

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

In the Matter of:)	
)	
Asefu Alemayehu)	License No.: 74241
t/a Yegna)	Case No.: 11-CMP-00321
)	Order No.: 2016-714
)	
Holder of a Retailer's Class CT License)	
at premises)	
1920 9th Street, N.W.)	
Washington, D.C. 20001)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Jake Perry, Member
Mafara Hobson, Member

ALSO PRESENT: Asefu Alemayehu, t/a Yegna, Licensee

Wendell C. Robinson, Counsel, on behalf of the Licensee

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ORDER DENYING SECOND MOTION FOR RECONSIDERATION AND OTHER
MOTIONS**

The additional post-trial motions filed by Asefu Alemayehu, t/a Yegna, (hereinafter "Respondent" or "Yegna") are denied.

PROCEDURAL AND FACTUAL BACKGROUND

The Board's decision is based on the following:

1. The Board scheduled a Remand Hearing ordered by the District of Columbia Court of Appeals in *Alemayehu v. District of Columbia Alcoholic Beverage Control Board*, 109 A.3d 1095 (D.C. 2014) for March 30, 2016 at 11:00 a.m.

2. After the hearing, in an Order issued on April 20, 2016, the Board reversed the revocation of Yegna's license. *In re Asefu Alemayehu, t/a Yegna*, 11-CMP-00321, Board Order No. 2016-139, 1 (D.C.A.B.C.B. Apr. 20, 2016). In lieu of revocation, the Board replaced the revocation order with a \$30,000 fine. *Id.*

3. On October 19, 2016, the Board issued a Cease and Desist Order requiring the cessation of the sale and consumption of alcoholic beverages on the premises because Yegna's license had expired. *In re Asefu Alemayehu, t/a Yegna*, License No. 074241, Board Order No. 2016-567, 1 (D.C.A.B.C.B. Oct. 19, 2016). The order further notified Yegna that the business had "failed to renew its license by September 30, 2016, the deadline for renewal of all Retailer's Class CT Licenses" and that the license would "remain expired until [Yegna] pays the required renewal fee and daily fine of \$50.00 imposed by the Board for late payment." *Id.*

4. On November 2, 2016, the Board cancelled Yegna's license for failing to renew by September 30, 2016. *In re Asefu Alemayehu, t/a Yegna*, License No. 074241, Board Order No. 2016-622, 1 (D.C.A.B.C.B. Nov. 2, 2016).

5. On November 30, 2016, the Board denied Yegna's motion for reconsideration filed on November 10, 2016. *In re Asefu Alemayehu, t/a Yegna*, License No. 074241, Board Order No. 2016-661, 1 (D.C.A.B.C.B. Nov. 30, 2016).

6. On December 12, 2016, Yegna's counsel filed a motion claiming unspecified violations of the court's remand order and requesting a hearing. *Emergency Mot. to Set Hearing Date and Issue a Temporary ABC Licensing Pending Resolution of the Matters Noted in the Remand Decision*, 1.

7. On December 14, 2016, Yegna's counsel requested an extension of time to file an amendment because counsel had just received unspecified documents from ABRA. *Mot. to Hold Mot. in Abeyance*, 1; *Mot. for Extension of Time.*, 1.

CONCLUSIONS OF LAW

The Board denies the various motions filed by Yegna for the following reasons:

I. Yegna Waived the Right to Challenge the Board Order Related to the Remand.

8. Section 25-433(d)(1), states that "A petition for reconsideration, may be filed by a party within 10 days after the date of receipt of the Board's final order." D.C. Official Code § 25-433(d)(1). The Board's Order related to the court's remand order was issued on April 20, 2016. *Supra*, at ¶ 1. The time to file a motion for reconsideration related to that Order has long passed; therefore, Yegna has waived the opportunity to challenge the Board's actions related to the remand in this forum.

II. The Board's Order Related to the Remand Has No Relevance to the Present Proceeding.

9. The Board's Order related to the remand dealt with the penalty imposed on Yegna due to a violation of the law. *Supra*, at ¶ 1. In contrast, the cancellation of Yegna's license is due to the owner's failure to properly file for renewal, which is an entirely separate matter that has nothing to do with the previous show cause action. *Supra*, at ¶¶ 3-4. Consequently, the Board's decision related to the court's remand order has no bearing on the issue of whether Yegna properly renewed its license.

III. Yegna Second Motion for Reconsideration Fails to Comply with § 1719.

10. Under the Board's rules, "A petition for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought. 23 DCMR § 1719.3 (West Supp. 2016). Furthermore, the rules also say that "If a petition is based in whole or in part on a new matter, that matter shall be set forth in an affidavit and be accompanied by a statement that the petitioner could not by due diligence have known or discovered the new matter prior to the date the case was presented to the Board for decision." 23 DCMR § 1719.4 (West Supp. 2016).

11. The Board notes that Yegna has already filed and received a response to its first motion for reconsideration. *Supra*, at ¶ 5. The second motion filed by counsel, which the Board treats as a motion for reconsideration, cites unspecified violations of the remand order, that have no bearing on the present matter, and identifies no other potential errors of law. The motion also does not explain the failure to raise the errors during Yegna's first motion for reconsideration. Consequently, in light of Yegna's failure to provide good cause for allowing a second motion for reconsideration, the Board affirms its prior decision cancelling Yegna's license and denies the motions filed by Yegna.

ORDER

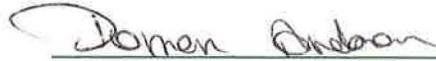
Therefore, the Board, on this 14th day of December 2016, hereby, **AFFIRMS** Board Order Nos. 2016-622 and 2016-661.

IT IS FURTHER ORDERED that all motions filed by Yegna are deemed **DENIED**.

Yegna is **ADVISED** that this matter is deemed final, and that the Board will not consider any further motions related to this matter.

ABRA shall deliver a copy of this Order to Yegna's counsel.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



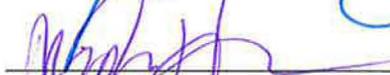
Mike Silverstein, Member



James Short, Member



Jake Perry, Member



Mafara Hobson, 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 14th Street, N.W., Suite 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, 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 (West Supp. 2016) 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).