

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

In the Matter of:)		
)	Case No.:	16-251-00087
Terfneh Kahsay)	License No:	088358
t/a Salina Restaurant)	Order No:	2016-356
)		
Holder of a)		
Retailer's Class CT License)		
)		
at premises)		
1936 9th Street, N.W.)		
Washington, D.C. 20009)		

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

ALSO PRESENT: Terfneh Kahsay, t/a Salina Restaurant, Applicant

Kiflom T. Meles, Counsel, on behalf of the Respondent

Walter Adams, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER SUMMARILY SUSPENDING THE RESPONDENT'S LICENSE

INTRODUCTION

The Alcoholic Beverage Control Board sustains the suspension of Terfneh Kahsay, t/a Salina Restaurant, (hereinafter "Respondent" and "Salina Restaurant") indefinitely until the Board reaches a final decision in a show cause hearing related to the incident that occurred on May 19, 2016. The suspension of the establishment is based on the Board's conclusion that Salina Restaurant constitutes an ongoing and continuing danger to the public because the establishment lacks adequate security procedures that cannot be rectified because the lawful operator has abandoned the business to the control of an illegal third party. This lack of a Board

approved owner responsible for operating or superintending the establishment has resulted in the operations of the establishment presenting an imminent danger to the public.

Procedural Background

On May 19, 2016, in accordance with D.C. Official Code § 25-827, the Chief of Police of the Metropolitan Police Department (MPD) ordered the summary suspension of Salina Restaurant based on the failure of the establishment to notify the police of a serious assault and the failure to preserve a crime scene. *Letter from Chief of Police, Cathy L. Lanier, Metropolitan Police Department, to Efrem Alazar and Terfney Kahsay, 1-2 (May 19, 2016).*

The Board reviewed the closure issued by the Chief of Police and voted to maintain the suspension on May 23, 2016, in accordance with D.C. Official Code § 25-826. *Notice of Summary Suspension, 1-3 (May 23, 2016) (Salina Restaurant).*

The notice of the suspension indicates that it is based on an incident that occurred at the establishment on May 19, 2016. *Id.* at 2. Specifically, it is alleged that a patron assaulted another patron with a bottle that caused a severe laceration on the victim's head. *Id.* It is further alleged that the establishment failed to call the police or otherwise obtain medical aid for the victim and cleaned up the crime scene. *Id.* This hindered MPD's investigation by spoiling evidence and preventing MPD from interviewing witnesses. *Id.* at 3.

The Board held a hearing related to this matter on May 26, 2016, and June 1, 2016.

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, the arguments of the parties, and the documents comprising the Board's official file, makes the following findings:¹

I. Facts Related to the Illegal Transfer of the License.

1. Terfneh Kahsay, t/a Salina Restaurant, is licensed to operate as a tavern at 1936 9th Street, N.W., under ABRA License No. 082969. *Case Report 16-251-00087, 1 (May 19, 2016).* ABRA's records indicate that Terfneh Kahsay is the sole owner of Salina Restaurant.
2. ABRA's records show that Demy, LLC, filed a transfer application on November 20, 2015. *Plaintiff's Exhibit E (Transfer Application).* The transfer application listed the managing members of the entity as Daniel Adhanom and Marta Mekonen, who each own fifty percent of the entity. *Id.*

¹ The full transcript in this matter was not available at the time this Order was written; however, the Board is sufficiently versed in the evidence and testimony after holding the summary suspension hearing to make the findings of fact and conclusions of law contained in this Order. This action was necessary on the part of the Board, because § 25-826(c) requires the issuance of an expedited decision.

3. ABRA's records indicate that the transfer has not been approved as of the date of this Order. Indeed, on December 1, 2015, ABRA sent Demy, LLC, a letter notifying the entity that the transfer application was deficient. *Plaintiff's Exhibit E* (Deficiency Letter). The letter indicated that Demy, LLC, had to submit a Certificate of Organization, Articles of Organization, a completed Financial Affidavit Form, and Proof of Citizenship before ABRA could process the transfer application. *Id.* ABRA further notified Demy, LLC, in the letter that the Board could not approve the transfer without the submission of a completed Landlord Affidavit Form and other documents related to the business. *Id.* Finally, ABRA informed the entity that it could not issue the license without the submission of a Clean Hands Certification Form, a copy of the lease, a Certificate of Occupancy, a Business/Restaurant License, a D.C. Tax Registration, and a Certificate of Registration. *Id.*

4. Demy, LLC, submitted a number of documents related to the transfer application a few days before the first hearing related to the summary suspension of Salina Restaurant.

