

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

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In the Matter of:	)		
	)		
Gebtri, Inc.	)	Case No.:	17-CMP-00029
t/a Cedar Hill Bar & Grill/Uniontown	)	License No.:	091887
	)	Order No.:	2018-263
Holder of a	)		
Retailer's Class CT License	)		
	)		
at premises	)		
2200 Martin Luther King Jr., Ave., S.E.	)		
Washington, D.C. 20020	)		

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**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member  
Donald Isaac, Sr., Member  
Bobby Cato, Member  
Rema Wahabzadah, Member

**ALSO PRESENT:** Gebtri, Inc., t/a Cedar Hill Bar & Grill/Uniontown, Respondent  
  
David Chung, Counsel, on behalf of the Respondent  
  
Amy Schmidt, Assistant Attorney General  
Office of the Attorney General for the District of Columbia  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds that Gebtri, Inc., t/a Cedar Hill Bar & Grill/Uniontown, (hereinafter "Respondent" or "Uniontown") failed to follow numerous safety measures imposed by an Order of the Board and its security plan and interfered in an investigation when a manager and secret owner attempted to bribe an ABRA investigator. In

determining the appropriate penalty the Board weighed Uniontown's violation history, which involves two recent closures in a one year period and gross safety violations. The Board has also considered the Government's showing that Uniontown illegally conspired to evade the conflict of interest rules that prohibit an off-premise retail licensee from owning an on-premise retail licensee. Under these circumstances, the Board finds revocation to be the only appropriate remedy.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on October 16, 2017. *ABRA Show Cause File No. 17-CMP-00029*, Notice of Status Hearing and Show Cause Hearing, 2 (Oct. 16, 2017). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2200 Martin Luther King Jr., Ave., S.E., Washington, D.C., on October 16, 2017. *ABRA Show Cause File No. 17-CMP-00029*, 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 March 18, 2017,] [y]ou failed to comply with the provisions of a Board Order and your security plan by failing to escort patrons to the manager and RDO and failing to wand every patron as they entered your establishment, in violation of [§ 25-823(a)(6)] . . . .
- Charge II:** An agent of your establishment plead guilty to one count of attempted bribery in violation of 22 D.C. Official Code §§ 1803, 711, 712 (a) (1) and (c) by offering a bribe to an ABRA Investigator to obtain a clean report for your establishment in violation of [§ 25-823(a)(5)] . . . .
- Charge III:** Your establishment interfered with an investigation by offering a bribe to an ABRA Investigator to obtain a clean report for your establishment in violation of [§ 25-823(a)(5)] . . . .
- Charge IV:** You did not meet the criteria for an owner as set out in [§ 25-301(a)(5) because] you are not the true owner of your establishment . . . .

*Notice of Status Hearing and Show Cause Hearing, 2.*

The Show Cause Status Hearing in this matter occurred on November 20, 2017. This case was originally scheduled to be argued on December 13, 2017, but after a continuance the Show Cause Hearing occurred on February 14, 2018. The time for submitting proposed findings of fact and conclusions was extended until April 3, 2018, at the request of Uniontown. The Government waived the right to submit proposed findings and proposed findings were never received from Uniontown.

## FINDINGS OF FACT

At the outset of the case, the Government moved the transcript from the prior summary suspension related to the charges in this case and Board Order No. 2017-182 into evidence. *Transcript (Tr.)*, February 14, 2018 at 35. Board Order No. 2017-182 indicates that Uniontown and its Counsel were present at the summary suspension and had the ability to cross-examine all witnesses, and present its own evidence and testimony at the summary suspension hearing. *In re Gebtri, Inc., t/a Cedar Hill Bar & Grill/Uniontown*, Case No. 17-251-00029, Board Order No. 2017-182, 1 (D.C.A.B.C.B. Mar. 18, 2017). In light of these circumstances, the lack of new evidence related to the violent incident on May 18, 2017, and the lack of additional rebuttal evidence, the Board has nothing new to say about the violations of the security plan and conditions of licensure identified in its prior Order. As a result, the Board adopts the findings of fact and relevant conclusions of law that it made at the prior summary suspension hearing in paragraphs 1 through 39 and 53 through 60 of this Order.<sup>1</sup>

Furthermore, 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:

### **I. Facts Related to the Violations of a Security Plan and Board Order.**

1. Uniontown is located at 2200 Martin Luther King Jr. Ave., S.E. *ABRA License No.* 091887. The establishment holds a Retailer's Class CT License. *Id.* Uniontown "provides regular lunch and dinner service daily." *Security Plan*, § A. After 9:00 p.m., Uniontown only allows patrons 21 years of age or older to enter the premises. *Id.*
2. During the early morning hours of March 18, 2017, Uniontown had a 21 and over only policy in effect. A disc jockey was playing on the first floor and a band was playing on the second floor. The establishment was collecting a \$10 cover charge.
3. On May 8, 2016, the Chief of Police [initiated] a summary suspension against Uniontown. *In re Gebtri, t/a Cedar Hill Bar & Grill/Uniontown*, Case No. 16-251-00078, Board Order No. 2016-294, 2 (D.C.A.B.C.B. May 18, 2016). In order to resolve the summary suspension, the OAG and Uniontown entered into [an] Offer-in-Compromise. *Id.* The terms of the agreement required the following:
  - (6) The Respondent shall *escort violent aggressors to the MPD Reimbursable Detail* officer or officers customarily posted immediately in front of the establishment when such Detail is utilized.

