

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

In the Matter of:)	
)	
Raso Corporation,)	License Number: 087558
t/a Sahra Hooka Lounge)	Case Number: 12-CMP-00692
)	Order Number: 2013-352
)	
Holder of a Retailer's Class CT License)	
at premises)	
1200 H Street NE)	
Washington, D.C. 20002)	
)	

BEFORE: Mike Silverstein, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ALSO PRESENT: Fernando Rivera, Assistant Attorney General, on behalf of the
District of Columbia

Dubois Cox, on behalf of the Respondent

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

PROCEDURAL BACKGROUND

On April 10, 2013, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated March 27, 2013, on Raso Corporation t/a Sahra Hooka Lounge (Respondent), at premises 1200 H Street N.E., Washington, D.C. 20002, charging the Respondent with the following violations:

- Charge I: Respondent failed to have an ABC Manager to be on the premises when alcoholic beverages were being sold, in violation of D.C. Official Code § 25-701. The date of this alleged incident was September 15, 2012.
- Charge II: Respondent failed to obtain an Entertainment Endorsement, in violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2. The date of this alleged violation was September 15, 2012.
- Charge III: Respondent failed to comply with its Settlement Agreement, in violation of D.C. Official Code § 25-446(e). The date of this alleged violation was September 15, 2012.

FINDINGS OF FACT

The Board, having considered the evidence, the testimony of witnesses, the arguments of counsel, and all documents comprising the Board's official file, makes the following findings:

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated March 27, 2013. (*See Alcoholic Beverage Regulation Administration Show Cause File Number 12-CMP-00692*). The Respondent holds a Retailer's Class CT License and is located at 1200 H Street N.E., Washington, D.C. 20002. On the date in question, Respondent had also been issued a Temporary One-Day Permit for a booth on the outside portion of its premises serving beer and wine in connection with the H Street Festival. *Case Report, Dec. 12, 2012, Ex. 5.*
2. The Show Cause Hearing in this matter was held June 26, 2013. The Respondent was charged with three violations. Charge I alleges that the Respondent failed to have an ABC Manager on the premises when alcoholic beverages were being sold, in violation of D.C. Official Code § 25-701. Charge II alleges that the Respondent failed to obtain an Entertainment Endorsement, in violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2. Charge III alleges that the Respondent failed to comply with its Settlement Agreement, in violation of D.C. Official Code § 25-446(e).
3. The Government presented its case through the testimony of Investigator Abyie Ghenene. *Transcript, 6/26/13* at 12. On September 15, 2012, Investigator Ghenene and Investigator Erin Mathieson were monitoring the H Street Festival when an officer from the Metropolitan Police Department approached them and reported that the establishment was allowing its patrons to take their alcoholic beverages off-premises and onto H Street. *Tr.* at 15-16. The investigators observed an outdoor table on the sidewalk in front of the establishment adjacent to H Street, on top of which were alcoholic beverages and a portable credit card machine or cash register. *Tr.* at 16. An employee of the establishment was standing behind the credit card machine. *Id.* The investigators asked the employee to speak either with the owner or the ABC Manager, to which the employee responded that he

was not an employee of the establishment, that there was no ABC Manager present and that the owner was parking his car. *Tr.* at 17. The investigators observed patrons with cups of beverages. *Id.* When one of them was asked what was inside the cup he responded that it was ginger ale. *Id.* However, Investigator Ghenene detected the strong smell of alcohol. *Tr.* at 18. The investigators then entered the establishment and observed an open beer bottle on one table and a cup of beer on another table, which indicated that the establishment was open for business. *Id.* They also observed a disc jockey set up which included a turntable that was running and heard amplified music within the establishment. *Tr.* at 19. The investigators then approached an unidentified employee and requested to review the establishment's ABRA license and the ABRA issued one-day substantial change license. *Tr.* at 20. A review of both licenses confirmed that neither contained an entertainment endorsement or an allowance to take alcoholic beverages outside of the establishment. *Tr.* at 21. The investigators then waited around inside the establishment for approximately 25 minutes for the owner to appear. *Tr.* at 23. When the owner had not arrived, the investigators left the establishment after having advised the employees that the establishment did not have an entertainment endorsement, that an ABC Manager needed to be present and that no alcoholic beverages could be sold for off-premises consumption. *Tr.* at 23, 59-60.

4. Later on the same afternoon, the investigators observed several festival patrons walking around on the same block as the establishment carrying alcoholic beverages. *Transcript* at 24. When asked where they had obtained the alcoholic beverages, all stated that they had obtained them from Respondent's establishment. *Tr.* at 25. The investigators then observed the same person who had earlier stated that he was not an employee and who during the earlier visit had been standing behind a table displaying alcoholic beverages and a portable cash register now standing behind another table situated in the middle of H Street selling beer to multiple patrons and allowing them to leave the table with their purchases and cups. *Tr.* at 26, 55-58; *Case Report*, Ex. 6. The investigators then went inside the establishment, identified themselves to the owner and explained the observed violations to the owner. *Tr.* at 27. During this visit to the establishment, the investigators observed a disc jockey with headphones on operating the turntables that they had earlier witnessed. *Tr.* at 29.

