

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

In the Matter of:

Tillman Group, LLC
t/a Vieux Carre/For Rent

Applicant for a
Retailer's Class CT License

1413 K Street, N.W.
Washington, D.C. 20005

License No: 102576
Case No.: 18-CMP-00011
Order No: 2018-008

TO: Shawnequee Latimer
Managing Member

James Tillman
Managing Member
1413 K Street, N.W.
Washington, D.C. 20005

ORDER ON CEASE AND DESIST AND SURRENDER OF LICENSE

INTRODUCTION

On January 10, 2018, the Alcoholic Beverage Control Board (Board) reviewed compelling evidence that the transferee of the license held by Tillman Group, LLC, t/a Vieux Carre/For Rent (VC), illegally operated without a license on January 5, 2018, in violation of District of Columbia (D.C.) Official Code § 25-102(a) and (d), and that VC failed to surrender its license to the Board upon the discontinuation of the business under the ownership of James Tillman in November 2017 in compliance with D.C. Official Code § 25-791(a). The Board hereby orders the cessation of all illegal alcohol activity at 1413 K Street, N.W., and the surrender of the license for safekeeping, in accordance with the Board's Order below.

FINDINGS OF FACT

The Board bases its decision on the following facts:

1. Tillman Group, LLC, t/a Vieux Carre/For Rent, (VC) currently holds ABRA License No. 102576 at premises 1413 K Street, N.W., Washington, D.C. *ABRA Licensing File No. 102576*. James Tillman is currently the principal officer of the LLC; however, an application was filed on December 5, 2017, to replace him with Shawneque Latimer. *ABRA Application No. 17-TRN-00027* (Received Dec. 5, 2017); *Handwritten Letter from James Tillman to the Office of Tax and Revenue* (Received Nov. 15, 2017).

2. On January 5, 2018, ABRA Investigators Shawn Townsend, Kevin Puente, and Mark Barshears entered 1413 K Street, N.W., Washington, D.C., at approximately 11:10 p.m. after observing activity inside the premises. *Case Report No. 18-CMP-00011*, at 1 [CR]. Inside, Investigator Townsend observed two bartenders serving alcoholic beverages and several patrons consuming alcohol. *Id.*; *Exhibit Nos. 2-4*. The bar of the establishment also appeared to be stocked with alcoholic beverages, mixers, and other supplies related to the service of drinks. *Id.*

3. There was a Certificate of Occupancy, a Basic Business License, and a payment receipt issued by ABRA for paying the renewal fee posted on the wall. *CR*, at 1. No license issued by ABRA was posted. *Id.*

4. The ABC Manager on duty, Ajiboye Laosebikan, indicated that after paying the renewal fee for the license he believed he could operate while the transfer application was pending. *Id.* Investigator Townsend informed Mr. Laosebikan that this was incorrect and that the establishment's current operations violated the law. *Id.* at 2.

5. In a telephone conversation, James Tillman told Investigator Townsend that he transferred the establishment to Ms. Latimer in November 2017. *Id.* at 3. He further indicated that he was no longer involved in the operation of the business, but had not provided the new owners with his license because he did not want them to operate under a license with his name on it. *Id.*

6. ABRA's records indicate that as of January 9, 2018, the transfer application has not yet been approved by the Board; therefore, Ms. Latimer and her agents are not authorized to sell or serve alcoholic beverages or operate the licensed establishment. *Id.* at 2. In addition, there is no record of Ms. Latimer being issued or approved for a Temporary Operating Retail Permit while the transfer application is pending review.

7. The Board also recalls Mr. Laosebikan's prior appearance in ABRA's records. First, during a show cause hearing involving a separate establishment, the Board found that

Mr. Laosebikan was required by law to carry an ABRA-issued identification on his person and immediately display it at the request of Investigator Townsend Instead of admitting that he was not a licensed manager (or saying nothing at all), Mr. Laosebikan lied about being a licensed manager and sent Investigator Townsend a picture of a doctored manager's license Under these circumstances, Mr. Laosebikan attempted to

evade a potential violation by misrepresenting his status as a licensed manager and submitting a false identification to the investigator.

In re Da Luft DC, Inc., t/a Da Luft Restaurant & Lounge, Case No. 15-251-00078, Board Order No. 2014-470, at ¶ 17 (D.C.A.B.C.B. Oct. 21, 2015). Based on these facts, the Board found the licensee in that case in violation of D.C. Official Code § 25-823(a)(5) for interfering with an investigation. *Id.* at ¶¶ 16-17. In another case, Mr. Laosebikan transferred his license to new owners and the new owners began illegally operating a licensed establishment at the premises before the transfer application was approved by the Board. *In re Boyermarketing, LLC, t/a Odessa*, Case No. 15-CMP-00761, Board Order No. 2015-538, ¶¶ 10, 18 (D.C.A.B.C.B. Nov. 18, 2015).

