

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

In the Matter of:)

HRH Services, LLC)
t/a The Alibi)

Applicant for a)
Retailer's Class CR License)

237 2nd Street, N.W.)
Washington, D.C. 20001)

License No: 097969
Case No.: 15-PRO-00096
Order No: 2016-020

TO: Counsel for HRH Services, LLC (Applicant)
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**NOTICE OF HEARING AND ORDER GRANTING RIGHT TO INTERVENE TO THE
ABUTTING PROPERTY OWNER PROTESTANTS**

¹ The Settlement Agreement submitted by ANC 6C and the Applicant has not been formally approved; therefore, it is appropriate to notify the ANC of the upcoming hearing related to the protest. Because the ANC has not expressed a desire to participate, the ANC is advised that it is not required to attend the Qualifications Hearing and that its attendance, or lack thereof, will not impact the Board's review of the Settlement Agreement, which is a separate matter.

The Alcoholic Beverage Control Board, on this 13th day of January 2016, **ORDERS** HRH Services, LLC, t/a The Alibi (Applicant) to appear at a **Qualifications Hearing**, located at the Reeves Center, 2000 14th Street, N.W., Suite 400, Washington, D.C., on January 29th, 2016 at 1:30 p.m. Please note that the date and time of this hearing may be changed to accommodate the parties or any potential witnesses.

The purpose of the **Qualifications Hearing** is to determine whether the owners listed in the Application are qualified for licensure and whether the applicant has complied with the law related to the application. Because this hearing may result in an administrative action or order that impacts your rights, the hearing shall be conducted as a contested case or contested fact finding 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. 2016). Please 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 for licensure. *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. 2016). Please note that the Board is entitled by law to raise qualification issues and introduce evidence on its own initiative. *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 288 A.2d 666, 669 (D.C. 1972) (“The Board has a public interest function to perform unlike that of a court in private civil litigation between two contesting parties where relevant and material allegations made by the plaintiff are taken as admitted if not contested.”); *id.* at 672 (Chief J., Hood concurring) (“If the Board has any doubt on the question [of character and fitness], it may call for evidence to remove that doubt”). Finally, the Board also has the right to obtain additional information regarding the application under 23 DCMR § 1611.1.

The Board furthermore **GRANTS** the Abutting Property Owners, Charles and Susan Parsons, (Protestants) the right to intervene in these proceedings because they timely raised non-appropriateness issues when they filed their initial protest. 23 DCMR §§ 1701.3 and 1701.4 (West Supp. 2016); *Petition in Protest of the Application of HRH Services, LLC* (received Oct. 5, 2015); *Citizens Ass'n of Georgetown, Inc.*, 288 A.2d at 669 (saying that participants in the application process have the right to the opportunity to address character and fitness evidence as a matter of due process). Therefore, the Protestants may participate in the Qualifications Hearing as intervenors and make arguments, call witnesses to testify, and submit evidence on any matter contained in this notice, the Protestants’ initial protest letter, or any other matter that arises at the hearing.

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 or abra.legal@dc.gov 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).**

All documents referenced in this notice are incorporated by reference, and also form the basis of the counts described below. Furthermore, any individual identified below or in the records incorporated into this notice may be called as witnesses. Please contact William Hager at (202) 442-4425 or william.hager@dc.gov if you wish to obtain copies of any document.

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 Applicant, its owners, and other members, 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 or any other party, 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 based on the information contained below.

The basis of the contemplated action is certain information received by the Board, which raise questions of material fact and law as to whether the Board may approve and issue a license to the Applicant. Specifically, the counts upon which this action is based are set forth below:

Count I: The Applicant must demonstrate its qualifications for licensure under D.C. Official Code § 25-301(a)(5), in light of possible evidence that the Applicant is not the true and actual owner of the business; does not intend to carry on the business for himself or herself; or is the agent of Martin Seahill, who is not identified or disclosed in the Application.

1. Section 25-301(a) and 25-301(a)(5) provides that

“Before issuing, transferring to a new owner, or renewing a license, the Board shall determine that the applicant meets all of the following criteria: . . . the applicant is the true and actual owner of the establishment for which the license is sought, and he or she intends to carry on the business for himself or herself and not as the agent of any other individual [or entity] . . . not identified in the application.” D.C. Official Code § 25-301(a), (a)(5).

