the Respondent’s witnesses insist the beverage was cranberry juice, the testimony does not rule out the possibility that she was accidentally given an alcoholic beverage, took a drink she previously purchased, or surreptitiously received an alcoholic beverage from one of her friends.

### **VIII. Penalty**

13. This violation constitutes the licensee’s first secondary tier violation. The Board assesses the minimum fine because there is no indication that the violation was intentional.

### **ORDER**

Therefore, the Board, on this 13th day of December 2018, finds that Decades, LLC, t/a Decades, guilty of violating D.C. Official Code § 25-113(a)(2)(A)(ii). The Board imposes the following penalty on Decades:

(1) For the violation described in Charge I, Decades shall pay a fine of \$250.

**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 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.

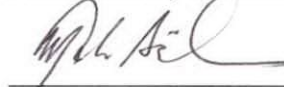
District of Columbia  
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member

James Short, 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).