

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

In the Matter of:)		
)		
Betty's Gojo Restaurant and Lounge, LLC)	Case No.:	19-251-00077
t/a Betty's Gojo)	License No.:	ABRA-102500
)	Order No.:	2020-141
Holder of a)		
Retailer's Class CR License)		
)		
at premises)		
7616 Georgia Avenue, N.W.)		
Washington, D.C. 20012)		

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rafi Aliya Crockett, Member

ALSO PRESENT: Betty's Gojo Restaurant and Lounge, t/a Betty's Gojo, Respondent

John Lui, 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**

INTRODUCTION

The Alcoholic Beverage Control Board (Board) finds that Betty's Gojo Restaurant and Lounge, t/a Betty's Gojo, (hereinafter "Respondent" or "BG") illegally outsourced its security operations and failed to preserve a crime scene on May 13, 2019. In light of these serious violations of the law and BG's history of violations, the Board cannot trust the Respondent to properly superintend the establishment or ensure its operations comply with the law. For this reason, the Board orders the revocation of the license. <

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on October 29, 2019. *ABRA Show Cause File No. 19-CMP-00077*, Notice of Status Hearing and Show Cause Hearing, 2 (Oct. 29, 2019). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 7616 Georgia Avenue, N.W., Washington, D.C., on November 3, 2019. *ABRA Show Cause File No. 19-CMP-00077*, Service Form. The Notice charges the Respondent with multiple violations, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent's license.

Specifically, the Notice charges the Respondent with the following violations:

- Charge I:** [On May 13, 2019] [y]ou allowed a third-party promoter of an event taking place at the establishment to collect a cover charge fee of \$10 per person without an entertainment endorsement, in violation of D.C. Code § 25-113a(b)(1)
- Charge II:** [On May 13, 2019] [y]ou failed to post the correct name or names of the licensee or licensees and the class and number of the license in plain and legible lettering in a conspicuous place on the front window or front door of the establishment's premises, in violation of D.C. Code § 25-711(b)
- Charge III:** [On May 13, 2019] [y]ou permitted a promoter to be responsible for providing security, in violation of D.C. Code § 25-797(b)
- Charge IV:** [On May 13, 2019] [y]ou failed to preserve a crime scene in violation of D.C. Code § 25-823(a)(8)

Notice of Status Hearing and Show Cause Hearing, 2.

Both the Government and Respondent appeared at the Show Cause Status Hearing on December 11, 2019. The parties proceeded to a Show Cause Hearing; however, the Respondent failed to appear at the hearing on January 29, 2020. At the hearing, the Board heard the case *ex parte* in accordance with D.C. Official Code § 25-447(e).

FINDINGS OF FACT

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

1. BG holds a Retailer's Class CR License at 7616 Georgia Avenue, N.W., Washington, D.C. *ABRA License No. 102500.*

2. Alcoholic Beverage Regulation Administration (ABRA) Investigator Tavril Prout and Supervisory Investigator John Fiorentine received a call from the Metropolitan Police Department (MPD) regarding an alleged assault with a deadly weapon at BG on May 13, 2019. *Transcript (Tr.)*, January 29, 2020 at 6. The two arrived at BG at approximately 1:18 a.m. *Id.* On scene, Investigator Prout spoke with an MPD officer who advised him of an assault in BG's basement. *Id.* at 7. The investigator then conducted a regulatory inspection. *Id.* Based on his inspection, he observed that the establishment had no required window lettering identifying the premises as a licensed establishment. *Id.*

3. He then spoke with the owner of the business, Kibreab Embaye. *Id.* Mr. Embaye indicated that he hired Matthew Atteai, a third party promoter, and that 25 patrons were inside BG. *Id.* at 7-8. Mr. Atteai promoted "for a local rap artist" who identified himself as "Sco Cheese." *Id.* at 8. Over the phone, Mr. Atteai revealed that the promoter charged a cover of \$10 per person for entry. *Id.* at 8-9. Nevertheless, BG does not have an endorsement on its license authorizing a cover charge at the establishment. *Id.* at 9.

4. The establishment's general manager Samuel Kehasse indicated that he was in the basement with a security officer when a fight began in the basement. *Id.* When the fight occurred patrons began exiting the premises. *Id.* at 9-10. Mr. Kehasse attempted to break up the fight. *Id.* at 10. He claimed no knowledge that a stabbing had occurred. *Id.*

5. Mr. Embaye claimed that he had a contract with David Lloyd to provide security for the establishment on the day of the fight. *Id.* Nevertheless, upon contacting Mr. Lloyd, Mr. Lloyd denied the existence of a contract and indicated that he would not cooperate with ABRA's investigation. *Id.* at 11. Investigator Prout further discovered that one security person present was Tayron Eubanks, a security officer hired by Mr. Atteai. *Id.* at 14; *Case Report No. 19-251-00077*, at 2. Both Mr. Embaye and Mr. Atteai admitted that Mr. Atteai hired Mr. Eubanks as security even though Mr. Atteai is not the license holder. *Case Report No. 19-251-00077*, at 2-3.