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<sup>1</sup> While administrative hearings are not required to follow the rules of evidence, the Board finds the testimony from the prior hearing credible because the prior testimony satisfies the majority of the prior recorded testimony exception to the hearsay rule. *Jadallah v. Dist. of Columbia Dept. of Employment Services*, 476 A.2d 671, 676 (D.C. 1984) (saying the "technical rules of evidence" do not apply to administrative proceedings); *Feaster v. United States*, 631 A.2d 400, 405 (D.C. 1993) (explaining the prior recorded testimony exception).

(7) The Respondent shall not clean up a crime scene . . . without the prior consent of MPD.

(8) . . . The *wands will be used on every patron or non-employee who enters the establishment . . .* Wanding will be used for any special event held at the Respondent's establishment.

*Id.* at Offer In Compromise, §§ (6)-(8) [OIC] (emphasis added).

4. As required by the Offer-in-Compromise, Uniontown is subject to a security plan. *Id.* at OIC, at § (1).

5. In § I(B), Uniontown's security plan obligated Uniontown to undertake the following related to entry into the establishment:

During Thursday, Friday and Saturday nights, security personnel are required to perform the following for each potential patron seeking entry into the establishment.

- a. Security Personnel *will use a wand on every potential patron* to detect the presence of metal objects, including weapons, from 9:00 p.m. until closing.
- b. During times when security personnel wand patrons prior to entry, security personnel *will search patrons' bags and purses for prohibited items.*
- c. Security personnel *will require the patron to remove his or her hat or hooded garment* in order to search same for prohibited items before allowing such hat or garment to be brought into the establishment from 9:00 p.m. until closing.

*Id.* at § I(B)(a)-(c).

6. In § I(C), Uniontown's security plan obligated Uniontown to undertake the following related to altercations:

The manager shall be alerted to an altercation by security personnel immediately. If the altercation becomes violent, the security personnel or management shall contact the MPD immediately, *and if on duty, alert the RDO at the front (MLK Jr. Ave., SE) of the establishment . . .*

If patrons are violent or remain aggressive, security personnel or management shall contact MPD immediately, and, *the patrons shall be escorted directly to the RDO,* if on duty.

*Id.* at § I(C) (emphasis added).

7. Section II(B) provides for the location of security guards. *Id.* at § II(B). According to the security plan, at least "two" security personnel will be assigned to the second floor. *Id.*

Moreover, the diagram attached the security plan states that one will be located “approximately” by the second floor stage and rear of the second floor. *Id.* at § II(B), Exhibit B.

8. Section III of the security plan creates the following employee uniform requirement:

All security personnel are required to wear a shirt with “SECURITY” on it *so that they are visible and recognizable to patrons* as members of the security personnel while on duty . . . .

*Id.* at § III(B) (emphasis added).

9. In Section V, the security plan requires Uniontown to “cordon off the area and prevent patrons or employees from entering the area until MPD arrives.” *Id.* at § V.

10. Tanya Pope has worked for Uniontown for three years and manages some aspects of the operation. She indicated that Uniontown has a policy of allowing smokers to congregate along the length of the building in the area facing Martin Luther King Jr., Ave., S.E., and W Street, S.E., and reenter without being searched or wanded. She also indicated that security occasionally wear jackets covering their security uniforms. She indicated that she was not aware that a fight had occurred upstairs until long after the incident was over.

11. Camera 2 provides an exterior view of one of the establishment’s doors that open into the street on March 18, 2017. *Respondent Camera 2*, at 1:59:52. The camera shows the area just outside the door, which is covered by a rectangular rubber mat. *Id.* While the camera does not continually look at the door, it shows the top of the door when it opens and actions occurring just in front of the door. *Id.* at 1:59:55-1:59:57.

12. At 1:43 a.m., a female patron wearing black approaches a female employee holding a metal detector, who the Respondent identified as Jasmine. *OAG Camera 2*, at 1:44:15 a.m. The female patron is holding a hand bag in her hand. *Id.* at 1:43:44. Jasmine wands the female patron but lets her inside without checking inside the bag. *Id.* at 1:44:16-1:44:27. During this time, the footage shows various people entering the establishment without being wanded. *Id.* at 1:43:48, 1:44:03; 1:44:53.

