

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

In the Matter of:

Sugar, LLC
t/a Sugar

Holder of a Retailer's
Class CT License

at premises
2121 K Street, N.W.
Washington, D.C. 20037

License No.: ABRA-098866
Case Nos.: 15-CMP-00733
16-251-00005
16-CC-00010
16-CC-00022
16-CMP-00209
Order No.: 2016-224

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ALSO PRESENT: Andrew Kline, Esquire, on behalf of the Respondent

Amy Schmidt, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER APPROVING OFFER IN COMPROMISE

This Order resolves all open cases through April 26, 2016, related to Sugar, LLC t/a Sugar (Respondent), holder of a Retailer's Class CT License, located at 2121 K Street, N.W., Washington, D.C.

Case History

This matter arises from four Notices of Status and Show Cause Hearing (Notices) issued by the Alcoholic Beverage Control Board (Board) against Sugar, LLC t/a Sugar (Respondent). This matter also includes Case Reports No. 16-CC-00022 and 16-CMP-00209.

An outline of the five cases and their respective charges scheduled before the Board is set forth below in chronological order by date of incident:

I. Case No. 15-CMP-00733

The Alcoholic Beverage Regulation Administration (ABRA) served the Notice in Case Number 15-CMP-00733 on the Respondent on February 10, 2016, along with the Investigative Report related to this matter. The Notice charges the Respondent with twenty one (21) 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:

Charges I, III, V, VII, IX, XI, XIII, XIV, XVI, XVIII: [On November 1, 2015,] [y]ou permitted the sale of an alcoholic beverage to a person under the age of twenty one (21) years in violation of D.C. Official Code § 25-781(a).

Charges II, IV, VI, VIII, X, XII, XV, XVII, XIX: [On November 1, 2015,] [y]ou failed to take steps reasonable necessary to ascertain whether any person to whom you sell, deliver, or serve an alcoholic beverage is of legal drinking twenty one (21) years in violation of D.C. Official Code § 25-781(a).

Charge XX: [On November 2, 2015,] [y]ou made a substantial change in the operation of your establishment without prior Board approval to include use of a sidewalk cafe in violation of D.C. Official Code § 25-762.

Charges XXI: [On November 2, 2015,] [y]ou failed to post on the front window or door of your establishment, the name of the licensee, the class and the number of the license in plain and legible lettering in violation of D.C. Official Code § 25-711(b).

ABRA Show Cause File No., 15-CMP-00773, Notice of Status Hearing and Show Cause Hearing, 2-9 (February 10, 2016).

II. Case No. 16-251-0005

The ABRA served the Notice in Case Number 16-251-00005 on the Respondent, on March 3, 2016, along with the Investigative Report related to this matter. The Notice charges the Respondent with six (6) 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:

Charges I, III, and V: [On December 6, 2015,] [y]ou permitted the sale of an alcoholic beverage to a person under the age of twenty one (21) years in violation of D.C. Official Code § 25-781(a).

Charges II, IV, and VI: [On December 6, 2015,] [y]ou failed to take steps reasonable necessary to ascertain whether any person to whom you sell, deliver, or serve an alcoholic beverage is of legal drinking twenty one (21) years in violation of D.C. Official Code § 25-781(a) . . .

ABRA Show Cause File No., 16-251-00005, Notice of Status Hearing and Show Cause Hearing, 2-4 (February 25, 2016).

III. Case No. 16-CC-00010

The ABRA served the Notice in Case Number 16-251-00005 on the Respondent, on March 25, 2016, along with the Investigative Report related to this matter. The Notice charges the Respondent with six (6) 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-VI: [On January 15, 2016,] [y]ou permitted the sale of an alcoholic beverage to a person under the age of twenty one (21) years in violation of D.C. Official Code § 25-781(a).

ABRA Show Cause File No., 16-CC-00010, Notice of Status Hearing and Show Cause Hearing, 2-4 (March 23, 2016).

IV. Case No. 16-CC-00022

Case Number 16-CC-00022 was not the subject of a Notice of Status Hearing and Show Cause Hearing, but is made part of this Offer in Compromise. This case presents allegations by ABRA's Enforcement Division of Respondent's violations of D.C. Official Code, Title 25. These allegations arise out of an investigation and a regulatory inspection conducted by ABRA's investigators and are described in the case report.