6. Camera footage showed that Mr. Atteai, the third party promoter, and Tayron Eubanks, Mr. Atteai's security, were conducting pat downs, identification checks, and taking cover charges at the entrance. *Tr.*, 1/29/20 at 12-13. Footage shows that an altercation occurred in the basement. *Id.* at 15. Footage further showed that after the fight, BG staff cleaned the area where the fight occurred. *Id.* at 13. Specifically, BG's staff removed glasses, rearranged furniture, removed trash, swept the floors, and wiped the tables. *Id.* at 16. Mr. Prout believes that this may have prevented MPD from collecting blood samples at the scene of the fight. *Id.* at 20.

7. On the same evening, the investigative team went to Medstar Washington Hospital Center. *Case Report No. 19-251-00077* at 2. They were told that the identified victim had a minor stab wound on the right side of his abdomen. *Id.*

CONCLUSIONS OF LAW

8. 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 (D.C.) Official Code pursuant to D.C. Code § 25-823(a)(1).

9. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2019). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep't of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) *citing Children's Defense Fund v. District of Columbia Dep't of Employment Servs.*, 726 A.2d 1242, 1247 (D.C.1999).

I. The Board Sustains Charge I.

10. Section 25-113(a)(b)(1) requires all restaurant and tavern license holders to obtain an appropriate entertainment endorsement that permits cover charges or admission fees before allowing the collection of a cover charge at the premises. D.C. Code § 25-113(a)(b)(1); 23 DCMR § 1002.1 (West Supp. 2020). In this case, a promoter was permitted to collect a \$10 cover charge, even though BG had no endorsement authorizing such activity. *Supra*, at ¶ 3. There is no indication in the record that BG applied the fee to the purchase of food or drink, as the promoter collected the money. Therefore, the Board sustains Charge I.

II. The Board Sustains Charge II.

11. Section 25-711(b) requires all retail licensees to “post, in a conspicuous place on the front window or front door of the licensee's premises, the correct name or names of the licensee or licensees and the class and number of the license in plain and legible lettering not less than one inch nor more than 1.25 inches in height.” D.C. Code § 25-711(b). Nevertheless, Investigator Prout observed no window lettering posted at the establishment. *Supra*, at ¶ 2. Therefore, the Board sustains Charge II.

III. The Board Sustains Charge III.

12. Section § 25-797(b) and (c) makes it a primary tier offense for a licensee to allow or “permit the third party or promoter to be responsible for providing security or maintain control over the establishment's existing security personnel.” D.C. Code § 25-797(b), (c). Nevertheless, in this case, BG’s ownership claimed it hired security, but the security contractor it hired disclaimed any association with BG. *Supra*, at ¶ 5. Furthermore, the owner and the promoter admitted that the promoter hired a security staff member, and video footage shows the promoter’s security checking identifications and conducting pat downs. *Supra*, at ¶¶ 5-6. As a result, BG illegally ceded control or partial control over security to a third party. Therefore, the Board sustains Charge III.

IV. The Board Sustains Charge IV.

13. Section § 25-823(a)(8) makes it a violation for a licensee to “fail[] to preserve a crime scene.” D.C. Code § 25-823(a)(8). In this case, after a stabbing incident, the establishment cleaned up the area where a fight had occurred before MPD and ABRA could investigate despite being aware that, at a minimum, that an assault had occurred and that the area had not been searched for evidence by any member of MPD. *Supra*, at ¶ 6. Under these circumstances, the Board sustains Charge IV.

V. The Board Revokes BG's License.

14. The Board elects to revoke BG's license for the offenses outlined in this Order. Charges I and II are secondary tier violations, while Charge III and IV represent two separate primary tier violations. 23 DCMR § 800 (West Supp. 2020). Based on BG's history of prior offenses, the present primary tier offenses are deemed their fourth primary tier violations in four years. *ABRA Investigative History*, ABRA License No. 102500 (Feb. 12, 2020) (Betty's Gojo). Under § 801.1(d), "For the fourth primary tier violation in four years, the ABC license shall be revoked or fined no less than \$30,000 and suspended for 30 consecutive days." 23 DCMR § 801.1(d) (West Supp. 2020).

15. Based on BG's history of violations and the failure to properly superintend the establishment, the Board lacks confidence in the ownership to operate the establishment in compliance with the law. Further, even without considering the charges as a whole, the Board further finds that the violation described by Charge III alone supports revoking the license. In addition, even without considering the charges as a whole, the violation described by Charge IV alone supports revoking the license. Therefore, in light of this trust deficit and the violations identified above, the Board is forced to revoke the license to uphold the quality of life and safety of the community.

ORDER

Therefore, the Board, on this 11th day of March 2020, finds BG **GUILTY** for all charges filed by the Government. The Board, for the reasons stated above, hereby **REVOKES** the license.

IT IS FURTHER ORDERED that all pending show cause hearings related to BG are canceled and the parties are no longer required to make appearances at those hearings. The Board further permanently **STAYS** all pending show cause actions unless and until the license is revived or this matter is appealed.

IT IS FURTHER ORDERED, in accordance with D.C. Official Code § 25-821(c), that no license shall be issued to BG and its ownership at this or any other location in the District of Columbia for a period of five years from the date of this Order.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800.1, the violation found by the Board in this Order shall be deemed two secondary tier violations and two primary tier violations.

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.

The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board



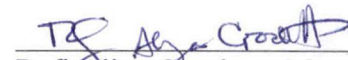
Donoyan Anderson, Chairperson



James Short, Member



Bobby Cato, Member



Rafi Aliya Crockett, 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, Reeves Center, 2000 14th Street, NW, 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, 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 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).