CONCLUSIONS OF LAW

8. 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).

I. MS. LATIMER AND MR. LAOSEBIKAN VIOLATED § 25-102.

9. The Board finds that Ms. Latimer and her manager, Mr. Laosebikan, violated D.C. Official Code § 25-102 on January 5, 2018. 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).

10. The current owner of VC, James Tillman, indicated that he sold his business and ceased operations in November 2017. *Supra*, at ¶ 5. ABRA’s records show that the license has not yet been transferred to Ms. Latimer. *Supra*, at ¶ 6. Nevertheless, without authorization, the establishment was in operation selling and serving alcohol and permitting the consumption of alcohol without a license. *Supra*, at ¶ 2. Under these circumstances, the Board finds sufficient cause to find a violation of § 25-102(a) and (d) by Ms. Latimer and Mr. Laosebikan.

II. MS. LATIMER FAILED TO OBTAIN A TEMPORARY OPERATING RETAIL PERMIT.

11. 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. 2018). At no time has Ms. Latimer received a Temporary Operating Retail Permit in accordance with § 703. *Supra*, at ¶ 6. Consequently she had no authority to operate and sell, serve, or permit the consumption of alcohol on the premises once Mr. Tillman transferred the license in November 2017. *Supra*, at ¶¶ 5-6.

III. VC’S LICENSE MUST BE SURRENDERED TO THE BOARD BASED ON THE CESSATION OF ITS OPERATIONS.

12. 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). In this case, Mr. Tillman transferred the license and ceased personally operating the business in November 2017. *Supra*, at ¶¶ 5-6. Therefore, VC has legally discontinued operations, and the license must be surrendered to the Board for safekeeping in accordance with § 25-791.

IV. VC’S CONTINUED OPERATIONS CONSTITUTE AN IMMEDIATE AND IRREPERABLE HARM TO THE PUBLIC.

13. Under the law, § 25-829(a) permits the issuance of a cease and desist order when a violation threatens “immediate and irreparable harm to the public.” D.C. Official Code § 25-829(a). The Council of the District of Columbia provided the Board with a cease and desist power for the purpose of combatting the unlicensed sale and service of alcohol. D.C. Council, Report on Bill 13-449 at 155 (Nov. 20, 2000). The unlicensed sale of alcohol poses a danger to the public for several reasons: (1) the presence of an unlicensed establishment hinders the District’s ability to provide adequate coverage by police and other emergency services, because the District is not on notice that an alcohol establishment is operating on the premises; (2) the staff of an unlicensed establishment may not have adequate training to provide security, address violent or inebriated patrons, or otherwise manage emergencies; (3) an unlicensed establishment is not subject to regular inspections; and (4) the premises have not been adequately vetted to ensure that operations are safe for the public or will not otherwise cause disturbances. *See* D.C. Official Code §§ 25-113(d)(1) (requirement that nightclubs operate in accordance with security plans); 25-201(c)(4) (duty to inspect); 25-335(1) (requiring denial based on a violation of the Construction Codes and other public safety rules). Moreover, all violations of Title 25 of the D.C. Official Code constitute a nuisance as a matter of law and cannot be permitted to continue on an ongoing basis. D.C. Official Code § 25-805. Therefore, the Board finds sufficient grounds to order VC and the transferee to cease its illegal activity and operations.

ORDER

Therefore, the Board on this 10th day of January 2018, hereby orders VC and its agents to **CEASE AND DESIST** distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages at 1413 K Street, N.W.

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 1413 K 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), if necessary.

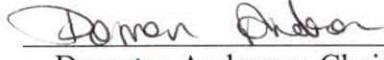
IT IS FURTHER ORDERED that VC's license, in the possession of Odessa, shall be surrendered to ABRA pursuant to D.C. Official Code § 25-791 for safekeeping. Alternatively, ABRA is hereby authorized to seize VC's license pursuant to this Order and D.C. Official Code § 25-801(f) and (g).

The Board **ADVISES** VC that a copy of this Order is being forwarded to the Metropolitan Police Department and licensed wholesalers to ensure compliance. If it is found that anyone is continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, this may result in civil and criminal penalties.

The Board **ADVISES** the parties that the Board may consider the record in this matter in determining whether the transferee qualifies for licensure under D.C. Official Code § 25-301, or otherwise merits the transfer of VC's license in accordance with D.C. Official Code § 25-405 and 23 DCMR § 401.1.

ABRA shall serve notice by certified mail or personal delivery to Shawneque Latimer and James Tillman.

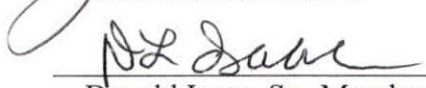
District of Columbia
Alcoholic Beverage Control Board


Donovan Anderson, Chairperson


Nick Alberti, Member


Mike Silverstein, Member


James Short, Member


Donald Isaac, Sr., 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).