ABRA investigators allege that on February 20, 2016, patrons under the age of twenty one (21) years were consuming alcoholic beverages inside of the establishment. Additionally, patrons were using fake identifications and the Respondent was not taking reasonable steps to ascertain the patrons' legal drinking age. Lastly, the Respondent allegedly refused to cooperate and interfered with the investigation by assisting a minor to exit the establishment before the investigators could question her. The Respondent also allegedly increased its Board-approved occupancy.

V. Case No. 16-CMP-00209

Case Number 16-CMP-00209 was not the subject of a Notice of Status Hearing and Show Cause Hearing, but is made part of this Offer in Compromise. This case presents allegations by ABRA's Enforcement Division of Respondent's violations of D.C. Official Code Title 25. These allegations arise out of an investigation and a

regulatory inspection conducted by ABRA's investigators and are described in the case report.

ABRA investigators allege that on March 5, 2016, the Respondent increased its occupancy without Board approval, and permitted the consumption of alcoholic beverages on its sidewalk café after Board-approved hours. Additionally, the Respondent allegedly failed to cooperate with the investigators and interfered with an investigation.

Procedural Background

The matter came before the Alcoholic Beverage Control Board (Board) for a Show Cause Hearing on Case No. 15-CMP-00733 on April 27, 2016, in accordance with D.C. Official Code § 25-601 (2001). At the time of the hearing, the Government submitted to the Board, a proposed Offer in Compromise (OIC) pursuant to 23 DCMR 1604.5 (2009).

The OIC resolves not only Case No. 15-CMP-00733, but it resolves all cases for any investigation occurring on or before April 26, 2016. The Respondent acknowledged its consent to the terms of the OIC and waived its right to a hearing.

The terms of the OIC are as follows:

1. In **Case No. 15-CMP-00733**, the Respondent shall pay a \$5,000 fine and have its license suspended for five (5) days, all days stayed for one year.

The breakdown of this offer for Case No. 15-CMP-00733 by Charge is as follows: (1) for Charge I, a \$3,000 fine and a five day suspension stayed for one year; (2) for Charge II, a written warning; (3) Charges III through XVIII are dismissed; (4) for Charge XIX, a \$2,000 fine; and (5) for Charge XX, a mandatory written warning.

2. In **Case No. 16-CC-00005**, the Respondent shall pay a \$3,000 fine and have its license suspended for five (5) days, all days stayed for one year.

The breakdown of this offer for Case No. 16-CC-00010 by Charge is as follows: (1) for Charge I a \$3,000 fine and a five (5) day suspension stayed for one year; (2) for Charge II, a written warning; and (3) Charges III through VI are dismissed.

3. In **Case No. 16-CC-00010**, the Respondent shall pay a \$3,000 fine and have its license suspended for five (5) days, with two (2) days served and three (3) days stayed for one year. The Respondent shall secure and provide alcohol awareness training for all servers within three (3) months from the date of this Order.

The breakdown of this offer for Case No. 16-CC-00010 by Charge is as follows: (1) for Charge I, a \$3,000 fine and a five (5) day suspension with two (2) days served and three (3) days stayed. Charges II through VI are dismissed. The suspension days shall be served on Friday, April 29, 2016 and Saturday, April 30, 2016.

4. In **Case No. 16-CMP-00022**, the Respondent shall pay a fine of \$6,250 and serve a fifteen (15) day suspension with thirteen (13) days served and two (2) days stayed for one year.

The breakdown of the offer for Case No. 16-CMP-00022 is as follows: (1) a fine of \$2,000 and a five (5) day suspension, all days served for a violation of § 25-781; (2) a written warning for § 25-783; (3) a \$2,000 fine and an eight (8) day suspension with all eight (8) days served for interfering with an investigation pursuant to § 25-823(5); (4) a \$2,000 fine for a substantial change violation (increased occupancy) and (5) a \$250 fine for a violation of § 25-711, for no ABC Manager on Duty. The thirteen day suspension of the license is to be served from Friday, July 15, 2016 through Wednesday, July 27, 2016.

