

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

<b>In the Matter of:</b>	)	
	)	
Askale Yaregal	)	
t/a Gedera Market	)	
	)	
Holder of a	)	Case No.: 16-CMP-00404
Retailer's Class B License	)	License No.: ABRA-089069
	)	Order No.: 2016-552
at premises	)	
4600 14th Street, N.W.	)	
Washington, D.C. 20011	)	
	)	

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

**ALSO PRESENT:** Askale Yaregal, t/a Gedera Market, Respondent  
  
Amy Schmidt, Assistant Attorney General  
Office of the Attorney General for the District of Columbia  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

---

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

---

The Alcoholic Beverage Control Board (Board) finds that Askale Yaregal, t/a Gedera Market (Respondent), violated District of Columbia (D.C.) Official Code § 25-701, on April 12, 2016. However, the Board does not believe that a fine is warranted in this matter. Rather, the Respondent is warned against committing this violation in the future.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Alcoholic Beverage Control Board executed on June 23, 2016. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 4600 14th Street, N.W., Washington, D.C., on June 24, 2016.

The Notice charged the Respondent with the following violation:

Charge I: [On Tuesday, April 12, 2016] [y]ou failed to have an owner or Board approved manager on site during the sale, service or consumption of an alcoholic beverage, in violation of D.C. Official Code § 25-701...

*ABRA Show Cause File No. 16-CMP-00404, Notice of Status Hearing and Show Cause Hearing, 2 (June 23, 2016).*

On April 18, 2016, Citation #3706 was issued to the Respondent in the amount of \$2,000.00 for violating D.C. Official Code § 25-701.

The Respondent refused to pay the citation and instead, requested a hearing.

The Office of the Attorney General (OAG) and the Respondent appeared at the Show Cause Status Hearing on August 3, 2016, where there was no settlement of the matter. The parties argued their respective cases at the Show Cause Hearing held on September 14, 2016.

## FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

### I. Background

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated June 23, 2016. *See* ABRA Show Cause File No. 16-CMP-00404. Askale Yaregal, t/a Gedera Market, holds a Retailer's Class B License, ABRA License No. ABRA-089069. *See* ABRA Licensing File No. 16-CMP-00404. The establishment's premises is located at 4600 14th Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-089069.

2. The Show Cause Hearing was held on September 14, 2016. The Notice charges the Respondent with a single violation enumerated above. *See* ABRA Show Cause File No. 16-CMP-00404.

### II. Testimony of ABRA Supervisory Investigator John Suero

3. The Government presented its case through the testimony of one witness, ABRA Supervisory Investigator (SI) John Suero. *Transcript (Tr.)* 9/14/16 at 6.

4. SI Suero authored the Investigative Report, whose contents and exhibits serve as the basis of the factual nature of the incident. *Tr.* 9/14/16 at 10. Government's Exhibit 1.

5. On April 12, 2016, SI Suero visited the Respondent's establishment to conduct a Regulatory Inspection. *Tr.* 9/14/16 at 7. He arrived at the establishment at 10:17 a.m. *Tr.* 9/14/16 at 7-8.

6. Upon his arrival, SI Suero identified himself to an employee and asked to speak to the owner or an ABC-licensed Manager. *Tr.* 9/14/16 at 7-8. SI Suero was informed by the employee that the owner would arrive to the establishment later that day. *Tr.* 9/14/16 at 8.

7. It took SI Suero approximately twenty (20) minutes to conduct the regulatory inspection. *Tr.* 9/14/16 at 8. During SI Suero's regulatory inspection, there was not present an owner or an ABC-licensed Manager. *Tr.* 9/14/16 at 8.

### **III. Testimony of Halefom Hadgu**

8. Askale Yaragal, the owner of the establishment, called Halefom Hadgu as a witness for the Respondent. *Tr.* 9/14/16 at 15. Mr. Hadgu is the cousin of Mekdlawit Tekle, the establishment's ABC-licensed Manager. *Tr.* 9/14/16 at 15. Mr. Hadgu helps his cousin at the establishment during his free time. *Tr.* 9/14/16 at 15.

9. Mr. Hadgu testified that he was present during SI Suero's two visits to the establishment, on April 12 and April 18, 2016. *Tr.* 9/14/16 at 19.

10. Mr. Hadgu stated that on April 12, 2016, he and Ms. Tekle opened the establishment approximately at 10:00 a.m. *Tr.* 9/14/16 at 17. Ms. Tekle parked her car by a fire hydrant located in front of the establishment while she opened the establishment. *Tr.* 9/14/16 at 25. Then, Ms. Tekle then left the establishment to move her car. *Tr.* 9/14/16 at 25.