13. At 1:51 a.m., a man with shirt emblazoned with the words “202 Outlawz” and wearing a backwards cap steps up to Jasmine. *Id.* at 1:51:50-1:51:52. Jasmine wands the man. *Id.* at 1:51:50. She does not have the man remove his cap. *Id.* at 1:51:50-1:51:52. Another man wearing a Nike shirt and winter hat steps up to Jasmine. *Id.* at 1:51:53. He shows her the inside of his jacket and they then embrace. *Id.* at 1:51:53-1:51:56. The two men and Jasmine then begin to chat, and first man hugs Jasmine during the conversation. *Id.* at 1:52:07-1:52:11.

14. As they are talking, the first man with the “202 Outlawz” shirt hands Jasmine a \$20 bill. *Id.* at 1:52:30. A third man standing behind the two and wearing a cap also reaches into his pocket and hands a crumpled pile of money over to Jasmine. *Id.* at 1:52:30-1:52:32. After

the exchange, a man—who the Board will identify as Combatant 1 for the purposes of this Order—may be observed wearing a long necklace and teal colored long sleeve shirt follows the other men inside the establishment. *Id.* at 1:52:30-1:52:48.<sup>2</sup> During this time, none of these men were wanded, except for the patron wearing the “202 Outlawz” shirt, and the men with the hats were never required to take them off. *Id.* at 1:52:30-1:52:48.

15. At 1:54 a.m., the camera shows Jasmine scan a patron with a metal detecting wand in her hand. *Respondent Camera 2*, at 1:54:19. At 2:07 a.m., a security employee with a shirt emblazoned with the word “SECURITY” receives a metal detecting wand from Jasmine and stands outside the door. *Id.* at 2:07:25-2:07:32.

16. At 2:03 a.m., Jasmine is observed outside the door wearing a jacket and holding a metal detector. *Camera 2*, at 2:03:05. The footage does not show her wearing a shirt with the word “SECURITY” emblazoned on it. *Id.* From 1:59 a.m. to 2:04 a.m.[,] the footage shows her moving around and facing various directions as time passes. *Id.* at 1:59:25-2:04:35.

17. At 2:02 a.m., Camera 2 shows a female with dreadlocks and a ribbon in her hair walk into the club without being wanded or paying money to Jasmine. *Id.* at 2:02:15. Soon after the woman enters the club, Camera 2 shows a man wearing a jacket and winter hat and carrying a cell phone enter the club without being wanded, paying money, or taking off his hat. *Id.* at 2:02:38. At 2:03, Jasmine steps into view from somewhere outside the club off-camera. *Id.* at 2:03:04.

18. At 2:21 a.m., two females dressed in club clothes approach the door. *Camera 2*, at 2:21:44. One female with a white shirt, has a black purse on her shoulder. *Id.* at 2:21:45. When the door opens they speak to the male security guard who is holding it open for them. *Id.* at 2:21:46-2:22:04. The camera shows the female with the purse walk past the security guard without being wanded, paying money, or having her bag searched. *Id.* at 2:21:44-2:22:06.

19. Camera 20 looks at the second floor of the establishment. *OAG Camera 20*, at 2:19:56. On March 18, 2017, a full band was playing on the second floor while a large standing crowd watched. *Id.* At 2:19 a.m., Antonie Owens, working for the Respondent as security, stood in front of the stage. *Id.* At the time, he was standing in front of a rope and observing the crowd. *Id.*

20. At 2:20 a.m., in view of Mr. Owens, a patron in a baseball cap with a drink in his hand—who the Board will refer to as Combatant 2—walked towards the stage. *Id.* at 2:20:56.<sup>3</sup> As Combatant 2 makes his way through the crowd, he appears to accidentally lean into Combatant 1 and give him a hard nudge as he attempts to pass. *Id.* at 2:20:56-2:21:00. In response, as

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<sup>2</sup> While Camera 2 shows this individual in black and white, during the trial another camera showing color footage observed this individual wearing a teal shirt.

<sup>3</sup> Combatant 2 is located in the upper middle portion of the camera angle and is the third person in front of Mr. Owens. *OAG Camera 20*, at 2:30:56.

Combatant 2 steps in front of Combatant 1, Combatant 1 gives Combatant 2 a hard shove forward towards the stage. *Id.* at 2:21:00-2:21:02.

21. After the shove, Combatant 2 backs up, turns his head, and the two begin a verbal altercation. *Id.* at 2:21:02-2:21:07. Combatant 2 then turns around and they continue the verbal altercation face-to-face. *Id.* at 2:21:07-2:21:18. During this time, it appears that Mr. Owens observes the altercation, which occurs near his location. *Id.*

22. Combatant 1 and 2 then begin making their way towards the back of the crowd out of the clear view of Camera 20. *Id.* at 2:21:18-2:22:40. At 2:22 a.m., camera footage shows Mr. Owens looking into the crowd and stepping under the rope into the crowd. *Id.* at 2:22:45. He then begins signaling to the band to stop the music. *Id.* at 2:22:48-2:22:57. Mr. Owens then begins walking into the crowd towards Combatant 1 and 2. *Id.* at 2:22:57-2:23:09.