2. The alleged motivation for Martin Scahill and the Applicant to avoid listing Mr. Scahill or otherwise disclosing his involvement or interest in the business in its Application may be to avoid \$16,500 in fines related to underage drinking imposed while he owned, managed, or operated My Brother’s Place, the prior establishment at 237 2nd Street, N.W. Furthermore, the Applicant and Mr. Scahill may also be attempting to avoid the review of his qualifications related to his desire and ability to prevent underage drinking, the filing of an improper and unauthorized motion to withdraw and improper and unauthorized assignment of a lease during the Board’s review of the application filed by Melles Hospitality Group, LLC, t/a The Alibi Restaurant & Lounge, (MHG), and review of an incident involving the alleged illegal consumption of alcohol on the premises while the MHG application was pending.

3. These allegations are further supported by the following: MHG filed an Application for a New Retailer’s Class CR License on October 18, 2013. *Fact Finding File No.* 93491, ABRA Application, 1 [*ABRA Application*]. The Application lists the ownership as follows: Abraham Melles owned 36 percent; Martin Scahill owned 49 percent; and Hailemaryam Negash owned 15 percent. *Id.* The establishment also applied for an entertainment endorsement that would permit it to provide live entertainment, such as disc jockeys, and dancing. *Id.*

4. At the January 29, 2014 Fact Finding Hearing, Martin Scahill stated on the record that he owned an “8 percent” interest in the former Arias, Inc. t/a My Brother’s Place, (My Brother’s Place) ABRA License Number 071593, located at premises 237 2nd Street, N.W. *Transcript (Tr.)*, January 29, 2014, at 16-17. Mr. Scahill further stated on the record that he became an owner of My Brother’s Place on October 6, 2004. *Id.* at 19. Further, Mr. Scahill signed the certification on the establishment’s renewal application in 2010. The Board has not found a record in My Brother’s Place file that indicates Mr. Scahill is an owner. Nevertheless, based on the small percentage of his ownership, the establishment did not have to report the change. 23 DCMR § 601.1 (West Supp. 2016).

5. The Board cancelled My Brother’s Place’s license on August 14, 2013, because the establishment failed to submit a new renewal application after the Board dismissed the first renewal application and the ownership failed to appear at a required hearing. *In re Arias, Inc. t/a My Brother’s Place*, License No. 071593, Board Order No. 2013-366, 1 (D.C.A.B.C.B. Aug. 9, 2013) (Cease and Desist Order); *In re Arias, Inc. t/a My Brother’s Place*, License No. 071593, Board Order No. 2013-373, 1 (D.C.A.B.C.B. Aug. 14, 2013) (Order Cancelling License).

6. My Brother's Place was located at the same address as the proposed location for MHG. *Id.* MHG's Application was submitted approximately two months after the cancellation of My Brother's Place's license. *ABRA Application*, 1.

7. ABRA's records show that Mr. Scahill has had an active role in the operations and management of My Brother's Place. In response to a complaint from Catholic University, Mr. Scahill and Nelson Arias co-authored a letter explaining their reasons for busing Catholic University students to an event at the establishment and denying involvement in a Facebook advertisement targeting Catholic University students. *Case Report 10-CMP-00182*, Letter from Martin Scahill and Nelson Arias to Kathryn Jennings, 1-2 (Date of Occurrence: Feb. 18, 2010). Mr. Scahill also signed the certification on My Brother's Place renewal application on March 11, 2010. *ABRA Licensing File No. 071593*, Class C Restaurant Renewal Application, 2 (2010). During an audit conducted at My Brother's Place on July 29, 2010, Mr. Scahill represented the establishment and presented himself as the establishment's "Event Coordinator." *Case Report 10-AUD-0032*, 2 (Date of Occurrence: Jul. 29, 2010). As part of an underage drinking investigation, Mr. Scahill called ABRA Investigator Erin Mathieson on February 28, 2012, and referred to himself as an owner of My Brother's Place. *Case Report 12-251-00129*, 4 (Date of Occurrence: Feb. 26, 2012). Finally, during an underage drinking investigation on December 1, 2012, ABRA investigators found three underage minors consuming alcohol in the establishment, and discussed the violations with Mr. Scahill, who was acting as the establishment's manager during the investigation. *Case Report 12-CMP-00717*, 2 (Date of Occurrence: Dec. 1, 2012).

