

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

In the Matter of:

Fast Trip, LLC
t/a Bistro 18 on U

Application for a New
Retailer's Class CT License

at premises
926-928 U Street, N.W.
Washington, D.C. 20001

License No: 098081
Case No.: N/A
Order No: 2015-261

TO: Mohammed Ahmed Al-Hada and Fast Trip, LLC
2311 Brooke Grove Road
Bowie, MD 20721

**ORDER REQUIRING APPLICANT TO DEMONSTRATE FITNESS FOR LICENSURE
UNDER § 25-301 AND POSTPONING STIPULATED LICENSE REQUEST**

The Applicant is hereby directed to appear before the Alcoholic Beverage Control Board (Board), located at the Reeves Center, 2000 14th Street, N.W., Suite 400, Washington, D.C., Suite 400 on May 27, 2015 at 10:00 a.m. for a **Qualifications Hearing**.¹

The purpose of the **Qualifications Hearing** is to determine whether the owners listed in the Application qualify for licensure under District of Columbia (D.C.) Official Code § 25-301. Because this hearing may result in an administrative action or order that impacts your rights, the hearing shall be conducted as a contested case hearing using the procedures provided by the D.C. Administrative Procedure Act (D.C. APA) (D.C. Official Code § 2-501 *et seq.*) and the protest procedures described in Title 23 of the D.C. Official Code (Title 23). *See* 23 DCMR § 1600.5, 1606.1-1606.8 (West Supp. 2014). Please also note that Title 25 of the D.C. Official Code (Title 25) places the burden of proof on the applicant to demonstrate through substantial evidence that he or she meets the qualifications described in § 25-301. *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 288 A.2d 666, 666-69, 671 (D.C. 1972); 23 DCMR § 1718.3 (West Supp. 2014).

¹ This date and the time of the hearing may be changed to accommodate the applicant and any potential witnesses.

All pleadings, or any other written communication, addressed to the Board, should be delivered to Martha Jenkins, General Counsel, 2000 14th Street, N.W., Suite 400, Washington, D.C. **You or your legal counsel, if represented, should contact General Counsel Martha Jenkins at (202) 442-4456 upon receipt of this notice to discuss any potential settlement, consent order, or stipulation that you want the Board to consider in lieu of a Qualifications Hearing in accordance with § 2-509(a).**

The basis of the contemplated action is certain information received by the Board. Specifically, the counts upon which this notice is based are set forth below:

Count I: The Applicant lacks good character and is generally unfit for the responsibilities of licensure in accordance with D.C. Official Code § 25-301(a)(1) based on each separate violation of Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations committed by the Applicant . This determination is supported by the following:

1. A Retailer's Class CR License was issued to Sami Restaurant, LLC, t/a Bistro 18, (Sami Restaurant) and designated ABRA License No. 086876. *ABRA License No. 08676*, ABRA License No. 086876. The address assigned to the establishment was 2420 18th Street, N.W. *Id.* The Applicant, Fast Trip, LLC, (Applicant) also filed an Application for a New Retailer's Class CT License (Application) at premises 926-928 U Street, N.W., Washington, D.C.
2. On September 11, 2014, Judge Craig Iscoe with the Superior Court of the District of Columbia, issued an order in favor of Irene Martinez and Jamil Ashayer, which found Sami Restaurant, LLC, and Sami Ghulais liable for damages and attorney's fees. *Irene Martinez, et al., v. Sami Restaurant, LLC, et al.*, Case No. 2012 CA 004081 B, 1 (Sept. 11, 2014) (Order); *Irene Martinez, et al., v. Sami Restaurant, LLC, et al.*, Case No. 2012 CA 004081 B, 1 (Sept. 11, 2014) (Order Granting Judgment Awarding Plaintiff's Liquidated Damages). The clerk subsequently issued a Writ of Fieri Facias to seize ABRA License No. 086876, held by Sami Restaurant, LLC. *Amended Praecipe for Writ of Fieri Facias on Personal Property on Defendant Sami Restaurant, LLC* (Oct. 14, 2014); *Writ of Fieri Facias* (Oct. 22, 2014). The U.S. Marshals then executed the writ, and on November 11, 2014, ABRA received ABRA License No. 086876 from the U.S. Marshals Service for the purpose of safekeeping. *U.S. Department of Justice, United States Marshals Service*, Receipt No. E 270116. As a result, as far as ABRA's records are concerned, the only individuals with the right to control ABRA License No. 086876 (Sami Restaurant) are Irene Martinez and Jamil Ashayer.
3. On December 8, 2014, ABRA received a transfer application executed by Fast Trip, LLC, and Sami Restaurant, LLC, for the purpose of transferring Sami Restaurant. *Transfer Application* (Dec. 8, 2014) (Sami Restaurant). The instructions provided with the ABC Application state that only the landlord may complete the Landlord Affidavit portion of the Application. *ABC License Application*, Instructions for Filing an Alcoholic Beverage Control (ABC) License Application, 3,

