

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

In the Matter of:

Aqua NYA, LLC
t/a Aqua Restaurant

Holder of a
Retailer's Class CT License

1818 New York Ave., N.W.
Washington, D.C. 20002

Case No.: 20-251-0016
License No.: 060477
Order No: 2020-147

BEFORE: Donovan Anderson, Chairperson
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member

ALSO PRESENT: Aqua NYA, LLC, t/a Aqua Restaurant, Respondent

Emanuel N. Mpras, Esq., Counsel, on behalf of the Respondent

Walter Adams and Stephen Ortiz, Assistant Attorneys General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER APPROVING THE OFFER-IN-COMPROMISE AND LIFTING SUSPENSION

On February 23, 2020, the Metropolitan Police Department closed Aqua NYA, LLC, t/a Aqua Restaurant, (Respondent), under the authority granted by D.C. Official Code § 25-827 based on an incident that occurred on the same day. After an investigation, the Alcoholic Beverage Control Board voted to extend the suspension under the authority granted by D.C. Official Code § 25-826.

After the Board received a request for a hearing, the parties appeared before the Board on March 4, 2020. At the hearing, the parties proposed an offer-in-compromise, which was accepted by the Board.

ORDER

Therefore, on this 4th day of March 2020, the Board **APPROVES** the offer-in-compromise submitted by the parties subject to the following:

1. The Respondent shall follow all terms and conditions attached to this Order and contained in the offer-in-compromise, which are binding and must be followed by the license holder as a condition of licensure.
2. The Respondent shall have its license returned and have the suspension lifted immediately on the condition that it complete all remaining conditions that have not been completed as of the date of this Order.

The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board

Donovan Anderson, Chairperson

Bobby Cato, Member

Rema Wahabzadah, Member

Rafi Aliya Crockett, Member

Jeni Hansen, 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, Reeves Center, 2000 14th Street, NW, 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 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).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE



Public Interest Division
Civil Enforcement Section

OFFER IN COMPROMISE¹

In the Matter of: Aqua NYA, LLC t/a Aqua Restaurant

Officer/owner: Jong Kim, Managing Member

Case number: 20-251-00016

License No.: ABRA-060477

Date of Incident: February 23, 2020 Hearing Date: March 4, 2020

Statutory Authority: D.C. Code §25-826(a)

This offer in compromise (OIC) will be presented to the Alcoholic Beverage Control Board (Board) by the Office of the Attorney General (OAG) at the Summary Suspension hearing in the matter of Aqua NYA, LLC t/a Aqua Restaurant (respondent). This is a proposed compromise. Accordingly, the Board has the discretion to accept or reject this offer. The OIC consists of the following terms.

- (1) Revised Security Plan: Respondent shall submit an updated Security Plan to ABRA and OAG by 5:00 p.m. on March 11, 2020. The Security Plan shall comply with all applicable requirements under D.C. Code Title 25 and corresponding regulations. The revised Security Plan shall address: security staff uniforms, patron screenings, reporting incidents, maintenance of an incident log, the location and coverage of cameras, together with a diagram showing same, the length of recording of cameras, submission of camera video to law enforcement, handling intoxicated patrons, and employee training, as described in this OIC.

- (2) Security Personnel Uniforms: All security personnel shall wear uniforms with the lettering designating "Staff" or "Security." The lettering shall be clear and visible from a distance.

¹ Authorized under 23 DCMR § 1604.5 (2016).

- (3) Screening of Patrons: Security staff will screen patrons through the use of physical searches, or “pat downs,” and a magnetometer wand or similar device designed to detect weapons. All weapons confiscated will be submitted to the Metropolitan Police Department (MPD). Respondent will maintain a log of confiscated items that records the type and number of items confiscated, and the date of confiscation and surrender to MPD.
- (4) Reporting Incidents: Respondent shall contact 911 or the reimbursable detail MPD officers assigned to the establishment to report incidents of violence that result in injuries.
- (5) Recording Incidents: Respondent shall maintain a log to record incidents of violence or injury at the establishment. The log shall include where possible the names and contact information of victims, witnesses, and assailants involved. The incident log shall be maintained on a standard form, include names of staff involved, and be signed by establishment’s supervising authority. Incidents shall be recorded where possible within 24 hours. The incident log shall not be discarded for at least (5) years from the date of the occurrence and shall be made available to MPD or ABRA investigators upon request.
- (6) Upgrading Security Cameras: Respondent will upgrade its security cameras to eliminate blind spots and to improve the quality of the recorded images. Cameras shall record and video shall be preserved for a minimum of 30 days. An ABRA investigator shall assess the upgrade to ensure an adequate number of cameras, that blind spots have been covered, and that image quality has been improved prior to the lifting of the license suspension.
- (7) Handling Intoxicated Patrons: Respondent shall have procedures in place for identifying and handling intoxicated patrons. Specifically, the Security Plan shall address the Security Personnel’s responsibility in identifying and handling intoxicated patrons.
- (8) Employee Training: All employees shall be trained by April 3, 2020 on how to identify and handle intoxicated patrons and on reporting incidents of violence or injury to the manager, security supervisor, or other appropriate authority.
- (9) Security Plan Training: Prior to lifting the license suspension, all security personnel shall be trained on the terms of the Security Plan, to include physical searches of patrons, use of the magnetometer wand, handling violent incidents, and when to report incidents to law enforcement. All security personnel shall be trained in security procedures within 30 days of hire. On an annual basis, all security personnel will receive refresher training on the Security Plan.

