

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

In the Matter of:)	
)	
Mohammed Ahmed Al-Hada;)	License No: N/A
)	Case No.: N/A
Fast Trip, LLC;)	Order No: 2015-094
)	
Sami Ghulais; and)	
)	
Sami Restaurant, LLC)	
)	
Respondents)	

TO: Gina Mondesir, Counsel
619 Somerset Pl., N.W.
Washington, D.C. 20011

CC: Mohammed Ahmed Al-Hada and Fast Trip, LLC
2311 Brooke Grove Road
Bowie, MD 20721

CC: Sami Ghulais and Sami Restaurant, LLC
2420 18th Street, N.W.
Washington D.C., 20009

CEASE AND DESIST AND DENIAL OF TRANSFER APPLICATION

INTRODUCTION

On March 11, 2015, the Alcoholic Beverage Control Board (Board) reviewed compelling evidence that Mohammed Ahmed Al-Hada and Fast Trip, LLC, violated D.C. Official Code § 25-102 by selling alcohol without a license on March 4, 2015, at 2420 18th Street, N.W., Washington, D.C. A review of the evidence and the records of the Alcoholic Beverage Regulation Administration (ABRA) further show that the pending transfer application submitted by Sami Restaurant, LLC, t/a Bistro 18, and Fast Trip, LLC, must be denied, because the license is now under the control of a third party due to a seizure action initiated in the Superior Court of the District of Columbia.

FINDINGS OF FACT

The Board bases its decision on the following facts:¹

I. Record Related to Ownership of ABRA License No. 086876

1. A Retailer's Class CR License was issued to Sami Restaurant, LLC, t/a Bistro 18, (Bistro 18) and designated ABRA License No. 086876. *ABRA License No. 08676*, ABRA License No. 086876. The address assigned to the establishment was 2420 18th Street, N.W. *Id.*

2. On September 11, 2014, Judge Craig Iscoe with the Superior Court of the District of Columbia, issued an order in favor of Irene Martinez and Jamil Ashayer, which found Sami Restaurant, LLC, and Sami Ghulais liable for damages and attorney's fees. *Irene Martinez, et al., v. Sami Restaurant, LLC, et al.*, Case No. 2012 CA 004081 B, 1 (Sept. 11, 2014) (Order); *Irene Martinez, et al., v. Sami Restaurant, LLC, et al.*, Case No. 2012 CA 004081 B, 1 (Sept. 11, 2014) (Order Granting Judgment Awarding Plaintiff's Liquidated Damages). The clerk subsequently issued a Writ of Fieri Facias to seize ABRA License No. 086876, held by Sami Restaurant, LLC. *Amended Praecipe for Writ of Fieri Facias on Personal Property on Defendant Sami Restaurant, LLC* (Oct. 14, 2014); *Writ of Fieri Facias* (Oct. 22, 2014). The U.S. Marshals then executed the writ, and on November 11, 2014, ABRA received ABRA License No. 086876 from the U.S. Marshals Service for the purpose of safekeeping. *U.S. Department of Justice, United States Marshals Service*, Receipt No. E 270116. As a result, as far as ABRA's records are concerned, the only individuals with the right to control ABRA License No. 086876 are Irene Martinez and Jamil Ashayer.

3. On December 8, 2014, ABRA received a transfer application executed by Fast Trip, LLC, and Sami Restaurant, LLC. *Transfer Application* (Dec. 8, 2014) (Bistro 18). The instructions provided with the ABC Application state that only the landlord may complete the Landlord Affidavit portion of the Application. *ABC License Application*, Instructions for Filing an Alcoholic Beverage Control (ABC) License Application, 3, http://abra.dc.gov/sites/default/files/dc/sites/abra/publication/attachments/ABC_License_Application_2014.pdf (last visited Mar. 9, 2015). Nevertheless, Question 2 of the Landlord Affidavit submitted by Fast Trip, LLC, which asks for the name and address of the true and actual owner of the premises, is left blank. *Id.* at Landlord Affidavit (Question 2). The Board further notes that Mr. Al-Hada executed the Landlord Affidavit. *Id.* at Landlord Affidavit (Certification). Yet, the property is actually owned by Messinias Series of Valira, LLC. *Assignment and Assumption Agreement*, 7 (Nov. 25, 2014). As a result, the parties to the transfer application failed to properly execute the Landlord Affidavit and have submitted an incomplete application.