23. Camera 22 shows the opposite side of the second floor. *OAG Camera 22*, at 2:22:43. The camera shows the back of the crowd and the stage is at the other end of the room. *Id.*

24. Camera 22 shows Combatant 2 walking towards the back of the crowd. *Id.* at 2:22:42.<sup>4</sup> He then turns around and appears to be saying something to Combatant 1, who is located a few people away from Combatant 2. *Id.* at 2:22:42-2:22:53.

25. Combatant 1 then begins to walk around people in the crowd to get to Combatant 2. *Id.* at 2:22:54-2:22:56. As Combatant 2 comes into view, the camera shows that his necklace is tucked into his shirt.<sup>5</sup>

26. The camera also shows Combatant 2's hands at waist level holding a small shiny object. *Id.* at 2:22:56. As Combatant 2 moves toward Combatant 1, Combatant 1 conceals the shiny object in his hand with his other hand. *Id.* at 2:22:56-2:22:57.

27. Combatant 1 then turns to face Combatant 2 and the two exchange words. *Id.* at 2:22:57-2:23:04. Combatant 2 then throws a punch at Combatant 1, which forces Combatant 1 to stumble backwards. *Id.* at 2:23:04-2:23:06. At this time, Mr. Owens may be seen coming from behind Combatant 2 as Combatant 2 strikes Combatant 1. *Id.* at 2:23:05.

28. As Combatant 1 stumbles back off camera, Combatant 2 follows up with another punch. *Id.* at 2:23:05-2:23:07. As the two go out of view, Mr. Owens moves towards the fight in order to intervene. *Id.* at 2:23:08. Yet, as Mr. Owens intervenes, Combatant 1's hand pops back into the camera's view. *Id.* at 2:23:09. While the image is blurry, a shiny object may be seen in Combatant 1's hand. *Id.*

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<sup>4</sup> Combatant 2 is located in the upper left portion of the shot. *Id.* at 2:22:42. He is wearing a baseball cap, has a beard, and is facing the camera. *Id.* He then walks towards the lower left hand portion of the frame and can be seen wearing Adidas brand sweatpants. *Id.* at 2:22:44-2:22:45.

<sup>5</sup> A chain is seen hanging around Combatant 1's neck as he turns toward Combatant 2. *OAG Camera 22*, at 2:22:58-2:22:59.

29. The video then shows Combatant 1 attack Mr. Owens with the object in his hand. *Id.* at 2:23:09-2:23:11. Combatant 1 first makes a stabbing motion that hits Mr. Owens' arm. *Id.* at 2:23:09. He then makes a second stabbing motion that hits Mr. Owens' cheek. *Id.* The blow forces Mr. Owens to turn away from the altercation, and he steps back to hold his face. *Id.* at 2:23:09-2:23:12. The altercation then moves away from the area and Mr. Owen moves off camera as he examines the injury to his face with his hand. *Id.* at 2:23:09-2:23:15.

30. Camera 18 shows the second floor on March 18, 2017. *OAG Camera 18*, at 2:22:07. The camera shows the area starting at the beginning of the bar to the two doors leading into the room. *Id.* There is an opening allowing access to the bar on one side, tables and chairs on the other side, and an open area in the middle giving access to the doors. *Id.*

31. At 2:21 a.m., a male—identified as “Devian”—is standing behind the entrance to the bar area. *Id.* at 2:21:36. He is wearing a backwards cap and a jacket. *Id.* He cannot be seen wearing a shirt with the word “SECURITY” emblazoned on it. *Id.* Nevertheless, based on his reactions to the fight and testimony during the trial, there is sufficient evidence to infer that he is a member of security.

32. At 2:22 a.m., the camera shows Devian notice activity occurring near the stage. *Id.* at 2:22:52. Devian then begins to head towards the crowd and out of camera shot. *Id.* at 2:22:52-2:23:10. After Devian leaves the view of the camera, people begin backing up into the camera view from the standing area near the stage. *Id.* at 2:23:10.

33. Devian quickly returns into the view and appears to be pulling Combatant 1 back by having a hand wrapped around the Combatant 1's stomach. *Id.* at 2:23:12-2:23:14. As Combatant 1 is pulled out, he turns towards the exit doors while Devian follows with a hand on his back. *Id.* at 2:23:12-2:23:17.

34. At the back of the establishment, near one of the doors, Devian and Combatant 1 begin talking. *Id.* at 2:23:24-2:23:26. At this time, an employee with “SECURITY” emblazoned on the front enters the second floor from the door and approaches Devian and Combatant 1. *Id.* at 2:23:26-2:23:30.

35. After the conversation finishes, Combatant 1 heads toward the door where the second security guard entered. *Id.* at 2:23:51-2:23:58. After Combatant 1 disappears through the doorway, Devian heads towards the same door and walks through out of the camera's view. *Id.* at 2:23:58-2:24:07. Devian returns through the same door that he left at 2:25 a.m. *Id.* at 2:25:38.

