

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

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In the Matter of: )  
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1716 I, LLC )  
t/a Eden Bar/Garden of Eden/Eye Bar )  
 )  
Holder of a )  
Retailer’s Class CR License )  
 )  
1716 I Street, N.W. )  
Washington, D.C. 20006 )  
\_\_\_\_\_ )

Case No.: N/A  
License No.: ABRA-083133  
Order No.: 2019-705

**BEFORE:** Donovan Anderson, Chairperson  
James Short, Member  
Bobby Cato, Member  
Rema Wahabzadah, Member  
Rafi Crockett, Member

**ALSO PRESENT:** 1716 I, LLC, t/a Eden Bar/Garden of Eden/Eye Bar, Applicant  
  
Ely Hurwitz, Esq., Counsel, on behalf of the Applicant  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**ORDER DENYING WAIVER OF CLEAN HANDS REQUIREMENT FOR THE  
2019 RENEWAL CYCLE AND ORDER TO CEASE AND DESIST**

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The Alcoholic Beverage Control Board received a request from 1716 I, LLC, t/a Eden Bar/Garden of Eden/Eye Bar, (Applicant) holder of a Retailer’s Class CR License, to exempt the Applicant from complying with the “clean hands” requirement. In order to qualify for renewal, the Applicant must satisfy the “clean hands” requirement, which provides that

(b) Notwithstanding § 47-2861(1)(B), the Board shall not issue a license or permit to an applicant if the applicant has failed to file required District tax returns or owes more than \$ 100 in outstanding debt to the District as a result of the items specified in § 47-2862(a)(1) through (9), subject to the exceptions specified in § 47-2862(b).

D.C. Code § 25-301(b). Section 47-2862(b) provides that

(b) For purposes of this section, if: (A) the amount of outstanding debt over \$100 is subject to dispute, (B) the applicant has properly and timely appealed the infraction, assessment, tax, or basis for the alleged debt, and (C) the appeal is pending, then the outstanding debt shall not be cause for the District government to deny the issuance or reissuance of any license or permit pursuant to subsection (a) of this section. Nothing in this section shall be construed as allowing the nonpayment of any tax, fee, fine, penalty, or any other debt owed to the District government for which payment is required by other law.

D.C. Code § 47-2862(b).

The Applicant currently avers that it is appealing the assessment of the D.C. Office of Tax and Revenue (OTR) and has an outstanding case before the D.C. Office of Administrative Hearings (OAH), which qualifies it for a waiver of the clean hands requirement provided by § 47-2862(b) during the 2019 renewal cycle.

Nevertheless, in a letter dated October 23, 2019, OTR informs the Board that the Applicant has “outstanding tax liabilities” that “are not the only issues that are preventing Eye Bar from obtaining a clean hands certificate.” *Letter from William Bowie, Senior Counsel, Office of Tax and Revenue, to the Alcoholic Beverage Regulation Administration* (Oct. 23, 2019). OTR further indicates that these additional matters are not the “subject of any appeal by Eye Bar.” *Id.*

In light of OTR’s administration over the issuance of the clean hands certificate and the determination by OTR in this case, the Board has no authority to contravene OTR. *Craig v. D.C. Alcoholic Beverage Control Bd.*, 721 A.2d 584, 588 (D.C. 1998) *citing* *Kopff v. District of Columbia Alcoholic Beverage Control Bd.*, 413 A.2d 152, 154 (D.C.1980) (saying the Board has “no authority to review the validity of the coordinate agency's action.”). Therefore, at this time, the Board is prohibited from granting the exception provided by § 47-2862(b), and cannot renew the Petitioner’s license until the additional outstanding liabilities identified by OTR are sufficiently addressed.

Furthermore, on October 23, 2019, the Board further determined that the Applicant has failed to file a completed application to renew the license; therefore, the license has expired, the Applicant must cease and desist from operating under the license, and the license must be surrendered to ABRA for cancellation.

## ORDER

Based on the foregoing, the Board, on this 23rd day of October 2019, hereby **DENIES** the Applicant’s request to waive the clean hands requirement during the 2019 renewal cycle.

**IT IS FURTHER ORDERED** that the Applicant shall cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages under its license.

**IT IS FURTHER ORDERED** that the Applicant shall return the license to ABRA for safekeeping and cancellation pursuant to D.C. Official Code § 25-791.

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you may be subject to both civil and criminal penalties.

A copy of this Order shall be sent to the Applicant and OTR.

District of Columbia  
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



James Short, Member



Bobby Cato, Member



Rema Wahabzadah, Member



Rafi Crockett, Member

In regard to the order to cease and desist, 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.

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).

Additionally, for matters not related to the order to cease and desist, under 23 DCMR § 1719.1 (2008), 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, under 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration under 23 DCMR § 1719.1 (2008) 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).