

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

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In the Matter of: )	
Proof Lounge, LLC )	License Number: 87228
t/a GII Restaurant & Lounge )	Case Number: N/A
Application for a New )	Order Number: 2012-052
Retailer's Class CR License )	
at premises )	
2632 Georgia Avenue, N.W. )	
Washington, D.C. 20001 )	
_____ )	

**BEFORE:** Nick Alberti, Interim Chairperson  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member

**ALSO PRESENT:** Proof Lounge, LLC, t/a GII Restaurant & Lounge, Applicant  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

**ORDER DENYING APPLICANT'S MOTION FOR RECONSIDERATION**

Proof Lounge, LLC, t/a GII Restaurant & Lounge, (Applicant) submitted an Application for a new Retailer's Class CR License (Application) at premises 2632 Georgia Avenue, N.W., Washington, D.C. The Alcoholic Beverage Control (Board) received a complaint from Tekleselassie Atsku, which accused Zewdit Meskel of not intending to run the business for herself, but rather for the benefit of the landlords, Samson Meskel and Hanna Andemariam, and acting as the agent of the landlords in violation of D.C. Official Code § 25-301(a)(5). Pursuant to 23 DCMR § 1611 and the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*), the Board held a Fact Finding Hearing on September 21, 2011, to address the allegations against the Applicant and determine whether the Application complies with § 25-301(a)(5).

The Board's decision in this matter reflects the Board's concerns regarding the Applicant's relationship and business dealings with the landlords, Hanna Andemariam and Samson Meskel. Both Ms. Andemariam and Mr. Meskel have violated § 25-102 in the past by

selling alcohol without a license, which is a criminal offense. Proof Lounge, LLC, t/a GII Restaurant & Lounge, Board Order No. 2011-496, ¶ 14 (D.C.A.B.C.B. Dec. 14, 2011). In addition, Mr. Meskel also attempted to circumvent the Board’s licensing requirements and gain control of the ABC license possessed by Betty Etena, who did not appear to be managing the establishment, and appeared to have only applied at the behest of Mr. Meskel. Id. at ¶ 18.

We cannot ignore this history, as advocated by the Applicant, because the Applicant has chosen to do business with two people who have a record of serious violations of Title 25 of the District of Columbia Official Code. See Motion for Reconsideration, 6. The Applicant has the burden of proving to the Board that Ms. Andemariam and Mr. Meskel will not surreptitiously control or influence the business. Yet, the record shows a pattern of suspicious dealings between the Applicant, the half-sister of Mr. Meskel, and Mr. Meskel and Ms. Andemariam; whereby, the landlords have allowed the Applicant to occupy the premises without a security deposit, paying property taxes, or providing for insurance in violation of the lease. Id. at ¶¶ 6, 19. Under these circumstances, we had grave doubts about the Applicant’s independence from the landlords. Id. at ¶ 19. For these reasons, on December 14, 2011, the Board denied the Application, because we determined that the Applicant failed to prove under § 25-301(a)(5) that she will “be the true and actual owner of the establishment for which the license is sought” and “intends to carry on the business for . . . herself, and not as the agent of any other [entity] not identified in the [A]pplication.” Id. at 2; D.C. Code §§ 25-301(a)(5), 25-311(a) (West Supp. 2011).

Subsequently, on December 24, 2011, the Applicant filed a Motion for Reconsideration (Motion), asking the Board to reconsider its denial of the Application.

First, the Applicant asks the Board not to rely on the complaint filed by Mr. Atsku. Motion for Reconsideration, 2-3; see Proof Lounge, LLC, t/a GII Restaurant & Lounge, Board Order No. 2011-496, at 1. The Board did not consider the unsubstantiated allegations made in Mr. Atsku’s complaint when we decided to deny the Application. Id. at ¶¶ 16-20. As such, Mr. Atsku’s complaint had no influence on the Board’s final decision.

Second, the Applicant notes in her Motion that she has now satisfied her obligations under the lease by paying the security deposit, insurance, and paying the property’s property taxes for the property. Motion for Reconsideration, 3-4. However, this does not address the Board’s concerns that the landlords will play a role in the operations and management of the establishment. The mere fact that the Applicant was allowed to occupy the premises without meeting its obligations under the lease is sufficient evidence that the Applicant does not meet the requirements of § 25-301(a)(5). Therefore, the Applicant’s after-the-fact payments do not change our conclusion.

Third, the Applicant asks the Board not to hold the “side agreement” against the Applicant. Motion for Reconsideration, 5. The Board did not cite the “side agreement” as a basis for denying the license; we only referenced it in the Order to show that the agreement did not alter the Applicant’s obligations under the lease. See Proof Lounge, LLC, t/a GII Restaurant

& Lounge, Board Order No. 2011-496, at ¶¶ 12, 16-20. Under these circumstances, the Applicant's request has no bearing on the Board's decision.

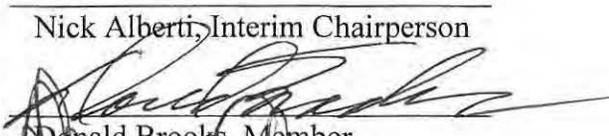
Fourth, the Applicant has clarified that the landlords retain ownership over the kitchen equipment left in the establishment by the previous licensee. *Motion for Reconsideration*, 5. Nevertheless, the Board's concerns regarding the kitchen equipment are separate and apart from our concerns related to the Applicant's lease arrangements with Mr. Meskel and Ms. Andemariam. As such, we see no reason to reverse our prior Order.

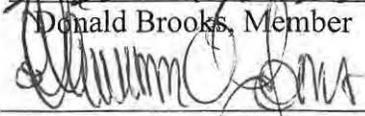
For the foregoing reasons, we affirm our decision in Board Order No. 2011-496.

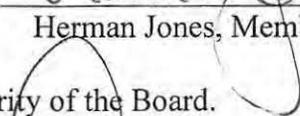
### **ORDER**

Therefore, the Board, on this 1st day of February 2012, hereby **DENIES** the Motion for Reconsideration filed by Proof Lounge, LLC, t/a GII Restaurant & Lounge, at premises 2632 Georgia Avenue, N.W., Washington, D.C.

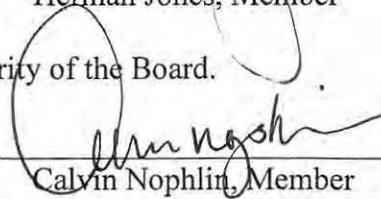
District of Columbia  
Alcoholic Beverage Control Board

  
Nick Alberti, Interim Chairperson

  
Donald Brooks, Member

  
Herman Jones, Member

I dissent from the position taken by the majority of the Board.

  
Calvin Nophlin, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, N.W., 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, District of Columbia 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 pursuant to 23 DCMR § 1719.1 (April 2004) 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).