36. At 2:23 a.m., Camera 17 shows Combatant 1 enter the stairwell and go down the stairs. *OAG Camera 17*, at 2:23:59-2:24:08. Devian also enters the stairwell as Combatant 1 reaches the first landing. *Id.* at 2:24:08. He then follows Combatant 1 downstairs until he leaves out of the exit. *Id.* at 2:24:08-2:24:24. Nevertheless, Devian remains inside the establishment. *Id.* at 2:24:24-2:25:35.



37. As Devian led Combatant 1 to the back of the second floor, Mr. Owens appeared in the view of Camera 18 and made his way to a trash can behind the bar. *Id.* at 2:23:21-2:23:26. A man in a black shirt and hat begins to talk to Mr. Owens. *Id.* at 2:23:57. The man in black is seen making a phone call as he has his hand on Mr. Owens' back. *Id.* at 2:25:16. Mr. Owens can be seen holding napkins to his face and arm. *Id.* at 2:29:12-2:29:16. Another man in white comes over to where Mr. Owens is standing and can be seen speaking on the phone as he looks at Mr. Owens. *Id.* at 2:31:58.

38. A police officer enters from the rear door to the second floor at 2:34 a.m. *Id.* at 2:34:53. Paramedics arrive on the second floor at 2:39 a.m. *Id.* at 2:39:19. As they [render aid to] Mr. Owens, they have him sit on a bar stool. *Id.* at 2:42:30. When Mr. Owens attempts to get up, he starts wobbling and needs to be held by the paramedics. *Id.* at 2:29:18. Moreover, at the top of the stairs, Mr. Owens is put into a special chair to help him down. *Id.* at 2:51:51.

39. Around 2:30 a.m., MPD Sergeant Steven Andelman and his partner were engaged in providing reimbursable detail services for Uniontown. They were parked directly outside the club. At 2:30 a.m., they received a radio call from the dispatcher saying that an assault had occurred inside the establishment. At no point, did anyone from the establishment inform them that an assault had occurred or that their assistance was needed inside. In response to the call, they entered the establishment to provide assistance. Upon entering the second floor, Sgt. Andelman found Mr. Owens with multiple lacerations and saw a large amount of blood near the bar area.

*In re Gebtri, Inc., t/a Cedar Hill Bar & Grill/Uniontown*, Board Order No. 2017-182, at ¶¶ 1-39.

## **II. Facts Related to the Attempted Bribery of an ABRA Investigator.**

40. On March 19, 2017, ABRA Investigator Shawn Townsend visited Uniontown in order to investigate a stabbing incident. *Transcript (Tr.)*, February 14, 2018 at 52. During his visit, he reviewed the establishment's camera footage while Melake Gebre, the owner, and the licensed manager, Gabriele Tripodo, were present. *Id.* Investigator Townsend requested that the licensee provide ABRA with specific portions of the video. *Id.* at 52. He also made Mr. Gebre and Mr. Tripodo aware that he was going to be writing a report about the incident. *Id.* at 127. While Investigator Townsend was reviewing the video, Mr. Tripodo asked Investigator Townsend to "look out for them." *Id.*

41. Investigator Townsend ignored Mr. Tripodo's statement and left the premises after he finished his review. *Id.* After he left, he called Mr. Gebre because the investigator had a question, but Mr. Gebre was not available. *Id.* at 53. He then called Mr. Tripodo, who indicated that the video footage was ready. *Id.* In response, the investigator indicated that he would return to Uniontown. *Id.*

42. When Investigator Townsend returned to Uniontown, he was met by Mr. Tripodo. *Id.* At this time, Mr. Tripodo began talking about the case and asked the investigator to "look out" for Uniontown. *Id.* As the conversation began, Investigator Townsend suspected that Mr. Tripodo

was asking for something improper. *Id.* at 53-54. At this time, his phone rang, but the investigator declined the call and activated the voice memo application on his phone. *Id.*

43. The recording provided the following statements indicating that Mr. Tripodo attempted to offer Investigator Townsend a \$3,000 bribe for making his report favorable to the establishment. *Id.* at 78. The recording also shows Mr. Tripodo admitting to secretly and illegally owning the license. *Id.* at 78, 128. The recording provides the following relevant statements:

MR. TRIPODO: Do I have to pay the lawyer? I don't want no big bill. You know, just let's go to the cameras for a minute and I'll take care of it.

INVESTIGATOR TOWNSEND: It's not up to me. It's up to the Board . . . .

MR. TRIPODO: I know, but if you can make it look better, you know what I mean? Just make it that, because the Board is really going for results.

INVESTIGATOR TOWNSEND: Right. But what I write and what they see on the video . . .

MR. TRIPODO: I don't know what they see . . . but no one has to see the video. You are the only one who see the video.

INVESTIGATOR TOWNSEND: No, no, no. They want to see the video.

MR. TRIPODO: Yeah, but they don't know who the security there. They do in detail like you do.

INVESTIGATOR TOWNSEND: So . . .

MR. TRIPODO: I'll make it part of the record. It is worth it.

INVESTIGATOR TOWNSEND: . . . what is . . .

MR. TRIPODO: \$3,000.