5. In **Case No. 16-CMP-00209**, the Respondent shall pay a fine of \$2,000.

The breakdown of the offer for Case No. 16-CMP-000209 is as follows: (1) a \$2,000 fine for a violation of § 25-762; increase in occupancy and allowing the consumption of alcohol on its sidewalk café after Board approved hours.

6. In sum, the Respondent shall pay a total fine in the amount of \$19,250, and will have its license suspended for twenty five (25) days. Of that twenty five (25) day suspension, fifteen (15) days will be served and ten (10) days will be stayed for one year. All fines must be paid within sixty (60) days from the date of this Order or the license will be suspended until payment of the fines is received.

In addition to the above listed fines and suspension days,

7. The Respondent will close the business and stop operating by no later than August 1, 2016. The Respondent will either place the license in Safekeeping with the ABC Board or transfer the license to a new owner by August 1, 2016. The Respondent shall not be permitted to remove the license from Safekeeping once placed there.
8. The Board shall not approve or issue a transfer to a new owner until all outstanding fines are paid. The Respondent shall be not be involved in any new business operating at this location. The Respondent shall not be permitted to apply for a new license at this location. The Respondent shall not apply for an ABC license for a period of five (5) years.
9. The Respondent will secure and utilize the Metropolitan Police Department Reimbursable Detail Program after 11:00 pm until closing whenever the Respondent hosts private parties.
10. The Respondent will utilize an advanced ID scanner at all times that the establishment is open. The ID scanner shall not be a substitute for the Respondent's responsibility to check each patron's identification to ensure that any patron purchasing or consuming alcoholic beverages is 21 years of age or older.

11. The Respondent is prohibited from advertising or promoting parties or events for patrons who are eighteen (18) years or older.

ORDER

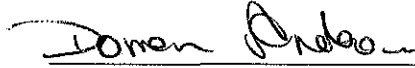
Accordingly, the Board having found the terms of the OIC to be fair, reasonable and adequate, does hereby, this 4th day of May, 2016, **APPROVE** the terms of the Offer in Compromise entered into by the Government and Sugar, LLC, t/a Sugar, located at premises 2121 K Street, N.W., Washington, D.C.

It is further **ORDERED** that the Respondent will operate in accordance with the terms of the OIC which are binding on the Respondent.

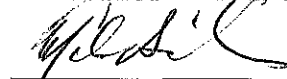
It is further **ORDERED** that the Respondent shall abide by all laws and regulations of the District of Columbia, shall operate its establishment in a safe and competent manner, and shall refrain from engaging in the type of activity that led to this disciplinary action.

A copy of this Order shall be sent to the Respondent and to the Government.

District of Columbia
Alcoholic Beverage Control Board



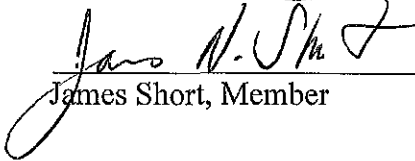
Donovan Anderson, Chairperson



Mike Silverstein, Member



Ruthanne Miller, Member



James Short, Member

I dissent from the decision of the Board. The Respondent was charged with thirty-four (34) primary tier violations. The allegations supporting the charges stem from multiple investigations conducted by ABRA's Enforcement Division over a period of just five (5) months. In this OIC the Respondent admitted liability for ten (10) of those charges. The sheer number of allegations and the egregious nature of those allegations are extremely troubling. I am particularly disturbed with the alleged conduct of the Respondent in Case No. 16-CC-0222, who is observed on video deliberately assisting an under-aged patron out the back door to avoid detection (p. 4-5). These allegations of repeatedly selling to minors and inferring with ABRA investigations demonstrate the Respondent's complete disregard for the law. It is my conclusion that the actions of this Respondent, which clearly threaten public safety, warrant revocation of the license. Unfortunately, this OIC allows the Respondent to retain the license and potentially profit from the sale of the license.



Nick Alberti, 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, 2000 14th Street, N.W., Suite 400S, Washington, DC 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 (2008) 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).