4. Mr. Al-Hada, acting on behalf of Fast Trip, LLC, and Sami Ghulais, acting on behalf of Sami Restaurant, LLC, executed an attorney designation form on February 5, 2014, which appointed Gina Mondesir as their counsel. *Attorney/Agent Designation Form* (Feb. 4, 2015).

¹ The Board incorporates Case Report No. 15-CMP-00132, authored by ABRA Investigator Dorshae Demby, and all of the exhibits described in the report by reference.

II. Record Related to Illegal Activity Occurring at 2420 18th Street, N.W.

4. On March 4, 2015, around 9:40 p.m., ABRA Investigators Dorshae Demby, Zachary Vick, and Shawn Townsend received a report that Bistro 18 was in operation, even though its license was in safekeeping with ABRA. *Case Report No. 15-CMP-00132*, at 1. Later in the evening, the investigators entered Bistory 18. *Id.* Once inside, they observed patrons consuming alcoholic beverages. *Id.* Mr. Al-Hada identified himself to the investigators as the new owner of the establishment and displayed an assignment of lease agreement giving him the right to occupy the premises. *Id.* at 2. Mr. Al-Hada stated that he believed he was entitled to sell and serve alcohol based on the representations of the old owner, Sami Ghulais. *Id.* at 2. The investigators examined the license displayed by Mr. Al-Hada in the establishment. *Id.* The license posted by Mr. Al-Hada was not the original license issued by ABRA; instead, it was a copy. *Id.*

CONCLUSIONS OF LAW

5. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease “. . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public . . .” D.C. Official Code § 25-829(a).

III. MR. AL-HADA AND FAST TRIP, LLC, VIOLATED § 25-102 BY SELLING ALCOHOL WITHOUT A LICENSE ON MARCH 4, 2015.

6. On March 4, 2015, Mr. Al-Hada and Fast Trip, LLC, sold, served, and permitted the consumption of alcohol at 2420 18th Street, N.W.

7. Under § 25-102(a), “[n]o person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title.” D.C. Official Code § 25-102(a). Further, under § 25-102(d)

[n]o person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.

D.C. Official Code § 25-102(d). The Board notes that violations of Title 25 of the D.C. Official Code constitute a nuisance pursuant to D.C. Official Code § 25-805. D.C. Official Code § 25-805.

8. As of November 11, 2014, Bistro 18’s Retailer’s Class CR License has been rendered inactive, because it is in the possession of ABRA. *Supra*, at ¶ 2. Furthermore, the only individuals entitled to control ABRA License No. 086876, at this time, are Irene Martinez and Jamil Ashayer, per the Writ of Fieri Facias executed by the U.S. Marshals Service. *Id.* Based on these facts, Mr. Al-Hada and Fast Trip, LLC, were not entitled to sell, serve, or permit the

consumption of alcohol at Bistro 18's former location on March 4, 2015, because no active license pertaining to the location remained. *Supra*, at ¶¶ 2, 4. In this case, the clear violations of parts (a) and (d) of § 25-102 constitute a nuisance and endanger the public if allowed to continue. Therefore, in order to abate this nuisance, the Board finds sufficient justification to order the cessation of all alcohol-related activity at Bistro 18's former location.

9. As noted above, neither Sami Restaurant, LLC, Sami Gulais, Mr. Al-Hada, nor Fast Trip, LLC, have a right to control the disposition of the license; therefore, the transfer application must be rejected on its face. *Supra*, at ¶ 2. Nevertheless, as discussed below, even if the parties possessed any right to Bistro 18's former license, the transfer application would be denied by this Board.

IV. THE PARTIES FAILED TO OBTAIN THE PERMISSION OF THE BOARD BEFORE CONSUMMATING THE TRANSFER IN VIOLATION OF D.C. OFFICIAL CODE § 25-405.

10. First, assuming *arguendo* that the parties had a right to the license, the parties unlawfully transferred ABRA License No. 086876 without the permission of the Board in violation of § 25-405.