INVESTIGATOR TOWNSEND: \$3,000.

MR. TRIPODO: Yes, sir.

INVESTIGATOR TOWNSEND: (Laughing)

MR. TRIPODO: How much you want?

INVESTIGATOR TOWNSEND: I can't take a bribe. I can't take it.

MR. TRIPODO: I mean . . .

INVESTIGATOR TOWNSEND: \$3,000 for what? Like what do you want?

MR. TRIPODO: Just, you know, let me off on this small kind of adjustment.

INVESTIGATOR TOWNSEND: Yeah, it's going to be up to the Board. I can't . . .

. . .

INVESTIGATOR TOWNSEND: . . . Yeah, man, I can't take your money, man . . . .

MR. TRIPODO: . . . I like to be a friend to you. I mean . . . just once you finish the story, I like to sit with you and offer whatever.

. . .

INVESTIGATOR TOWNSEND: So you know, I don't want to take \$3,000 from you . . .

. . .

MR. TRIPODO: . . . The only thing I was thinking is if you can just make it look we did our best.

INVESTIGATOR TOWNSEND: Okay.

MR. TRIPODO: So that was like over their expectation that was . . . this happened quick. So they couldn't control it.

. . .

*Id.* at 54-64.

44. At another point in the conversation, the Investigator also recorded the following statements

MR. TRIPODO: Then I'll tell you another thing. I'm the general manager here, but I'm owner. Okay. I cannot have two licenses.

INVESTIGATOR TOWNSEND: Oh, you are an owner?

MR. TRIPODO: I own a liquor store on Sixteenth.

. . .

MR. TRIPODO: So I cannot own two licenses.

...

MR. TRIPODO: So basically, he is my partner. He is my relative, so I have to put his license under his name.

...

*Id.* at 64-68.

MR. TRIPODO: But for real I'm the owner. We closed, that's my money. I invested a lot of money to operate everything, this and that.

...

*Id.* at 74.

45. After the conversation, Investigator Townsend left the premises and reported the incident to his supervisor. *Case Report No. 17-251-00029(a)*, at 3. He then met with Metropolitan Police Department (MPD) Detective Dexter Martin to report the attempted bribery by Mr. Tripodo. *Id.* In response to his report, MPD arrested Mr. Tripodo on May 10, 2017. *Id.*

46. In court, Mr. Tripodo pled guilty to attempted bribery. *Government Exhibit No. 3 (Plea Agreement, United States v. Gabrielle Tripodo Criminal Case 2017 CF2 008155, (May 26, 2017))*. The plea agreement further indicated that Mr. Tripodo admitted to Investigator Townsend that he was not the "General Manager," but rather "he was actually the establishment's true owner." *Id.* at 3. The plea agreement was signed by Mr. Tripodo and his defense attorney. *Id.* at 5. Investigator Townsend is aware that Mr. Tripodo received a sentence of probation. *Tr.*, 2/14/18 at 83.

47. ABRA Investigator Jason Peru was present at Mr. Tripodo's sentencing hearing. *Id.* at 147. At the hearing, Investigator Peru observed Mr. Tripodo plead guilty. *Id.* at 148. He also observed Mr. Tripodo say under oath during the court hearing that he was an owner of both Uniontown and Union Liquors. *Id.*

### **III. Facts Related to Mr. Tripodo's Illegal Ownership of Uniontown.**

48. A promissory note in ABRA's files shows that Mr. Gebre and Mr. Tripodo executed an agreement whereby Mr. Gebre borrowed either \$25,000 or \$50,000 from Mr. Tripodo on February 6, 2013. *Government Exhibit No. 4, 1 (Promissory Note)*. The Board notes that the promissory note indicates that \$25,000 was borrowed in writing in the introduction, but in parenthesis, and at the top of the note, the amount borrowed is indicated to be \$50,000. *Tr.*, 2/14/18 at 84.

49. ABRA's records indicate that Mr. Tripodo serves as the owner and President of Union Liquors, ABRA license No. 079922. *In re Trabra Incorporated, t/a Union Liquors, Case No. 17-CMP-00464, Board Order No. 2018-021, 1 (D.C.A.B.C.B. Jan. 24 2018); Tr.*, 2/14/18 at 84-

86 Union Liquors has been issued a Retailer's Class A License. *In re Trabra Incorporated, t/a Union Liquors*, Board Order No. 2018-021 at 1.

50. Uniontown submitted various documents contained in ABRA's files into the record. None of the documents, on their face, indicate that Mr. Tripodo is an owner of record of Uniontown. *Respondent's Exhibit Nos. 1-8; Tr.*, 2/14/18 at 112.

### CONCLUSIONS OF LAW

51. 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). D.C. Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2018).

#### IV. Standard of Proof

52. In this matter, the Board shall only base its decision on the "substantial evidence" contained in the record. 23 DCMR § 1718.3 (West Supp. 2018). 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. Uniontown Failed to Comply with a Board Order and Security Plan Provisions Governing the Operations of the Establishment.

