

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:

Noah Limited Liability Company,
t/a Boulevard Lounge

Holder of a
Retailer's Class CT License

at premises
6233 Georgia Avenue, N.W.
Washington, D.C. 20011

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) Case No.: 23-251-0006
) License No.: ABRA-115385
) Order No.: 2024-110
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BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: Noah Limited Liability Company, t/a Boulevard Lounge, Applicant

Collin C. Cenci, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

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

INTRODUCTION

The Alcoholic Beverage and Cannabis Board (Board) finds that Noah Limited Liability Company, t/a Boulevard Lounge, (hereinafter "Respondent") violated D.C. Official Code §§ 25-836(g)(1), 25-823(a)(5)(E), and 25-762(a) and (b)(1) in the early morning hours on January 22, 2023 when it failed to: (1) ensure that its security cameras were operational; (2) timely provide an Alcoholic Beverage and Cannabis Administration ("ABCA") investigator documents that were requested thereby interfering with an ABCA investigation; and (3) maintain the required occupancy limit permissible on its ABCA license. The Respondent shall pay a \$4,000 fine for each offense.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on October 24, 2023. *ABCA Show Cause File No. 23-251-00009* Notice of Status Hearing and Show Cause Hearing, 2 (Oct. 24, 2023). 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 January 22, 2023,] you failed to ensure that security cameras were operational while the establishment was in operation, in violation of D.C. Official Code § 25-836(g)(1)

Charge II: [On January 22, 2023,] you interfered with an ABCA investigation by failing to produce documents requested by an ABCA investigator within 48 hours of the request, for which the Board may take proposed action under D.C. Official Code § 25-823(a)(5)(E).

Charge III: [On January 22, 2023,] you made substantial change in operation without Board approval by exceeding the establishment's approved occupancy limit, in violation of D.C. Official Code § 25-762(a) and (b)(1)

Notice of Status Hearing and Show Cause Hearing, at 2-3.

Both the Government and Respondent appeared at the Show Cause Status Hearing on December 6, 2023. The parties were subsequently scheduled for a Show Cause Hearing on February 14, 2024 and only the Government appeared at the hearing to argue its case. The Board notes that the Respondent did not appear despite ABCA's records showing appropriate service; therefore, the Board proceeded to hear the case ex parte in accordance with D.C. Official Code § 25-447(e).

FINDINGS OF FACT

The following statements represent the Board's findings of fact based on the evidentiary record. In reaching its determination, the Board considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file. The Board credits all testimony and evidence identified or cited below unless otherwise stated.

I. Background

1. The Respondent holds a Retailer's Class CT License at 6233 Georgia Avenue, N.W., Washington, D.C. *ABCA License No. 115385*.

2. On Tuesday, January 24, 2023, Alcoholic Beverage and Cannabis Administration (“ABCA”) investigator, George Garcia received a report from the Metropolitan Police Department (“MPD”) to conduct an investigation on Boulevard Lounge for violating several alcohol laws on January 22, 2023. *Transcript (Tr.)*, Feb. 14, 2024 at 11. Investigator Garcia agreed to meet with MPD Officer Robert McKay on the same day at the establishment. *Id.* At 12. Upon arrival, Theodros Girma, owner of the establishment, was present, and he met with both Investigator Garcia and Officer McKay. *Id.*

3. On Sunday, January 22, 2023, at approximately 5:00 a.m., a physical altercation ensued between two patrons inside the establishment and several residents heard gunshots in the surrounding area. *Id.* at 11. In responding to the 911 calls received, Officer McKay was dispatched to the establishment to conduct an investigation. *Id.* at 13. Upon his arrival, it appeared that the fight had de-escalated. *Id.* at 14. He observed that the front and rear doors were locked. *Id.* at 19. He also observed that a security officer was stationed at the door and he opened or closed the door only when signaled by a manager or security staff. *ABCA Show Cause File No. 23-251-00009*, Government Exhibit 1. Officer McKay asked to speak with a manager and Mr. Girma met with him outside the establishment. *Id.* Officer McKay asked Mr. Girma for the surveillance footage for the night and Mr. Girma responded that his security cameras were not operational. *Tr.* at 14-21. Officer McKay further informed Mr. Girma that his establishment appeared to be above capacity. *Id.* at 25. Officer McKay inquired on the number of individuals inside and Mr. Girma admitted that over ninety individuals were present. *Id.* Officer McKay asked to see Mr. Girma’s alcohol license and the license indicated that the maximum occupancy allowed inside the establishment was twenty-four people. *Id.* Mr. Girma informed Officer McKay that he believed that his license allowed up to eighty-eight individuals. *Id.* at 18.

4. On Wednesday, January 25, 2023, Investigator Garcia followed up with Mr. Girma over the phone to advise him of his alcohol violations. *Id.* at 24. Investigator Garcia then requested the names and contact details of the security personnel that were present on the night of January 22nd, which Mr. Girma did not provide. *Id.* at 21. Mr. Girma again admitted to Investigator Garcia that his security cameras were not operational on January 22nd. *Id.* On February 1st, 9th, and 15th, Investigator Garcia sent emails and made phone calls to Mr. Girma to provide the names and contact details of his security personnel. *Id.* at 22-23. Mr. Girma did not answer or return his phone calls, and he did not provide the requested information as of the date of the hearing in this matter. *Id.*

CONCLUSIONS OF LAW

5. 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. Official Code § 25-823(a)(1). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Official Code § 25-447(f).

