

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

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| _____) | |
| In the Matter of:) | |
|) | |
| Bee Hive, LLC) | License No.: 72783 |
| t/a Sticky Rice) | Case No.: 13-CMP-00012 |
|) | Order No.: 2013-556 |
|) | |
|) | |
|) | |
| Holder of a Retailer's Class CR License) | |
| at premises) | |
| 1224 H Street, N.E.) | |
| Washington, D.C. 20002) | |
| _____) | |

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member

ALSO PRESENT: Bee Hive, LLC t/a Sticky Rice, Respondent

Michael Fonseca, of the firm Mallios and O'Brien, on behalf of the Respondent

Chrissy Gephardt, Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

INTRODUCTION

In Board Order No. 2013-408, we found that Bee Hive, LLC, t/a Sticky Rice, (Respondent) violated District of Columbia (D.C.) Official Code § 25-823(5) by interfering with an investigation conducted by the ABRA. In re Bee Hive, LLC t/a Sticky Rice, Case Number 13-CMP-00012, Board Order No. 2013-408, 6 (D.C.A.B.C.B. Oct. 16, 2013). The Board levied a \$4,000 fine for the violation, and ordered the suspension of the Respondent's license for

twenty-five days with ten of those days stayed for one year so long as the Respondent did not commit any additional violations of the District's alcoholic beverage control laws within one year from the date of our Order. Id. The Board then ordered that the suspension run from November 13, 2013, to November 27, 2013 Id.

Subsequently, the Respondent filed a Motion for Reconsideration, which solely requested that the Board reconsider the penalty imposed on the Respondent.¹ Mot. for Recon, 1. The Respondent argues that the Board's penalty in Board Order No. 2013-408 is inconsistent with the Board's prior decisions in In re 1900 M Restaurant Associates, Inc., Case Numbers 09-251-00110, 09-251-00210, 09-251-00005, Board Order No. 2011-131 (D.C.A.B.C.B. Feb. 17, 2011) and In re European Restaurant Group, LLC t/a One, Case Number 11-251-00001, Board Order No. 2011-380 (D.C.A.B.C.B. Oct. 5, 2011).

The Board denies this request for reconsideration, because the Board agrees with the Government that the penalty imposed on the Respondent is appropriate. Response, 2-5. First, the cases cited by the Respondent are distinguishable from the present matter. Our findings regarding the violation of District of Columbia (D.C.) Official Code § 25-823(5) in 1900 M Restaurant Associates, Inc. solely involved the licensee's failure to provide video footage. In re 1900 M Restaurant Associates, Inc., Board Order No. 2011-131, ¶¶ 130-134, *vacated*, 1900 Restaurant Associations, Inc. v. District of Columbia Alcoholic Beverage Control Bd., 56 A.3d 486 (D.C. 2012). As such, the Board's penalty in that case was not based on an action that potentially put two ABRA investigators in physical danger. In re Bee Hive, LLC t/a Sticky Rice, Board Order No. 2013-408, 1-2, ¶ 19.

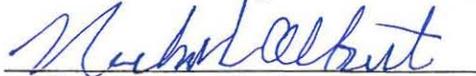
Similarly, the penalty levied in One is not comparable to the present matter. As noted by the Government, the licensee in One did not dispute the allegations and expressed remorse for the incident. Response, 3. The licensee in One also reorganized the business, disciplined the offending manager, and took steps to ensure that the business was operated safely. Id. The Board notes that none of these facts appear in the present matter; therefore, we are not persuaded that the Respondent merits any leniency based on our findings of fact in the instant case.

ORDER

Therefore, based on the foregoing, the Board, on this 20th day of November 2013, **DENIES** the Motion for Reconsideration filed by Bee Hive, LLC, t/a Sticky Rice. The ABRA shall deliver copies of this Order to the Government and the Respondent.

¹ The Board notes that the Respondent notified the Office of General Counsel that the establishment has withdrawn its request for a stay in this matter.

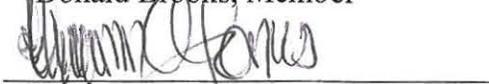
District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

I concur with the decision reached by the majority of the Board as to the violation of D.C. Official Code § 25-823(5). Nevertheless, I agree with the Respondent that the offense merits a lesser penalty.



Ruthanne Miller, Chairperson

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).