[53]. Title 25 of the D.C. Official Code requires licensees to comply with the terms of any security plans and conditions attached to their license. D.C. Official Code § 25-823(a)(6).<sup>6</sup>

##### a. Uniontown Security Staff Failed to Escort a Violent Aggressor to the MPD Reimbursable Detail Stationed Outside the Establishment or Notify Them of the Incident in Violation of its Security Plan and Board Order No. 2016-294.

[54]. Section 6 of Board Order No. 2016-294 requires Uniontown to escort violent aggressors to the MPD Reimbursable Detail. *Supra*, at ¶ 3. Section I(C) of the Respondent's security plan further required security to "alert the RDO at the front . . . of the establishment" and repeated the requirement to escort violent aggressors to the detail. *Supra*, at ¶ 6.

[55]. On March 18, 2017, an MPD Reimbursable Detail unit was posted outside the establishment. *Supra*, at ¶ 39. While the detail was on duty, a violent incident occurred

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<sup>6</sup> In closing, the Respondent attempted to argue that this claim was barred by collateral estoppel and double jeopardy. While the summary suspension stemmed from the same incident as the present matter and discussed the violations found in this Order, similar to an action for a temporary restraining order, the violations in the prior matter were solely litigated to address the issue of "imminent danger" under § 25-826 under the understanding that charges related to the incident would be brought through a later show cause proceeding. *In re Gebtri, Inc., t/a Cedar Hill Bar & Grill/Uniontown*, Case No. 17-251-00029, Board Order No. 2017-182, 2 n.1, ¶ 40 (D.C.A.B.C.B. Mar. 18, 2017).

where two combatants engaged in fighting. *Supra*, at ¶ 27. This incident was observed by Uniontown's security employees, Devian and Mr. Owen. *Supra*, ¶¶ 21, 33. While Mr. Owens' injuries may excuse his failure to comply with the Respondent's security requirements, Devian was under no such restraint.

[56]. Specifically, the Board can infer that Devian observed the fight based on his quick response to the incident, his proximity to the fight near the bar, and the high visibility of the combatants swinging their arms at each other. *Supra*, at ¶¶ 27-28, 31-33. He then escorted Combatant 1 to the rear of the second floor and then followed Combatant down the steps until Combatant 1 exited through the door. *Supra*, at ¶¶ 33-36. It is reasonable to infer that Devian was well aware that a violent incident had occurred; otherwise, there would have been no reason to put his hands on Combatant 1, forcibly remove him from the altercation on the second floor, and escort him down the stairwell. *Id.* Yet, Devian made no effort to inform management or the detail of the incident, and instead returned to the second floor without informing the detail sitting outside [about] the incident. *Supra*, at ¶¶ 36, 39. Under these circumstances, the Respondent failed to comply § 6 of the Board Order and § I(C) of its security plan by failing to . . . notify the reimbursable detail of the incident.

**b. Uniontown's Failed to Consistently Use Metal Detecting Wands in Violation of the Board Order and Security Plan.**

[57]. The Board Order [also] says that "wands will be used on every patron or non-employee who enters the establishment." *Supra*, at ¶ 3. The security plan requires the same and requires staff to search "bags and purses for prohibited items" and to require patrons to remove their hats before entry. *Supra*, at ¶ 5.

[58]. On March 18, 2017, Uniontown had a band performing and issued metal detecting wands to employees managing the front the establishment. *Supra*, at ¶¶ 2, 12. The camera observing the establishment's entrance shows security failing to search a patron's bag and patrons with hats not being required to take them off. *Supra*, at ¶¶ 12, 14.

[59]. The security footage also shows various people enter the establishment without being wanded. *Supra*, at ¶¶ 12, 14, 17-18. The Respondent explained that it has a policy of letting people inside the establishment smoke outside and come back in without being wanded. *Supra*, at ¶ 10. While Uniontown believes its security can keep an eye on these people, this assertion is rather dubious. For example, it is unlikely security can distinguish between new patrons and smokers when security rotates outside through the night or are busy checking identification and wanding patrons. *Supra*, at ¶ 15. Moreover, if smokers are mixing with new patrons outside, this presents an opportunity for people to exchange knives and other objects and bring them in without a search.

[60]. Most important of all, the Board Order is clear that the metal detector must be used on all patrons before they enter. There is no exception contained in the Order, and Uniontown had no right to deviate from the condition and make up an imaginary exemption. As such, the Respondent was clearly in violation of § 8 of the Board Order and § I(B)(b) of the security plan on March 18, 2017.