8. A 2013 Board Order shows that Mr. Scahill presented himself as the Respondent's General Manager to former ABRA Investigator Tyrone Lawson during a books and records investigation in 2012. *In re Arias, Inc. t/a My Brother's Place*, Case No. 12-CMP-00538, Board Order No. 2013-182, ¶¶ 3, 11 (D.C.A.B.C.B. May 22, 2013).

9. Mr. Scahill has further admitted that he worked at the establishment every weekend and checked identifications. *Tr.*, 1/29/14 at 50, 52-54; *Case Report No. 12-CC-00117*, Exhibit No. 3 (Date of Occurrence: Oct. 26, 2012) (Email from Martin Scahill to Rachel Wainer, Catholic University of America (Sept. 25, 2012)). This admission has been confirmed by the observations of ABRA Investigator Mathieson and ABRA Investigator Abyie Ghenene. *Id.* at 53, 56.

10. District of Columbia law prohibits the sale of alcohol to anyone under the age of twenty-one. D.C. Official Code § 25-781(a)(1). The Investigative History of My Brother's Place shows that the establishment committed six sale to minor violations between 2006 and 2013. In addition, before the Board canceled the license for My Brother's Place, the establishment had \$16,500 in delinquent fines, which were never paid. The establishment's history of sale to minor violations, as well the establishment's history of delinquent and outstanding fine payments are recounted below.

11. In 2006, in Case Number 7416, My Brother's Place agreed in an Offer-in-Compromise that it violated the District's sale to minor laws. *ABRA Licensing File No. 93491*, Investigative History, Case Number 7416. My Brother's Place paid a \$500 fine and received a one-day suspension of its license. *Id.*

12. In 2006, in Case Number 8004, My Brother's Place was found in violation of the District's sale to minor laws a second time. *ABRA Licensing File No. 93491*, Investigative History, Case Number 8004. My Brother's Place paid a \$1,000 fine and received a three-day suspension of its license. *Id.*

13. In 2010, in Case Number 10-CC-0031, My Brother's Place entered into a staff settlement admitting that it committed a sale to minor violation. *ABRA Licensing File No. 93491*, Investigative History, Case Number 10-CC-0031. My Brother's Place paid a \$3,000 fine and received a five-day suspension. *Id.*

14. On June 15, 2012, My Brother's Place entered into a settlement agreement with ABRA admitting that it violated the District's sale to minor laws. *ABRA Licensing File No. 93491*, Investigative History, Case Number 12-251-00129. Under the terms of the agreement, My Brother's Place received a \$4,500 fine and a ten-day suspension of its license. *Id.*

15. On May 22, 2013, the Board found that My Brother's Place violated D.C. Official Code §§ 25-113(j)(3)(a) and 25-711(a) by failing to maintain adequate books or records and maintain a copy of its settlement agreement on the premises. *In re Arias, Inc. t/a My Brother's Place*, Case No. 12-CMP-00538, Board Order No. 2013-182, 2, 5 (D.C.A.B.C.B. May 22, 2013). The Respondent was fined \$6,500, and the Board activated a four-day suspension that had been stayed in Case Number 12-251-00129. *Id.* at 5. The Board noted the violations in the case constituted one primary tier violation and one secondary tier violation. *Id.* The Investigative History report for My Brother's Place shows that the establishment never paid the fine imposed by the Board in this matter, which was due on July 22, 2013. *Investigative History* (My Brother's Place, ABRA License No. 071593, Case Number 12-CMP-00538).

16. On July 17, 2013, in order to resolve Case Number 12-CC-0117, My Brother's Place entered into an Offer-in-Compromise (OIC) where it admitted that it violated D.C. Official Code § 25-781 (Sale to minors or intoxicated persons prohibited). *Show Cause File No. 12-CC-0117*, Hearing Disposition Form (Jul. 17, 2013). My Brother's Place was fined \$5,000 for the offense, and received a ten-day suspension of its license. *Id.* The sale to minor violation counted as a primary tier violation. *Id.* The Investigative History report for My Brother's Place shows that the establishment never paid the fine imposed by the Board in this matter, even though it was due on August 1, 2013. *Investigative History* (My Brother's Place, ABRA License No. 071593, Case Number 12-CC-0117).

