

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

In the Matter of:

Café Dullal, Inc., t/a
Rendezvous Lounge

Petition to Terminate or Amend a
Settlement Agreement

at premises
2226 18th St., N.W.
Washington, D.C. 20009

License No.: ABRA-014272
Order No.: 2016-517

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ORDER DENYING PETITION TO TERMINATE SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Rendezvous Lounge (Petitioner) entered into a Replacement Cooperative Agreement on September 7, 2011, with Advisory Neighborhood Commission (ANC) 1C and the Kalorama Citizens Association (KCA). *ABRA Licensing File, Replacement Cooperative Agreement*, at 1. The 2011 Cooperative Agreement replaced and superseded previous Cooperative Agreements entered into by the Parties in 2000 and 2003. *Id.* The Board approved the Replacement Cooperative Agreement on October 5, 2011. *In the Matter of Café Dullal, Inc., t/a Rendezvous Lounge*, Board Order No. 2011-423 (D.C.A.B.C.B. October 5, 2011).

In 2014, the Petitioner filed to renew its CT license with the Board. *ABRA Protest File, Case No. 14-PRO-0029 [Protest File]*. ANC 1C and KCA filed timely protest petitions. *Id.* In addition to ANC 1C and KCA, the Reed-Cooke Neighborhood Association (RCNA) protested the license renewal application. *Id.* The Parties entered into a First Amendment to Settlement Agreement on July 9, 2014 (First Amendment to the 2011 Settlement Agreement). *Id.*; see *First Amendment to Settlement Agreement Concerning the Sale of Alcoholic Beverages*, at 1. Among other things, the First Amendment to the 2011 Settlement Agreement revised § 6 (Items Specific to the

Establishment”) of the 2011 Replacement Cooperative Agreement to add RCNA as a party to the agreement. *Protest File; see 2014 Amended Settlement Agreement*, at 1. All of other provisions of the 2011 Replacement Cooperative Agreement were to remain in full force and effect. *Protest File; see First Amendment to Settlement Agreement Concerning the Sale of Alcoholic Beverages*, at 1. The Board approved the First Amendment to the Settlement Agreement on August 6, 2014. *In the Matter of Café Dallul, Inc., t/a Rendezvous Lounge*, Board Order No. 2014-308 (D.C.A.B.C.B. August 6, 2014).

On August 31, 2016, The Petitioner submitted a Petition to Unilaterally Amend or Terminate a Settlement Agreement (Petition to Terminate). *ABRA Licensing File, Petition to Unilaterally Amend or Terminate a Settlement Agreement* (August 31, 2016).

D.C. Official Code § 25-446(d)(2) allows a licensee to amend or terminate a settlement agreement with fewer than all of the parties during the licensee’s renewal period and if it has been more than four years since the Board approved the agreement. In order to approve a petition to unilaterally amend or terminate a settlement agreement, the licensee must show, among other things, that: “[t]he applicant seeking the amendment has made a diligent effort to locate all other parties to the settlement agreement, or if non-applicant parties are located, the applicant has made a good-faith attempt to negotiate a mutually acceptable amendment to the settlement agreement[.]” D.C. OFFICIAL CODE § 25-446(D)(4)(A).¹

In its Petition to Terminate, the Petitioner only listed the KCA as a party to the settlement agreement; not ANC 1C and RCNA. *Petition to Unilaterally Amend or Terminate a Settlement Agreement*, at 1. Petitioner states in its Petition that it attempted to reach the KCA by e-mail, and provided a copy of the e-mail as an attachment to the Petition. *Id.* at 2. However, not only did the Petitioner not identify ANC 1C and the RCNA as parties to the agreement, there is no evidence in ABRA’s records that the Petitioner contacted them prior to filing the petition with ABRA as required by D.C. Official Code § 25-446(d)(4)(A).

Therefore, the Board finds that the Petitioner failed to comply with D.C. Official Code § 25-446(d)(4)(A) which requires the applicant seeking the petition to amend or terminate the settlement agreement to make a diligent effort to locate all of the parties to the agreement, and if the other parties are located, to use its good faith efforts to reach a resolution. D.C. OFFICIAL CODE § 25-446(D)(4)(A).

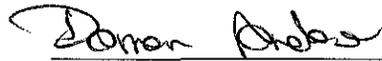
For the aforementioned reasons, the Board denies the Petition to Terminate.

¹ D.C. Official Code § 25-446(d)(4) includes two other elements that the applicant seeking the amendment must show including, (1) “[t]he need for an amendment is either caused by circumstances beyond the control of the applicant or is due to a change in the neighborhood where the applicant’s establishment is located and (2) “[t]he amendment or termination will not have an adverse impact on the neighborhood where the establishment is located as determined under § 25-313 or § 25-34, if applicable.” The Board did not address these other two requirements after determining the Petitioner failed to meet the first requirement.

ORDER

Therefore, the Board, on this 21st day of September 2016, **DENIES** the Petition to Terminate. Copies of this Order shall be sent to the Petitioner.

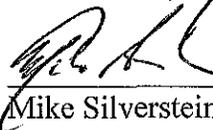
District of Columbia
Alcoholic Beverage Control Board



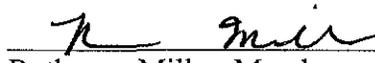
Donovan Anderson, Chairperson



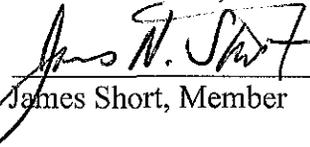
Nick Alberti, Member



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).