5. Later that evening, Investigator Ghenene returned to ABRA's offices and confirmed that neither of Respondent's licenses allowed either for off-premises consumption of alcoholic beverages sold on-premises or for entertainment. *Transcript* at 31. Investigator Ghenene then reviewed a copy of the establishment's Settlement Agreement and confirmed that, as part of the Settlement Agreement, the establishment had agreed to ensure that no patron exited the establishment with an open container of an alcoholic beverage. *Tr.* at 33-34.

6. Investigator Ghenene then testified concerning the one-day temporary license that had been issued to H Street Main Street Inc. for the H Street Festival on September 15, 2012. *Transcript* at 64-70. He stated that he had witnessed alcoholic beverages being consumed in a barricaded vacant lot fronting H Street, consistent with the location for beer and wine sales and consumption as shown on the diagram attached to H Street's application

for the one-day permit. *Tr.* at 65-66. Investigator Ghenene further testified that he had provided an orientation for H Street, which included explicit instructions that alcoholic beverages were not to be taken or consumed outside of the barricaded lot. *Tr.* at 68. He further testified that he had not instructed anyone that alcoholic beverages could be consumed in the middle of the street on that day. *Id.*

7. Mr. Dubois Cox appeared on behalf of Respondent. *Transcript* at 3. Mr. Cox disputed the charges but did not testify, did not present any evidence to support his position and did not provide any witnesses to support his statement that Respondent had not engaged in the activities upon which the charges were based. *Tr.* at 10-11.

CONCLUSIONS OF LAW

The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1)(2001). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 D.C.M.R. § 800 *et seq.*

Charge I: Failure to Have an ABC Manager On Duty

The Board finds that, as to Charge I, there is sufficient credible evidence to establish that the Respondent failed to have an ABC Manager present at the time that alcoholic beverages were being sold, served or consumed at the establishment in violation of D.C. Official Code § 25-823(3). Respondent did not provide any testimony or provide any evidence to the contrary.

The statutory provision at issue here was incorporated into District law for an important reason: to ensure that someone who is familiar with District law regarding the sale, service and consumption of alcoholic beverages is on the premises at all times when these activities are occurring. It does not matter whether the responsible person is next door or miles away; that person is not on the premises when required to be there. While this is treated as a secondary violation of ABRA's statute, it is nonetheless a serious violation of an important provision to which all establishments are bound when issued an ABRA license.

The Board finds that this violation warrants a penalty in the amount of \$350. Respondent's investigative history set forth in ABRA's official records shows that this is the first time the establishment has violated this requirement.

Charge II: Failure to Obtain an Entertainment Endorsement.

The Board finds that, as to Charge II, there is sufficient credible evidence to establish that the Respondent provided entertainment without having first obtained an Entertainment

Endorsement, in violation of D.C. Official Code § 25-113a(b) and 23 DCMR § 1000.2. Respondent did not provide any testimony or provide any evidence to the contrary.

This is the first time that Respondent has violated this provision. However, the record indicates that, when ABRA investigators first visited the establishment, they observed a disc jockey set up which included a turntable that was running and heard amplified music within the establishment, whereupon they informed employees of Respondent that entertainment in the form of a disc jockey could not be provided without having first obtained an entertainment endorsement from the Board. Nevertheless, upon returning later the same afternoon to the establishment, the ABRA investigators saw that the establishment, with the owner present, was still providing entertainment in the form of a disc jockey.

The requirement for an establishment to obtain an entertainment endorsement serves an important function: to ensure that the peace, order and quiet of the surrounding community is protected through controls on entertainment hours, the type of entertainment that can be provided and the noise that will be generated by the entertainment. In addition, the review allows the Board to determine whether the entertainment is appropriate for the neighborhood in which the establishment is located. When licensed, establishments are expected to understand the requirements of licensure, including the requirement to obtain an entertainment endorsement before entertainment is provided.

The Board finds that the violation warrants a penalty in the amount of \$500. In addition, given the record in this matter, the Board also imposes a one-day suspension on Respondent. The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.

Charge III: Violation of Settlement Agreement

The Board finds that, as to Charge III, there is sufficient credible evidence to establish that the Respondent failed to comply with its Settlement Agreement by allowing for off-premises consumption of alcoholic beverages, in violation of D.C. Official Code § 25-446(e). Respondent did not provide any testimony or provide any evidence to the contrary.