17. In addition, on July 17, 2013, in order to resolve Case Number 12-CMP-0717, My Brother's Place entered into another OIC where it admitted that it violated § 25-781. *ABRA Show Cause File No. 12-CMP-0717*, Hearing Disposition Form (Jul. 17, 2013). My Brother's Place was fined \$5,000 for the offense, and received a ten-day suspension of its license. *Id.* The sale to minor violation counted as a primary tier violation. *Id.* The Investigative History report for My Brother's Place shows that the establishment never paid the fine imposed by the Board in this matter, even though it was due on August 1, 2013. *Investigative History* (My Brother's Place, ABRA License No. 071593, Case Number 12-CMP-0717).

18. As an operation, My Brother's Place demonstrated repeatedly that it had deficient procedures to prevent underage drinking. In addition, My Brother's Place had a well-known reputation as a place where Catholic University students could engage in illegal underage drinking.

19. During an investigation on February 26, 2012, which was triggered by complaints from Catholic University, ABRA Investigators Mathieson and Ghenene found fourteen underage patrons inside the establishment. *Case Report No. 12-251-00129*, 1 (Date of Occurrence: Feb. 26, 2012). On the night of the investigation, the establishment was marking patrons under twenty-one with "X's" on their hands and gave them a wristband different from those patrons twenty-one years of age or older. *Id.* at 2. Notably, the investigators found three underage patrons consuming alcoholic beverages without a wristband. *Id.* at 4. Four underage patrons consuming alcoholic beverages had wristbands for patrons twenty-one years or older and stated that they did not require fake identification to obtain wristbands. *Id.* Furthermore, a number of the patrons who had used fake identification to gain entrance had used identifications of extremely poor quality. *Id.* Investigator Mathieson observed during her investigation that security did not appear to be monitoring the establishment for underage drinking. *Id.*

20. Hannah Kildruff, an eighteen-year-old female patron who did not possess any alcohol, advised Investigator Mathieson that My Brother's Place "is known for serving underage kids and hands out wristbands to anyone." *Id.* at 3. She also stated that the establishment has a reputation at Catholic University for permitting underage drinking. *Id.*

21. As a result of the investigation, Investigator Mathieson, Investigator Ghenene, representatives from Catholic University, and Mr. Scahill met to discuss the incident on February 26, 2012. *Id.* at 4. At the meeting, Mr. Scahill pledged to provide formal training to his employees and end "18 and over" parties. *Id.* He further pledged to deny entrance to individuals under the age of twenty-one after 10:00 p.m. *Id.*

22. Catholic University later provided ABRA and Mr. Scahill with an anonymous email from a student. *Id.* at Exhibit No. 7. The student reported that ADG, a Catholic University fraternity, was planning a party at My Brother's Place, "a bar infamous for its drug usage and under age [sic] drinking." *Id.* The student indicated that one of his friends got alcohol poisoning at the establishment and had to be taken to the hospital. *Id.* The student then stated, "Although it is labeled 21 to drink the promoters . . . hand out 21 bands to almost everyone and are ignoring the drinking laws . . ." *Id.*

23. Nevertheless, on March 17, 2012, Mr. Scahill informed Investigator Mathieson that he was reneging on his promise. *Id.* at 6. According to Mr. Scahill, based on the training received by the establishment's staff, he felt that My Brother's Place could allow under twenty-one events. *Id.* He then pledged to keep patrons under the age of twenty-one restricted to certain areas and under constant supervision. *Id.* at 6.

24. The Board notes that the violations observed during the February 26, 2012 investigation were resolved by the settlement agreement where the establishment agreed to pay a \$4,500 fine and receive a ten-day suspension of its license.

25. Another investigation of My Brother's Place was triggered by a complaint from Catholic University's Assistant Dean of Students. *Case Report No. 12-CC-00117*, 1, Exhibit No. 3 (Date of Occurrence: Oct. 26, 2012). Specifically, a student admitted to Catholic University's administration that she became ill after consuming alcohol at My Brother's Place on September 13, 2013. *Id.* The student further admitted that she had been given a wristband for patrons twenty-one years of age or older, even though she only displayed identification indicating that she was under the age of twenty-one. *Id.*

26. In response, on October 26, 2013, ABRA Investigators Mathieson and Ghenene conducted an investigation at the establishment and found eleven underage patrons inside the establishment. *Case Report No. 12-CC-00117*, 1 (Date of Occurrence: Oct. 26, 2012). They also observed that Mr. Scahill was checking identifications at the establishment at the time of their investigation. *Id.* at 2.

