

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

In the Matter of:

Cafe Dallul, Inc.

t/a Rendezvous Lounge

Holder of a

Retailer's Class CT License

at premises

2226 18th Street, N.W.

Washington, D.C. 20009

Case No.: 15-CMP-00589

License No.: ABRA-014272

Order No.: 2016-354

BEFORE:

Donovan Anderson, Chairperson

Nick Alberti, Member

Mike Silverstein, Member

Ruthanne Miller, Member

James Short, Member

ALSO PRESENT: Belainesh Kebede, on behalf of Cafe Dallul, Inc., t/a Rendezvous Lounge, Respondent

Pearl Keng, Special Assistant Attorney General

Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel

Alcoholic Beverage Regulation Administration

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Alcoholic Beverage Control Board (Board) finds that Rendezvous Lounge, (Respondent), violated District of Columbia (D.C.) Official Code § 25-701 on September 13, 2015. As a result, the Respondent must pay a \$500.00 fine.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Alcoholic Beverage Control Board executed on December 15, 2015. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2226 18th Street, N.W., Washington, D.C., on January 30, 2016.

The Notice charged the Respondent with the following violation:

Charge I: [On Sunday, September 13, 2015] [y]ou failed to keep a licensed ABC manager on duty at all times, in violation of D.C. Official Code § 25-701...

ABRA Show Cause File No.15-CMP-00589, Notice of Status Hearing and Show Cause Hearing, 2 (December 15, 2015).

On September 16, 2015, Citation #4709 was issued to the Respondent in the amount of \$250.00 for violating D.C. Official Code § 25-701.

The Respondent refused to pay the citation and instead, requested a hearing.

The Office of the Attorney General (OAG) and the Respondent appeared at the Show Cause Status Hearing on March 2, 2016, where there was no settlement of the matter. The parties argued their respective cases at the Show Cause Hearing held on May 11, 2016.

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

I. Background

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated December 15, 2015. *See* ABRA Show Cause File No. 15-CMP-00589. Cafe Dallul, Inc., t/a Rendezvous Lounge holds a Retailer's Class CT License, ABRA License No. ABRA-014272. *See* ABRA Licensing File No. ABRA-014272. The establishment's premises is located at 2226 18th Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-014272.

2. The Show Cause Hearing was held on May 11, 2016. The Notice charges the Respondent with a single violation enumerated above. *See* ABRA Show Cause File No. 15-CMP-00589.

II. Testimony of ABRA Investigator Kevin Puente

3. The Government presented its case through the testimony of one witness, ABRA Investigator Kevin Puente. *Transcript (Tr.)* 5/11/16 at 5-6.

4. Investigator Puente authored the Investigative Report, whose contents and exhibits serve as the basis of the factual nature of the incident. *Tr.* 5/11/16 at 12-13. Government's Exhibit A.

5. On Sunday, September 13, 2015, Investigator Puente and other ABRA investigators were monitoring establishments for compliance during the Adams Morgan Day Festival at Adams Morgan. *Tr.* 5/11/16 at 7.

6. Investigator Puente entered the Respondent's establishment at approximately 2:30 p.m. to conduct compliance checks. *Tr.* 5/11/16 at 7, 11. Investigator Puente went to the second floor and identified himself to a male bartender and asked to speak to the owner or an ABC-licensed Manager. *Tr.* 5/11/16 at 8. The bartender informed Investigator Puente that the owner was at the downstairs' bar. *Tr.* 5/11/16 at 8. He also stated that there was no ABC-licensed manager because the owner was present. *Tr.* 5/11/16 at 8.

7. Investigator Puente observed several people on the second floor, and at least two patrons were consuming an alcoholic beverage. *Tr.* 5/11/16 at 9. He also observed that, on the first floor, there was no one behind the bar. *Tr.* 5/11/16 at 9. Investigator Puente stated that the bartender, who was on the second floor, came downstairs and indicated that the owner was at the store. *Tr.* 5/11/16 at 9. Investigator Puente advised the bartender that the establishment was in violation because they were operating without an ABC-licensed manager or an owner present. *Tr.* 5/11/16 at 11.

8. While Investigator Puente was conducting the regulatory inspection, Belainesh Kebede, the owner, entered the establishment. *Tr.* 5/11/16 at 11. Investigator Puente estimated that Ms. Kebede entered the establishment at approximately 2:35 p.m. *Tr.* 5/11/16 at 11. Investigator Puente advised Ms. Kebede that the establishment was in violation for operating without an ABC-licensed manager or an owner present. *Tr.* 5/11/16 at 11. Ms. Kebede informed the investigator that she was outside. *Tr.* 5/11/16 at 11.