http://abra.dc.gov/sites/default/files/dc/sites/abra/publication/attachments/ABC_License_Application_2014.pdf (last visited Mar. 9, 2015). Nevertheless, Question 2 of the Landlord Affidavit submitted by Fast Trip, LLC, which asks for the name and address of the true and actual owner of the premises, is left blank. *Id.* at Landlord Affidavit (Question 2). The Board further notes that Mr. Al-Hada executed the Landlord Affidavit. *Id.* at Landlord Affidavit (Certification). Yet, the property is actually owned by Messinias Series of Valira, LLC. *Assignment and Assumption Agreement*, 7 (Nov. 25, 2014). As a result, the parties to the transfer application failed to properly execute the Landlord Affidavit and submitted an incomplete application.

4. On March 4, 2015, around 9:40 p.m., ABRA Investigators Dorshae Demby, Zachary Vick, and Shawn Townsend received a report that Sami Restaurant was in operation, even though its license was in safekeeping with ABRA. *Case Report No. 15-CMP-00132*, at 1. Later in the evening, the investigators entered Sami Restaurant. *Id.* Once inside, they observed patrons consuming alcoholic beverages. *Id.* Mr. Al-Hada identified himself to the investigators as the new owner of the establishment and displayed an assignment of lease agreement giving him the right to occupy the premises. *Id.* at 2. Mr. Al-Hada stated that he believed he was entitled to sell and serve alcohol based on the representations of the old owner, Sami Ghulais. *Id.* at 2. The investigators examined the license displayed by Mr. Al-Hada inside the establishment. *Id.* The license posted by Mr. Al-Hada was not the original license issued by ABRA; instead, it was a copy. *Id.*

5. Section 25-301 states, “Before issuing, transferring to a new owner, or renewing a license, the Board shall determine that . . . [t]he applicant is of good character and generally fit for the responsibilities of licensure.” D.C. Official Code § 25-301(a)(1). Under this statute, the Board may consider an applicant’s participation and involvement in illegal activity. *Minkoff v. Payne*, 210 F.2d 689, 690-91 (D.C. Cir. 1953) (saying evidence that an applicant engaged in violations of the law is sufficient to merit a finding that the applicant is unfit for licensure).

I. The Applicant violated § 25-102 on March 4, 2015.

6. On March 4, 2015, Mr. Al-Hada and Fast Trip, LLC, sold, served, and permitted the consumption of alcohol at 2420 18th Street, N.W. Under § 25-102(a), “[n]o person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title.” D.C. Official Code §25-102(a). Further, under § 25-102(d)

[n]o person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.

D.C. Official Code § 25-102(d). The Board notes that violations of Title 25 of the D.C. Official Code constitute a nuisance pursuant to D.C. Official Code § 25-805. D.C. Official Code § 25-805.

7. As of November 11, 2014, Sami Restaurant's Retailer's Class CR License has been rendered inactive, because it is in the possession of ABRA. *Supra*, at ¶ 2. Furthermore, the only individuals entitled to control ABRA License No. 086876, at this time, are Irene Martinez and Jamil Ashayer, per the Writ of Fieri Facias executed by the U.S. Marshals Service. *Id.* Based on these facts, Mr. Al-Hada and Fast Trip, LLC, were not entitled to sell, serve, or permit the consumption of alcohol at Sami Restaurant on March 4, 2015, because no active license pertaining to the location remained. *Supra*, at ¶¶ 2, 4. Therefore, the Applicant has violated § 25-102, which merits the denial of the present Application pursuant to § 25-301.