27. During the investigation, the investigators found nine underage patrons who had entered the establishment with fake identification, and one patron who found a wristband on the floor illegally consuming alcoholic beverages. *Id.* at 2-3. The investigators also observed two highly intoxicated underage female patrons that were wearing wristbands for patrons under twenty-one years of age. *Id.* at 4. The investigators confirmed that five of the minors were students at Catholic University. *Id.* at 2-3. Investigator Ghenene observed that the fake identifications were obvious fakes—some even lacking holograms. *Tr.*, 1/29/14 at 89.

28. The Board notes that the violations observed during the October 26, 2013, investigation were resolved by an OIC where the establishment agreed to pay a \$5,000 fine for the offense, and received a ten-day suspension of its license.

29. Investigator Ghenene testified that Mr. Scahill frequently checked identifications at My Brother's Place. *Tr.*, 1/29/2014 at 56. The investigator noted that he has left ABRA's identification guide at the establishment in the past, but never saw anyone at the establishment use it. *Id.* at 57. Further, My Brother's Place had a habit of not challenging flawed identification documents, even when presented by individuals that looked extremely young. *Id.* at 90. Finally, based on his conversations with Mr. Scahill, it appears that Mr. Scahill has a belief that he has no responsibility whatsoever if an underage person enters the establishment with fake identification, even when the identification is obviously flawed. *Id.*

30. Investigator Mathieson further testified that over thirty students she has spoken with confirmed that My Brother's Place would accept "any ID." *Id.* at 57.

31. ABRA Investigator Erin Mathieson observed a Facebook post on October 26, 2013, advertising an event at Alibi. *Tr.*, 1/29/2014 at 54. The Facebook post by David Williams on Martin Scahill's Facebook page described the event as a "pre-opening" that was "not open to the

public” but “partly to reintroduce old regulars to the new and updated bar.” *Id.* at 54-55; *Alibi Facebook Posts*. According to the post, guests were advised, “Please remember the bar cannot and will not have alcohol so guests must bring their own.” *Id.* at 55; *Alibi Facebook Posts*. A later post by Mr. Williams added, “For those attending the invite only party for brothers regulars and their friends October 26, please note brothers cannot sell or provide alcohol, ever [sic] person will supply their own alcohol when they arrive . . . Ice and mixers are provided.” *Alibi Facebook Posts*. Investigator Mathieson noted that Mr. Scahill was tagged in the post along with other people. *Id.*

32. In an undated letter submitted by Martin Scahill, titled “Substantial Evidence/Law,” Mr. Scahill describe Articles of Incorporation that give him an 8.42 percent interest in My Brother’s Place. *Letter from Martin Scahill, “Substantial Evidence/Law,”* 5. He also admitted that he knew that the establishment refused to take steps to prevent the sale of alcohol to minors and chose to continue working at the establishment checking identifications. *Id.* at 4. He also admitted that he was aware of the unpaid fines owed by My Brother’s Place as of June 13, 2013. *Id.* at 2.

33. Martin Scahill is twice identified as an officer of My Brother’s Place; once in 2007 as the entity’s treasurer; and once in 2011 in the role of Events Coordinator and Marketing in documents submitted to DCRA. *District of Columbia Department of Consumer and Regulatory Affairs, Two Year Report for Foreign and Domestic Business Corporations*, File No. 242817 (filed June 2007); *District of Columbia Department of Consumer and Regulatory Affairs, Two Year Report for Foreign & Domestic Business & Professional Corporation*, List of Active Corporate Officers and Directors (filed April 27, 2011).