## II. Uniontown is Liable for the Attempted Bribery Committed by Mr. Tripodo.

53. Section § 25-823(a)(5) makes it a violation for a licensee or their agents to “otherwise interfere[] with an investigation.” D.C. Code § 25-823(a)(5). In *Madam’s Organ*, in reliance on a prior court decision, it was recognized that “[u]nder the doctrine of *respondeat superior*, an employer may be held liable for the acts of his employees committed within the scope of their employment.” *In re 2461 Corporation t/a Madam’s Organ*, Case No. 15-251-00157, Board Order No. 2016-669, ¶ 35 (D.C.A.B.C.B. Nov. 30, 2016) citing *Brown v. Argenbright Sec., Inc.*, 782 A.2d 752,757 (D.C. 2001); *Sami Restaurant, LLC, t/a Bistro 18 v. D.C. Alcoholic Bev. Control Bd.*, No. 14-AA-277, 5 (D.C. 2015) (unpublished). In the same decision, it was also recognized that “§ 25-823(a)(5) does not require the accused to be successful” in interfering with the investigation. *Id.*

54. It is undisputed that Mr. Tripodo committed and was convicted of attempting to bribe an ABRA investigator. *Supra*, at ¶ 46. The attempted bribery occurred at Uniontown and was made in an attempt to alter the contents of an investigative report related to an incident at the establishment. *Supra*, at ¶ 43. Under these circumstances, where the attempted bribery was made in an effort to serve the establishment and related to the establishment, there is sufficient evidence to sustain Charge II. The Board notes that Charge III contains the same charge; therefore, Charge III is moot based on the Board’s resolution of Charge II.

## V. Penalty

55. The Board finds no need to address Charge IV because the adjudicated violations, both separate and apart, merit the revocation of the license.

56. Under § 25-823(a), the Board is empowered to fine, suspend, or revoke the license of any licensee for violations of Title 25 of the D.C. Official Code § 25-823(a). D.C. Code § 25-823(a). The Board finds revocation warranted in this case for several reasons. First, this licensee has experienced too many summary suspensions. The first summary suspension, which involved an incident occurring on May 8, 2016, resulted in Uniontown agreeing to abide by a number of safety measures, including escorting patrons to the MPD reimbursable detail and wandng patrons for weapons. *Case Report No. 17-251-00029*, 8 (Mar. 18, 2017) (Date of Incident 5/8/16; 16-251-00078); *supra*, at ¶¶ 3-9. The second summary suspension, which related to the present case, involved a violation of those conditions on March 18, 2017. *Case Report No. 17-251-00029*; *supra*, at ¶¶ 53-60. A summary suspension is an emergency proceeding undertaken when the establishment poses an “imminent danger to the health and safety of the public.” D.C. Code 25-826. In light of the serious nature of a summary suspension and the fact that the licensee has two summary suspensions in approximately one year, the Board has gave doubts regarding the ownership’s ability to operate a safe establishment.

57. Second, even if Uniontown’s violation history did not warrant revocation on its own, the Board cannot tolerate a licensee that conspires to evade the District’s conflict of interest laws or has secret unaccountable owners. District law makes it patently illegal for the owner of an off-

premise license to own an on-premise license. D.C. Code § 25-303(a)(3). The Board credits Mr. Tripodo's statement that he secretly owns Uniontown. *Supra*, at ¶ 44. While Uniontown submitted various documents showing Mr. Gebre to be the owner, the Board is satisfied that Mr. Gebre misrepresented the ownership of the business in his application. Indeed, Uniontown made no credible effort to discredit the specific statements made by Mr. Tripodo, such as his claim that the money invested in the business was actually his and that he and Mr. Gebre had a familial relationship, which demonstrate a motive for the ruse. *Id.* at ¶ 44.<sup>7</sup> Consequently, in light of these circumstances, the Board is not satisfied that a fine or suspension related to either violation would bring accountability to the establishment, which leaves revocation as the sole option.

### ORDER

Therefore, the Board, on this 9th day of May 2018, finds that Gebtri, Inc., t/a Cedar Hill Bar & Grill/Uniontown, guilty of Charge I and II, which merit the **REVOCATION** of the license.

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

**IT IS FURTHER ORDERED** that the individual owners, members, and license holders of this license shall be prohibited from holding an alcoholic beverage license in the District of Columbia for five years in accordance with D.C. Official Code § 25-821.

**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.

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<sup>7</sup> The Board notes that this situation would merit the denial of the license for initial issuance or renewal under D.C. Official Code §§ 25-301(a)(1) and 25-301(a)(5). *In re HRH Services, LLC, t/a The Alibi*, Case No. 15-PRO-00096, Board Order No. 2016-280, ¶ 108 (D.C.A.B.C.B. May 18, 2016).

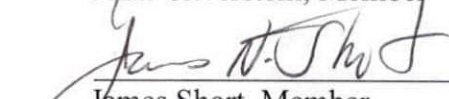


District of Columbia  
Alcoholic Beverage Control Board

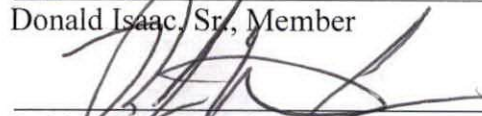
  
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Donovan Anderson, Chairperson

  
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Nick Alberti, Member

  
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Mike Silverstein, Member

  
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James Short, Member

  
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Donald Isaac, Sr., Member

  
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Bobby Cato, Member

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Rema Wahabzadah, 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).