5. Terfneh Kahsay spoke to ABRA Investigator Dorshae Demby over the telephone on March 19, 2016. During the telephone interview, Mr. Kahsay indicated that the establishment was sold to Demy, LLC, on November 15, 2015. He further indicated that he allowed Demy, LLC, to operate the business until the Board approved the transfer.

II. Facts Related to the Incident on May 19, 2016.

6. Metropolitan Police Department (MPD) Officer Ruben Wilson works in Police Service Area 306, which is located in the Third District. On May 19, 2016, he was dispatched to Howard University Hospital in order to investigate an assault.

7. Upon arriving at the hospital's emergency room, Officer Wilson met a female, named "Lyia," accompanying a male, named "Thomas." Thomas had a bandage over his head. The bandage had blood seeping through it due to a severe head wound.

8. Lyia informed Officer Wilson that Thomas and she were sitting in Salina Restaurant. As they sat in the restaurant, a male patron began leaving the establishment. Before he exited, he turned around and flung a beer bottle. The beer bottle then struck Thomas in the head.

9. The couple was accompanied to the hospital by Daniel Adhanom, one of the new "owners" of the establishment. Mr. Adhanom told Officer Williams a story similar to the one told by Lyia. He admitted that he transported Thomas and Lyia to the hospital in his vehicle. Mr. Adhanom had a phone in his possession but did not call the police at any point during the evening.

10. MPD became aware that Lyia called 911 to report the assault against Thomas. Nevertheless, no record of any owner or employee of Salina Restaurant contacting MPD exists. MPD did not have knowledge of the assault until Officer Williams learned of it at the hospital from Lyia. Had the establishment called 911 or otherwise contacted MPD, two officers located approximately fifty feet from the establishment could have learned of the incident and responded to the incident just after it occurred.

11. After Officer Wilson learned of the assault, MPD dispatched officers to Salina Restaurant. MPD officers did not arrive at the establishment until 1:30 a.m., even though the assault occurred at midnight.

12. Sergeant Schalm entered the establishment after Officer Wilson learned of the incident. Upon arriving, he saw blood spatter on the floor and mop streaks indicating that blood had been cleaned. Based on the leftover blood, it appeared that there had originally been a large amount of blood on the floor, which is consistent with the large amount of bleeding normally associated with a head wound.

13. Sgt. Schalm interviewed licensed ABC manager Rezene Berhane Sium (ABRA License No. 097434) while investigating the incident. During his interview, he noticed that Mr. Sium had blood on his shoe. In addition, during their conversation, he noticed that Mr. Sium kept changing his story from chasing the suspect that threw the bottle to rendering aid to the victim. He also observed that while Mr. Sium could produce his ABC manager's license, he could not produce another form of identification with a legible picture.

14. MPD notified ABRA Supervisory Investigator Kevin Hargrave about the incident around 2:29 a.m. *Case Report*, 16-251-00087, 2 (Salina Restaurant). Supervisory Investigator Hargrave, ABRA Investigator Dorshae Demby, and ABRA Investigator Countee Gilliam proceeded to the establishment to conduct an investigation of the incident. *Id.* They soon arrived at the establishment and conducted an investigation. *Id.*

15. Outside the establishment, Investigator Demby observed that the establishment was not displaying its approved trade name, "Salina Lounge." *Id.* Instead, the sign outside identified the premises as "Karma Lounge," a name not approved by ABRA. *Id.* 1-2, Exhibit Nos. 1, 2; 23 DCMR 600.1 (West Supp. 2016).

16. Investigator Demby interviewed one of the new owners of the establishment, Efrem Alazar. *Case Report*, at 2. Mr. Alazar identified himself as an owner and ABC manager, but he could not produce a manager's license. He told Investigator Demby that he bought the business and had filed a transfer application. *Id.* He produced a Certificate of Occupancy and Business License for the premises in the name of his entity, Demy LLC. *Id.* at 2, Exhibit Nos. 3, 4. Mr. Alazar could not produce the establishment's Board-approved Settlement Agreement upon request, as required by the law. *Id.* at 2; D.C. Official Code § 25-711(a).

17. Mr. Alazar indicated that during the bottle throwing incident, he was in the establishment's kitchen preparing hookah. *Case Report*, at 2. When he left the kitchen, he saw a male patron holding a hand over his eye and a female patron requesting napkins. *Id.* Mr. Alazar indicated that neither he nor any employee called 911 or otherwise contacted the police to report the assault. *Id.* Mr. Alazar indicated that he presumed the victim would make a police report at the hospital. *Id.*

18. Investigator Demby also interviewed Mr. Sium. *Id.* Mr. Sium indicated that he was inside the premises during the incident. *Id.* He told Investigator Demby that he did not see the

beginning of the incident, but he heard the bottle hit the male patron. *Id.* Mr. Sium indicated he then saw the patron flee the establishment. *Id.* He had a phone in his possession but did not call the police.