34. The Protestants have also made allegations that raise questions of material fact as to whether Martin Scahill, in whole or in part, manages, controls, operates, or otherwise has an interest in the current Applicant’s business. They allege that Martin Scahill, Rachel Traverso, and Richard Traverso engaged in construction and demolition on the premises together between September 2013 and January 2015. *Petition in Protest to the Application of HRH Services* (received October 5, 2015), at 3. Rachel Traverso was involved in the business activity of the prior applicant, MHG. *Id.* Mr. Scahill and Ms. Traverso applied for a building permit from the District of Columbia Department of Consumer and Regulatory Affairs. *Id.* at 5. Mr. Scahill and Ms. Traverso live or have lived together at 708 G Street, S.E., which is currently the principal place of business of the Applicant. *Id.* at 6. Martin Scahill previously created an entity called HRH LLC, which is similar to the Applicant’s name, HRH Services LLC, and shared the same principal place of business, 708 G Street, S.E. *Id.* Mr. Scahill held himself out as a representative of the Applicant in a hearing before the District Department of Transportation (DDOT). *Id.* at 7-8. Mr. Scahill further engaged in a no-consideration assignment of the prior applicant’s lease and withdrew the prior applicant’s without the authority or permission of the other applicant’s owners. *Id.* at 7. The Protestants further allege that the Mr. Scahill and the Applicant are operating the establishment together. *Id.* at 16.

35. It has been previously alleged that Rachel Traverso is or was the domestic partner of Martin Scahill. *In re Melles Hospitality Group, LLC, t/a The Alibi Restaurant & Lounge*,

License Nos. 93941, 97969, Board Order No. 2015-241, 2, 7 (D.C.A.B.C.B. May 6, 2015). Both Ms. Traverso and Mr. Scahill also worked at My Brother's Place together. Furthermore, the Board previously found that Mr. Scahill wrongfully withdrew the prior application without authorization and wrongfully transferred the prior applicant's lease to the HRH Services, LLC, which raises concerns based on the Applicant's prior involvement in MHG. *Id.* at 7-9.

36. The Protest Report provided by ABRA Investigator Mark Brashears indicates that he observed Martin Scahill on the Applicant's premises on Wednesday December 16, 2015. *Protest Report*, Case No. 15-PRO-00096, 9 (Dec. 2015).

37. The Board further includes and intends to review, rely upon, and take official notice of records in ABRA's file, including Board Orders, exhibits, and transcripts, related to My Brother's Place, the Application of MHG, and the protest of the current Applicant in its decision related to the various Counts contained in this Notice.

Count II: The Application may be denied pursuant to D.C. Official Code § 25-401(c) and 23 DCMR § 401.1, because the Applicants may have included a false statement in the application by failing to disclose the ownership or interest of Martin Scahill in violation of D.C. Official Code § 25-401(c).

38. The narrative under Count I is incorporated by reference and forms part of the basis of Count II.

39. Section § 25-401 states that

“ . . . all of the members of a limited liability company . . . shall sign a notarized statement certifying that the application is complete and accurate. Any person who knowingly makes a false statement on an application, or in any accompanying statement under oath that the Mayor or the Board may require, shall be guilty of the offense of making false statements. The making of a false statement, whether made with or without the knowledge or consent of the applicant, shall, in the discretion of the Board, constitute sufficient cause for denial of the application or revocation of the license. D.C. Official Code § 25-401(c).

40. An “Interest’ includes the ownership or other share of the operation, management, or profits of a licensed establishment. The term “interest” shall not include an agreement for the lease of real property.” D.C. Official Code § 25-101(26).

41. The Applicant only identified Rachel Traverso and Richard Traverso as managing members or persons with an ownership interest in the business. *ABRA Application*, 1 (received Feb. 13, 2015) (See Question 18). The Applicant reported that the Rachel Traverso and Richard Traverso each held a 50 percent interest; therefore, if another individual or entity, such as Martin Scahill, holds any ownership interest in the business, the Application would contain a misrepresentation or falsehood. *Id.*

Count III: **The Application may be denied pursuant to D.C. Official Code § 25-401(c) and 23 DCMR § 401.1, because the Applicants may have included a false statement in its initial application by filing a fraudulent lease agreement in an attempt to mislead the Board that it had a valid lease.**

42. The narrative under Count I and II is incorporated by reference and forms part of the basis of Count III.

43. The Board previously determined that Martin Scahill did not have the authorization to withdraw MHG's application or transfer its lease. Martin Scahill was a prior owner of MHG and either one or both members of the current Applicant were involved in MHG's business; therefore, both Martin Scahill and one or both members of the Applicant knew or should have known that the withdrawal and lease were invalid or unauthorized before submitting it to the Board.