II. The Applicant violated § 25-405.

8. The Board also finds that the Applicant attempted to unlawfully transfer ABRA License No. 086876 (Sami Restaurant) without the permission of the Board in violation of § 25-405. Under § 25-405(b), "[a]n application to transfer a license to a new owner shall be filed by the transferee and approved by the Board before the consummation of the transfer." D.C. Official Code § 25-405(a). Further, § 25-405(e) states, "[i]f the Board finds that the licensee is in violation of this title or regulations promulgated under this title, the Board shall deny the application for transfer." D.C. Official Code § 25-405(e).

9. In this case, the parties executed the transfer without the permission of the Board. *Supra*, at ¶ 4. As admitted by Mr. Al-Hada, he considered himself to be an owner and presented the investigators with an executed lease agreement for the premises. *Id.* As a result, these facts constitute a clear violation of § 25-405, which merits denial of the present Application pursuant to § 25-301.

III. The Applicant violated 23 DCMR § 703.

10. The record further shows that Mr. Al-Hada and Fast Trip, LLC, failed to obtain a temporary operating permit in accordance with § 703, which would have authorized the purchasers to operate Bistro 18 in Adams Morgan while the transfer application was under review. 23 DCMR § 703 *et. seq.* (West Supp. 2015). The failure of the parties to obtain this permit further supports the determination that the Applicant is unfit for licensure pursuant to § 25-301.

All documents referenced in this notice are incorporated by reference, and also form the basis of the count described above. Please contact William Hager, Public Information Officer, at (202) 442-4425 or william.hager@dc.gov if you wish to obtain copies of any document cited in this notice.

Please also note that the Board has the right to obtain additional information regarding the application under 23 DCMR § 1611.1.

If the Board finds that any of the owners participating in the application are unfit for licensure, this may result in the denial of the application, as well as an inability of the above-mentioned owners from renewing alcohol licenses or participating in other licensed establishments in the District of Columbia. In addition, in lieu of denying the application, the Board may impose conditions on the license under D.C. Official Code §§ 25-301 and 25-104(e). Finally, any information obtained during these proceedings may be used by ABRA or forwarded to other government agencies to support additional administrative or criminal actions against the applicant or the individual owners.

Under D.C. Official Code § 2-509(b), you may personally appear at the hearing, and you, as well as the applicant, may be represented by legal counsel. At your scheduled hearing, you have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may also examine evidence produced and have subpoenas issued on your behalf to require the production of witnesses and evidence.

The Board reserves the right to amend this notice in accordance with D.C. Official Code § 2-509 based on new information that is discovered during the hearing process. The Board also reserves the right to schedule additional hearings to address preliminary motions or additional information received by the Board during the hearing process.

All hearings are conducted before the Board in the English language. If a party or witness is deaf, or because of a hearing impediment cannot readily understand or communicate the spoken English language, the party or witness may apply to the Board for the appointment of a qualified interpreter.

Please note that under § 2-509, your failure to appear at the time and place set for the hearing, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter or entering a default judgment.

ORDER

Therefore, the Board on this 13th day of May 2015, hereby orders the Applicant to appear on May 27, 2015 in order to demonstrate to the satisfaction of the Board that the Applicant qualifies for licensure under D.C. Official Code § 25-301 based on the issues and concerns raised in this Order.

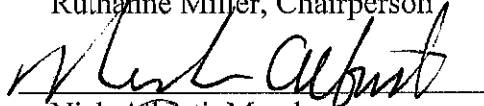
IT IS FURTHER ORDERED that the stipulated license request shall not be considered by the Board until the issues raised in this Order have been resolved.

ABRA shall provide a copy of this Order to the Applicant.

District of Columbia
Alcoholic Beverage Control Board



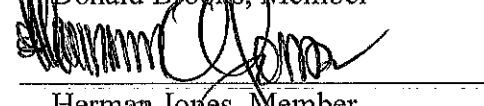
Ruthanne Miller, Chairperson




Nick Alberti, Member



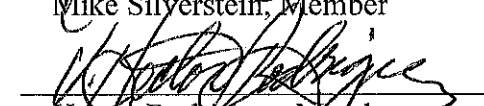
Donald Brooks, Member



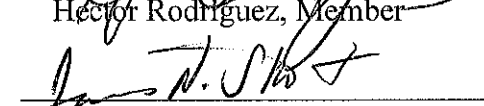
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Under 23 DCMR § 1719.1 (2008), 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, under 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration under 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).