19. During his testimony, Mr. Sium indicated the he recognized the patron that threw the bottle as a regular patron named “Cheena.” He stated that he chased Cheena as he ran down the street but could not catch him. When he returned to the establishment, he noticed that the premises had been cleaned. Mr. Sium also did not call 911 or otherwise identify Cheena to MPD or ABRA when they arrived.

20. Mr. Sium also told Investigator Demby that the establishment’s cameras were inoperative. This contradicts statements by Mr. Adhamon that the cameras are operative.

CONCLUSIONS OF LAW

21. “If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, fine, or restrict, without a hearing, the license to sell alcoholic beverages in the District.” D.C. Official Code § 25-826(a).

In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, the Board may keep the licensee in the summary suspension proceeding to monitor the licensee to make a determination if the conditions placed by the Board on the licensee are effective. The Board shall schedule a show cause hearing to revoke the license if it determines that the operations of the licensee present an imminent danger to the health and safety of the public pursuant to D.C. Official Code §§ 25-826 and 25-827.

23 DCMR § 1610.1 (West Supp. 2016).

I. Salina Restaurant Remains an Imminent Danger to the Public Because the Business Lacks Adequate Security Procedures That Cannot be Rectified Because the Lawful Owner Has Illegally Abandoned the Business to the Control of an Illegal Third Party and Has No Legal Authority to Continue Operations.

a. Salina Restaurant Lacks Adequate Security Procedures.

22. The Government has demonstrated that Salina Restaurant lacks adequate security procedures and cannot guarantee the safety of patrons.

23. Under § 25-823(a)(2), a licensee cannot “allow[] the licensed establishment to be used for any unlawful or disorderly purpose.” D.C. Official Code § 25-823(a)(2). It has been said that the “failure to properly communicate with police about incidents” is “. . . the type[] of omission[] that [is] conducive to an unlawful and disorderly environment” *Levelle, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 924 A.2d 1030, 1037 (D.C. 2007). It also been said that the

failure to provide adequate security training to staff and an inadequate security plan may substantiate a violation of § 25-823(a)(2). *Id.* at 1036.

24. It should also be noted that in *DC 9*, the Board found that it was inappropriate for the licensed establishment's owner or employees "to leave the confines of the club in order to pursue" an individual suspected of throwing bricks through the bar's windows. *In re Bar 9, LLC, t/a DC 9*, Case No. 10-251-220, Board Order No. 2010-551, ¶¶ 10, 64 (D.C.A.B.C.B. Nov. 5, 2010). The Board noted that such a pursuit "in and of itself, threaten[s] the safety of pedestrians, vehicles, [and] the participants . . ." and demonstrates that the establishment lacks adequate security procedures. *Id.* at ¶ 64.

25. In this case, the Salina Restaurant's response to the assault demonstrates that the establishment cannot provide a safe environment for its customers. First, the record shows that the establishment failed to contact the police when it had plenty of opportunity to do so. *Supra*, at ¶¶ 9-10, 17-19. Second, the record shows that the establishment failed to preserve the crime scene by allowing the blood to be cleaned up with a mop, which interfered with MPD's ability to investigate the attack. *Supra*, at ¶ 12. Third, as in *DC 9*, it was inappropriate and dangerous for Mr. Sium to chase the aggressor out of the establishment and through the streets.

26. Finally, as a matter of likely first impression, the Board further finds that Salina Restaurant demonstrated that it lacks appropriate security procedures when the owner personally transported the victim to a nearby hospital in his vehicle. *Supra*, at ¶ 9. The Board finds this practice inappropriate and dangerous because Mr. Adhanom did not have sufficient medical training or equipment to deal with any complications that may have arisen during transport. Furthermore, unlike Mr. Adhanom—or any other licensee for that matter—trained emergency medical personnel provided by the city can determine the most appropriate medical facility to transport an injured victim and also receive information through the dispatcher if a specific emergency room cannot accept more patients. Consequently, Mr. Adhanom's actions fell below the minimal standards of acceptable security practices expected at a licensed establishment and further endangered the victim in this case.

b. Salina Restaurant Was Illegally Transferred to a Third Party.

27. The record further justifies an indefinite suspension of the license pending a show cause hearing because the ownership has given control of the establishment to a third party unidentified in the application.