11. Under § 25-405(b), “[a]n application to transfer a license to a new owner shall be filed by the transferee and approved by the Board before the consummation of the transfer.” D.C. Official Code § 25-405(a). Further, § 25-405(e) states, “[i]f the Board finds that the licensee is in violation of this title or regulations promulgated under this title, the Board shall deny the application for transfer.” D.C. Official Code § 25-405(e).

12. In this case, the parties executed the transfer without the permission of the Board. As admitted by Mr. Al-Hada, he considered himself to be an owner and presented the investigators with an executed lease agreement for the premises. *Supra*, at ¶ 4. As a result, these facts constitute a clear violation of § 25-405, which would merit denial of the transfer application.

V. MR. ALHADA AND FAST TRIP, LLC, HAVE FAILED TO OBTAIN A TEMPORARY OPERATING PERMIT IN ACCORDANCE WITH § 703.

13. Second, assuming *arguendo* that the parties controlled the license, the record further shows that Mr. Al-Hada and Fast Trip, LLC, have not obtained a temporary operating permit, which would authorize the purchasers to operate the establishment while the transfer application was under review. 23 DCMR § 703 *et. seq.* (West Supp. 2015). The failure of the parties to obtain this permit would further support the Board's conclusion to order the cessation of all alcohol-related activity at the establishment.

VI. THE TRANSFER APPLICATION IS INCOMPLETE BASED ON THE FAILURE TO SUBMIT A COMPLETED LANDLORD AFFIDAVIT.

14. Third, assuming *arguendo* that the parties controlled the license, under §25-401(a), “[a] person applying for . . . transfer to a new owner . . . of a license . . . shall file with the Board an application in the form prescribed by the Board. The application shall . . . any additional information that the Board may require.” D.C. Official Code § 25-401(a). Here, the parties improperly executed and completed the Landlord Affidavit. *Supra*, at ¶ 3. Therefore, the transfer application is incorrect on its face, and merits denial for this reason.

VII. THE VIOLATIONS IDENTIFIED ABOVE MERIT THE DENIAL OF THE TRANSFER APPLICATION PURSUANT TO § 401.1.

15. Finally, assuming *arguendo* that the parties had a right to the license, under § 401.1, “[t]he Board may deny a license to an applicant if evidence shows that the applicant has permitted at the establishment conduct which is in violation of this title.” 23 DCMR § 401.1 (West Supp. 2015). Consequently, even if Sami Restaurant, LCC, still retained the right to transfer the license, based on the violations identified in Sections I through VI of the Board’s Conclusions of Law, the transfer application merits denial pursuant to § 401.1.

ORDER

Therefore, the Board on this 11th day of March 2015, hereby orders Mohammed Ahmed Al-Hada , Fast Trip, LLC, and Sami Restaurant, LLC to **CEASE AND DESIST** distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages at Bistro 18’s former location of 2420 18th Street, N.W. Washington, D.C.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABRA shall no longer issue temporary licenses and one-day substantial change licenses for 2420 18th Street, N.W.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance).²

² The nuisance provision states,

(a) Any building, ground, or premises where an alcoholic beverage is manufactured, sold, kept for sale, or permitted to be consumed in violation of this title shall be a nuisance.

(b) An action to enjoin any nuisance defined in subsection (a) of this section may be brought in the name of the District of Columbia by the Corporation Counsel in the Civil Branch of the Superior Court of the District of Columbia against any person conducting or maintaining such nuisance or knowingly permitting such nuisance to be conducted or maintained.

D.C. Official Code § 25-805.

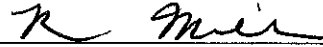
IT IS FURTHER ORDERED that the transfer application shall be deemed **DENIED** for the reasons stated in this Order.

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you may be subject to both civil and criminal penalties.

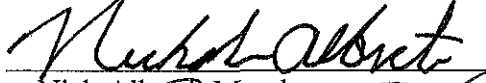
ABRA shall serve notice by certified mail or personal delivery on the following entities:

Gina Mondesir, Counsel
P.O. BOX 60434
Washington, D.C. 20039

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



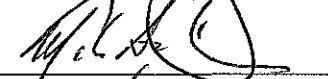
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, 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 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).