I. Standard of Proof

6. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2024). 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).

II. The Respondent failed to ensure it had functioning security cameras while the establishment was operating on January 22, 2023, in violation of D.C. Official Code § 25-836(g)(1).

7. The Respondent violated D.C. Official Code § 25-836(g)(1) when it failed to ensure that its security cameras were functional on the night of January 22, 2023. Pursuant to § 25-836(g)(1), “a licensee . . . who voluntarily installs and utilizes security cameras on the licensed premises, shall: (1) Ensure that the security cameras are operational, capable of recording, and actually recording while the establishment is in operation.” D.C. Official Code § 25-836(g)(1). On January 22nd, Mr. Girma admitted to Officer McKay that his security cameras were not operational. *Supra*, at ¶ 3. Two days later when Officer McKay and Investigator Garcia met with Mr. Girma at the establishment, Mr. Girma did not contradict their allegation that his security cameras were not operational on January 22nd. *Id.* Finally, on January 25th when Investigator Garcia called Mr. Girma to discuss his violations, Mr. Girma again admitted that his security cameras were not operational on January 22nd, and as a result, he did not have any security footage of the fight that occurred inside the establishment. *Supra*, at ¶ 4. For this reason, the Board sustains Charge I.

III. The Respondent failed to timely produce the documents Investigator Garcia requested thereby interfering with an ABCA investigation in violation of D.C. Official Code § 25-823(a)(5)(E).

8. The Respondent violated D.C. Official Code § 25-823(a)(5)(E) when it failed to provide to Investigator Garcia upon request, the names and contact information of the security personnel on duty on the night of January 22nd within a 48-hour deadline. Pursuant to § 25-823(a)(5)(E), “The licensee interferes or fails to cooperate with an ABCA or Metropolitan Police Department investigation by: (E) Failing to produce the requested documents, records, or videos no more than 48 hours from the time of the request.” D.C. Official Code § 25-823(a)(5)(E). In this case, the evidence on the record is uncontroverted that Investigator Garcia had made several requests through phone calls and emails for the names and contact details of the security personnel working at the establishment on the night of January 22nd. *Supra*, at ¶ 4. Investigator Garcia requested the information on January 25th, February 1st, 9th, and 15th, but Mr. Girma did not provide him with the information. For this reason, the Board finds that Mr. Girma violated D.C. Official Code § 25-823(a)(5)(E) and sustains Charge II.

IV. The Respondent exceeded its occupancy limit on January 22, 2023, without first obtaining a Board approval therefore violating D.C. Official Code § 25-762(a) and (b)(1).

9. The Respondent violated D.C. Official Code § 25-762(a) and (b)(1) when it exceeded its occupancy limit of twenty-four patrons without first obtaining Board approval. Pursuant to D.C. Official Code § 25-762(a), before an establishment may “make a change in the interior or exterior, or a change in format, of any licensed establishment, which would substantially change the nature of the operation of the licensed establishment as set forth in the initial application for the license . . . ,” the establishment must obtain an approval from the Board for a substantial change according to D.C. Official Code § 25-404. D.C. Official Code § 25-762(a). Furthermore, under subsection (b)(1), an “Increase [in] the occupancy of the licensed establishment or the use of interior space not previously used” are considered substantial changes that require Board approval. D.C. Official Code § 25-762(b)(1). In this case, it is not controverted that on the night of January 22nd over ninety individuals were inside the establishment. *Supra*, at ¶ 3. Nevertheless, the maximum occupancy allowed was twenty-four people, including staff. *Id.* For this reason, the Board finds that Mr. Girma increased his occupancy limit, constituting a substantial change that required Board approval, therefore he violated D.C. Official Code § 25-762(a) and (b)(1). The Board sustains Charge III.

V. Penalty

10. The Board fines the Respondent \$4,000 for each offense.

ORDER

Therefore, the Board, on this 20th day of March 2024, finds Boulevard Lounge liable for all charges. The Board imposes the following penalty:

(1) For the violation described in Charge I, Boulevard Lounge shall pay a \$4,000 fine (D.C. Official Code § 25-836(g)(1) (Primary);

(2) For the violation described in Charge II, Boulevard Lounge shall pay a \$4,000 fine (D.C. Official Code § 25-823(a)(5)(E) (Primary); and

(3) For the violation described in Charge III, Boulevard Lounge shall pay a \$4,000 fine (D.C. Official Code § 25-762(a) and (b) (1) (Primary).

IT IS FURTHER ORDERED that all fines shall be paid within 30 days of receipt of this Order or the license shall be immediately suspended until all fines are paid.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800 (West Supp. 2024), the violations found by the Board in this Order shall be deemed three 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 omission of any testimony or evidence in the Board's Order indicates that such testimony or evidence was contravened by the evidence or testimony credited by the Board, had no or minimal weight on the Board's findings and conclusions, was irrelevant, was not credible, was not truthful, was repetitious, was too speculative, or was otherwise inappropriate for consideration.

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

District of Columbia
Alcoholic Beverage and Cannabis Board

esigned via SeambaseDocu.com
Donovan Anderson
Key: ac43cb9b69d5f09e4b730060d1dccc8

Donovan Anderson, Chairperson

esigned via SeambaseDocu.com
James Short
Key: 547ae373f620de6ac8d1b332d5d2048e

James Short, Member



Silas Grant, Jr., 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 and Cannabis 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).