28. Under § 25-301(a)(5), licensure is conditioned on "the applicant [remaining] the true and actual owner of the establishment for which the license is sought . . . and not [serve] as the agent of any other individual . . . or [entity] not identified in the application." D.C. Official Code § 25-301(a)(5).

29. 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).

30. Salina Restaurant's liquor license was issued to Terfneh Kahsay and no one else. *Supra*, at ¶ 1. Nevertheless, Mr. Kahsay sold the business on November 15, 2015, and totally transferred the business to the new owners without the required approval by the Board. *Supra*, at ¶ 5. As a result, since November 15, 2015, and during the May 19, 2016, incident Daniel Adhanom and Marta Mekonen, through the auspices of Demy, LLC, were not entitled to operate the establishment or otherwise become the true and actual owners of the business. *Supra*, at ¶¶ 2-3.

c. Salina Restaurant Has No Legal Right to Continue Operating Based on the Illegal Sale of the Business and the Failure to Obtain a Temporary Operating Retail Permit.

31. The record further shows that Daniel Adhanom and Marta Mekonen failed to obtain a permit to operate the business while the transfer was pending review by the Board.

32. Under § 25-791(a), "A license which is discontinued for any reason shall be surrendered by the licensee to the Board for safekeeping." D.C. Official Code § 25-791(a). The Board has previously said that the sale of the business constitutes the discontinuance of the business. *In re Telesis Corp., t/a Circle 7 Market*, Case No. 15-CC-0145, Board Order No. 2016-063, ¶ 9 (D.C.A.B.C.B. Feb. 10, 2016). Moreover, under § 703.1, "The purchaser of an ABC licensed establishment awaiting Board approval on a transfer of ownership application where no substantial change will occur may apply to the Board for a permit to temporarily operate under the license" 23 DCMR § 703.1 (West Supp. 2015).

33. In this case, Salina Restaurant is no longer owned by Mr. Kahsay; therefore, it has legally discontinued operations in accordance with § 25-791. *Supra*, at ¶ 5. Furthermore, Demy, LLC, has never applied for or received a Temporary Operating Retail Permit in accordance with § 703. Therefore, the business has no right to continue operations when the rightful owner has abandoned the business to a third party that has no right to operate in the first place.

d. Salina Restaurant Constitutes an Imminent Danger to the Public.

34. The Board finds that Salina Restaurant's actions and omissions rise to the level of creating an imminent danger for several reasons. First, the failure to contact the police, the failure to maintain the crime scene, and the transportation of the victim by Mr. Adhanom shows an intent on the part of the ownership and management to hide incidents and shows that the ownership prioritizes protecting itself from legal scrutiny over the safety of customers, which endangers patrons involved in violent incidents at the establishment. Second, the inappropriate response to the incident also shows that security lacks the appropriate training or know-how to provide a safe environment for customers. Third, the use of a license by an unauthorized owner, as in this case, endangers the public, because the third party has not been properly vetted to ensure that they will responsibly manage the establishment. Moreover, it would be futile to impose any conditions that allow the license to reopen, because the Board cannot trust the "new" unapproved owners to rectify the security deficiencies or otherwise implement any conditions imposed by the Board.

ORDER

Therefore, the Board, on this 6th day of June 2016, hereby **SUMMARILY SUSPENDS** the Retailer's Class CT License held by Terfneh Kahsay, t/a Salina Restaurant.

IT IS FURTHER ORDERED that the summary suspension ordered by the Board shall remain in effect until the Board issues an order in a future show cause proceeding related to the incident on May 19, 2016.

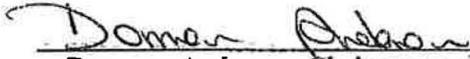
IT IS FURTHER ORDERED that if the Office of Attorney General declines to prosecute the matter, the Respondent may request that the Board lift the suspension.²

IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

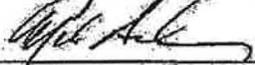
A copy of this Order shall be sent to the Respondent and the Government.

² If this situation occurred, the Board may consider issuing a *sua sponte* cease and desist order suspending the license based on the illegal use of the license by the new "owners." D.C. Official Code § 25-829.

District of Columbia
Alcoholic Beverage Control Board


Donovan Anderson, Chairperson

Nick Alberti, Member



Mike Silverstein, Member

Ruthanne Miller, Member



James Short, Member

Pursuant to 23 DCMR § 1719.1, 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, N.W., 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, 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).

Finally, in the case of a summary suspension, "A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2." D.C. Official Code § 25-826(d).