III. Testimony of Belainesh Kebede

9. Belainesh Kebede is the owner of the licensed establishment. *Tr.* 5/11/16 at 17. She told the Board that she should be given a warning because this is her first violation. *Tr.* 5/11/16 at 17.

10. Ms. Kebede admitted that at the time of Investigator Puente's visit, she was not at the establishment. *Tr.* 5/11/16 at 18. She was absent from the premises only for five (5) minutes. *Tr.* 5/11/16 at 18. She further stated that she was at the store next door. *Tr.* 5/11/16 at 18-19.

11. Ms. Kebede has owned the business for twenty six (26) years. *Tr.* 5/11/16 at 20. She did not recall that she had previously been issued a citation on July 5, 2012, for operating the establishment without an ABC-licensed manager or an owner present. *Tr.* 5/11/16 at 20. She paid a \$250.00 fine for the 2012 citation. *Tr.* 5/11/16 at 20.

12. Ms. Kebede stated that she has one ABC-licensed Manager and two employees. *Tr.* 5/11/16 at 21. She admitted that at the time of Investigator Puente's visit, the ABC-licensed Manager was not present. *Tr.* 5/11/16 at 22.

CONCLUSIONS OF LAW

13. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia Official Code pursuant to District of Columbia Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2013). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Official Code § 25-447.

I. THE RESPONDENT VIOLATED § 25-701

14. The Board finds the Respondent liable for permitting the licensed establishment to operate on September 13, 2015, without either the licensee or an ABC-licensed Manager superintending during the hours of operation in violation of D.C. Official Code § 25-701.

15. ABRA’s regulations are clear that either the licensee or an ABC-licensed Manager must be present while the establishment is operating. Title 23 of the DCMR § 707.1 provides that in the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises.

16. The Board finds that the facts set forth in the Investigative Report and the hearing testimony support the charge and support a finding of liability as to the Respondent. The record demonstrates that on September 13, 2015 at approximately 2:30 p.m., the Respondent’s employee informed Investigator Puente that there was no ABC-licensed Manager or owner on the premises. This absence was confirmed by the owner when she returned to the establishment five (5) minutes after Investigator Puente’s arrival. Additionally, the Board finds that the establishment was open and operating during this time and the Respondent testified as much.

17. Furthermore, the Respondent admitted at the Show Cause hearing that she was at the store next door and thus absent from the premises. She further admitted that her ABC-licensed Manager was not present during Investigator Puente’s visit.

II. PENALTY

18. The Respondent’s Investigative History shows that this is the Respondent’s first secondary tier violation within two years. *Licensing File No. ABRA-014272*, Investigative History. Thus, the Board may fine the Respondent between \$250.00 and \$500.00. *Licensing File No. ABRA-014272*, Investigative History; DCMR § 23-802.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 8th day of June, 2016, finds that the Respondent, Rendezvous Lounge, located at 2226 18th Street, N.W., Washington, D.C., holder of a Retailer's Class CT license, violated D.C. Official Code § 25-701.

The Board hereby **ORDERS** that:

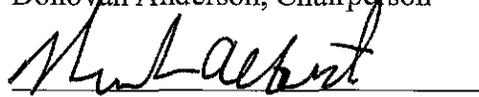
- 1) The Respondent must pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order or its license shall be suspended indefinitely until this fine is paid.

Copies of this Order shall be sent to the Respondent and the Government.

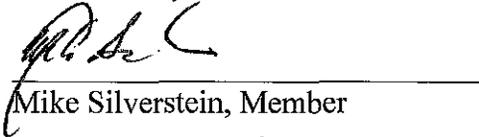
District of Columbia
Alcoholic Beverage Control Board



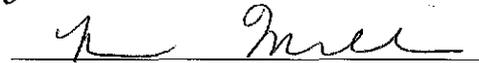
Donovan Anderson, Chairperson



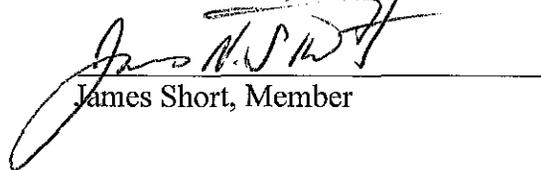
Nick Alberti, Member



Mike Silverstein, Member



Ruthanne Miller, Member



James Short, 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, DC 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 (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).