11. Mr. Hadgu indicated that at the time of SI Suero's arrival to the establishment, SI Suero asked him to speak with an ABC-licensed Manager. *Tr.* 9/14/16 at 18. He informed SI Suero that Ms. Tekle was moving her car. *Tr.* 9/14/16 at 18. He provided SI Suero with his personal information, and SI Suero stated that he would return. *Tr.* 9/14/16 at 18.

12. SI Suero returned approximately ten (10) minutes later and asked again for the ABC-license Manager. *Tr.* 9/14/16 at 18. Mr. Hadgu telephonically contacted Ms. Tekle and informed her that SI Suero was on the premises. *Tr.* 9/14/16 at 18. Ms. Tekle indicated that she was coming back to the establishment. *Tr.* 9/14/16 at 18. Mr. Hadgu indicated that when SI Suero heard Ms. Tekle's name, SI Suero stated that it was okay and exited the establishment. *Tr.* 9/14/16 at 18.

13. Mr. Hadgu stated that Ms. Tekle usually parks her car on the street. *Tr.* 9/14/16 at 24. On some occasions, she has to move her car every two hours. *Tr.* 9/14/16 at 24.

14. Mr. Hadgu stated that he helps at the establishment by collecting trash, stocking merchandise, and assisting with other chores. *Tr.* 9/14/16 at 24. He is not allowed to help or serve customers because he is not an ABC-license Manager. *Tr.* 9/14/16 at 27.

15. Mr. Hadgu acknowledged that the Respondent were in violation of the law for not having an ABC-licensed Manager during SI Suero's visit to the establishment.

## CONCLUSIONS OF LAW

16. 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 Official Code pursuant to District of Columbia Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2013). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Official Code § 25-447.

### I. THE RESPONDENT VIOLATED § 25-701

17. The Board finds the Respondent liable for permitting the licensed establishment to operate on April 12, 2016, without either the licensee or an ABC-licensed Manager superintending during the hours of operation in violation of D.C. Official Code § 25-701.

18. ABRA’s regulations are clear that either the licensee or an ABC-licensed Manager must be present while the establishment is operating. Title 23 of the DCMR § 707.1 provides that in the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises.

19. The Board finds that the facts set forth in the Investigative Report support the charge and support a finding of liability as to the Respondent. It is unrefuted that an employee admitted to SI Suero that there was no ABC-licensed manager or owner on the premises on April 12, 2016 at approximately 10:17 a.m. The Respondent was open and operating during SI Suero’s inspection.

### II. PENALTY

20. The ABRA Civil Penalty Schedule, set forth at 23 DCMR 800, provides the Board with discretion to issue a warning with respect to specific violations, including the violation of § 25-701, when circumstances warrant. The Board finds that the circumstances governing the ABC-licensed Manager leaving the establishment – moving her car to a legal parking space – warrants such a warning.

21. In this case, the ABC-licensed Manager left the establishment for upwards of 20 minutes to find a legal parking space. The ABC-licensed Manager was immediately reachable by her cousin. Under these circumstances, the Board finds that the ABC-licensed Manager’s absence from the establishment was reasonable.

22. Finally, because this is the Respondent’s second violation of not having an ABC manager on duty during operations, the Board strongly warns the Respondent not to commit this violation again. The ongoing conduct and failure to comply with the regulations that govern ABC licenses will not be tolerated by the Board.

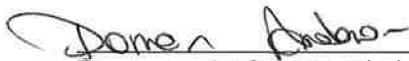
## **ORDER**

Based on the foregoing findings of fact and conclusions of law, the Board, on this 19th day of October, 2016, finds that the Respondent, Askale Yaregal, t/a Gedera Market, located at 4600 14th Street, N.W., Washington, D.C., holder of a Retailer's Class B license, violated D.C. Official Code § 25-701.

The Board hereby **ORDERS** that the Respondent be **WARNED** not to commit this offense again.

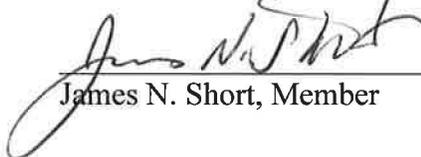
Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia  
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

Mike Silverstein, Member



James N. Short, Member

I agree with the Board as to liability, but I dissent from the position taken by the Board regarding the appropriate penalty for this offense.



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 14<sup>th</sup> 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).