Count IV: **The Applicant may otherwise fail to qualify for licensure for the reasons cited by the Protestant Abutting Property Owners during the protest proceedings.**

44. The narrative under Count I through III is incorporated by reference and forms part of the basis of Count IV.

45. The Board incorporates by reference the issues raised by the Protestants in their initial protest petition. *Petition in Protest to the Application of HRH Services* (received October 5, 2015). The issues, as understood by the Board, include, but are not limited to, compliance with D.C. Official Code §§ 25-301(a)(1), 25-301(a)(5), 25-301(a)(7), and 25-335, as well as 23 DCMR §§ 311(c):

1. The alleged forgery of the Department of Consumer and Regulatory Affairs (DCRA) application for a roof permit, *id.* at 5-6;
2. The alleged effort to camouflage Martin Scahill's participation in the Applicant's business, *id.* at 6-10; and
3. The alleged failure to comply with an order of the District Department of Transportation (DDOT) and violation of the Construction Code, *id.* at 11-16.

46. The narrative under Count I is incorporated by reference and forms part of the basis of Count IV.

Count V: **The Applicant may be disqualified from licensure pursuant to D.C. Official Code § 25-301(a)(1) based on the Counts contained in this Order.**

47. The narrative under Count I through IV is incorporated by reference and forms part of the basis of Count V. The Board notes that if any of the Counts are sustained, there may be grounds for disqualifying the Applicant under § 25-301(a)(1).

Remedy: **Please note that any or all of the following may result from the hearing:**

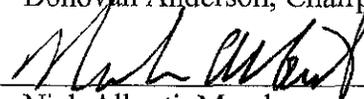
1. The Board may consider any evidence received during the Qualifications Hearing as part of its determination of appropriateness, including the participation of Mr. Scahill in the operations of the establishment and may hold additional hearings related to the appropriateness of the establishment based on any new evidence received during the hearing. D.C. Official Code § 25-301(a)(7); *see also Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 275 (D.C. 2013) (saying that evidence related to a separate establishment is relevant when the establishment's share similar ownership or management).
2. Denial of the Application;
3. Denial of the Sidewalk Café Endorsement;
4. Find that the Applicant or its members are unfit for licensure in accordance with D.C. Official Code § 25-301(a)(1), which merits denial of the Application, including all other applications for licensure, including renewals, filed with ABRA for up to ten years in accordance with D.C. Official Code § 25-301(a-1);
5. The Applicant shall be prohibited from filing a successive application at 237 2nd Street, N.W., for five years in accordance with D.C. Official Code § 25-338; and
6. Impose conditions on the license in accordance with D.C. Official Code § 25-104(e), which may include, but are not limited to:
 - a. The total exclusion of Martin Scahill from the operations and management of the business, regardless of whether voluntary or in exchange for compensation;
 - b. The imposition of measures to prevent underage drinking, such as mandatory alcohol awareness training for management and staff or mandatory identification checking and alcohol service procedures; and
 - c. Withholding the approval or issuance of a sidewalk café endorsement pending review and approval by DDOT.

In accordance with 23 DCMR § 1703.5(g), ABRA shall deliver a copy of this Order to the Applicant and the Protestant by email. The Board further notes that the record in this case is too large to transfer by email; therefore, the parties are instructed to make arrangements with ABRA's General Counsel to pick up the materials at ABRA's offices, which will be transferred to a flash drive or similar device owned by the parties at a mutually convenient date and time. Finally, although not yet completed as of the date of this Order, ABRA will make a copy of the transcript from the protest hearing available when the court reporter delivers it to the agency.

District of Columbia
Alcoholic Beverage Control Board



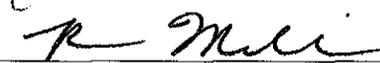
Donovan Anderson, Chairperson



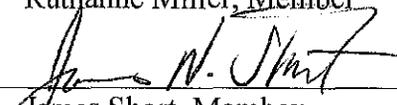
Nick Alberti, Member



Mike Silverstein, Member



Ruthanne Miller, Member



James Short, Member

Under 23 DCMR § 1719.1 (West Supp. 2016), 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).