This is the first time that Respondent has violated this provision. However, the record indicates that, when ABRA investigators first visited the establishment, they observed an outdoor table on the sidewalk in front of the establishment adjacent to H Street on top of which were alcoholic beverages and a portable credit card machine or cash register, with an employee standing behind the credit card machine, as well as patrons consuming alcoholic beverages outside of the establishment. Despite being advised that no alcoholic beverages could be sold for off-premises consumption, upon returning later the same afternoon to the establishment, the ABRA investigators saw that the establishment had set up a table in the middle of the street at which alcoholic beverages were being sold for off-premises consumption.

Settlement Agreements are approved by the Board and become part of an establishment's license. They document an agreement between an establishment and the community in which they are located and define how an establishment will operate in harmony with its surrounding neighborhood. Moreover, they are, in essence, contracts which set forth the terms and conditions by which the neighborhood agrees to accept an establishment as an addition to the community. As such, an establishment cannot simply ignore the terms and conditions placed upon its operations in a Settlement Agreement. It must first work with the parties to the agreement if it determines a need to operate differently from that envisioned by the Settlement Agreement.

The Board finds that the violation warrants a penalty in the amount of \$500. In addition, given the record in this matter, the Board also imposes a one-day suspension on Respondent. The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 24th day of July, 2013, finds that the Respondent, Raso Corporation t/a Sahra Hooka Lounge, holder of a Retailer's Class CT License (i) failed to have an ABC Manager to be on the premises when alcoholic beverages were being sold, in violation of D.C. Official Code § 25-701; (ii) failed to obtain an Entertainment Endorsement, in violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2; and (iii) failed to comply with its Settlement Agreement, in violation of D.C. Official Code § 25-446(e). The Board hereby **ORDERS** that:

1. Respondent, no later than 30 days from the date of this order, submit to ABRA the amount of \$350 for the violation of D.C. Official Code § 25-701.
2. Respondent, no later than 30 days from the date of this order, submit to ABRA the amount of \$500 for the violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2.
3. Respondent, no later than 30 days from the date of this order, submit to ABRA the amount of \$500 for the violation of D.C. Official Code § 25-446(e).
4. Respondent's license is suspended for one (1) day for its violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2. The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.
5. Respondent's license is suspended for one (1) day for its violation of D.C. Official Code § 25-446(e). The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.

Settlement Agreements are approved by the Board and become part of an establishment's license. They document an agreement between an establishment and the community in which they are located and define how an establishment will operate in harmony with its surrounding neighborhood. Moreover, they are, in essence, contracts which set forth the terms and conditions by which the neighborhood agrees to accept an establishment as an addition to the community. As such, an establishment cannot simply ignore the terms and conditions placed upon its operations in a Settlement Agreement. It must first work with the parties to the agreement if it determines a need to operate differently from that envisioned by the Settlement Agreement.

The Board finds that the violation warrants a penalty in the amount of \$500. In addition, given the record in this matter, the Board also imposes a one-day suspension on Respondent. The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.

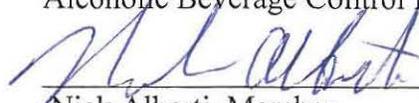
ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 31st day of July, 2013, finds that the Respondent, Raso Corporation t/a Sahra Hooka Lounge, holder of a Retailer's Class CT License (i) failed to have an ABC Manager to be on the premises when alcoholic beverages were being sold, in violation of D.C. Official Code § 25-701; (ii) failed to obtain an Entertainment Endorsement, in violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2; and (iii) failed to comply with its Settlement Agreement, in violation of D.C. Official Code § 25-446(e). The Board hereby **ORDERS** that:

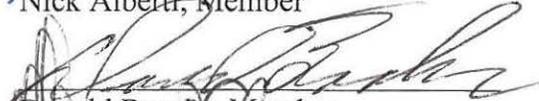
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2. Respondent, no later than 30 days from the date of this order, submit to ABRA the amount of \$500 for the violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2.
3. Respondent, no later than 30 days from the date of this order, submit to ABRA the amount of \$500 for the violation of D.C. Official Code § 25-446(e).
4. Respondent's license is suspended for one (1) day for its violation of D.C. Official Code § 25-113a (b) and 23 DCMR § 1000.2. The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.
5. Respondent's license is suspended for one (1) day for its violation of D.C. Official Code § 25-446(e). The suspension is stayed for one year, provided that Respondent does not violate any provision of ABRA laws and regulations during that time.

The Alcoholic Beverage Regulation Administration shall distribute copies of this Order to the Government and to the Respondent.

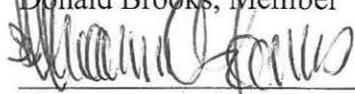
District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Under 23 DCMR § 1719.1 (2008), 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, under 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration under 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).