

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

In the Matter of:

Total Café & Cycling, LLC
t/a Emissary

Holder of a
Retailer's Class CR License

at premises
2023 P Street NW
Washington, D.C. 20036

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) Case No.: 24-CIT-00519
) License No.: ABRA-101155
) Order No.: 2025-564
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BEFORE: Donovan Anderson, Chairperson
Silas Grant, Jr., Member
Teri Janine Quinn, Member
Ryan Jones, Member
David Meadows, Member

ALSO PRESENT: Total Café & Cycling, LLC, t/a Emissary, Respondent

Alycia Hogenmiller, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Jonathan Berman, Acting General Counsel
Alcoholic Beverage and Cannabis Administration

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

INTRODUCTION

The Alcoholic Beverage and Cannabis (Board) finds that Total Café & Cycling, LLC, t/a Emissary, (hereinafter "Respondent" or "Emissary") violated D.C. Code § 25-701 and DCMR § 23-707.1 on June 27, 2024, when it did not have a Board-approved ABC Manager or Owner present during its licensed hours of sales, service, and consumption of alcoholic beverages. The Board imposes a fine of \$750 for this Charge.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on December 5, 2024. *ABCA Show Cause File No. 24-CIT-00519*, Notice of Status Hearing and Show Cause Hearing, 2 (Dec. 5, 2024). The Alcoholic Beverage and Cannabis Administration (ABCA) served the Notice on the Respondent, located at premises 2032 P Street, NW, Washington, D.C., on December 17, 2024. *ABCA Show Cause File No. 24-CIT-00519*, Service Form. The Notice charges the Respondent with one violation, 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 violation:

Charge: **[On June 27, 2024,] You failed to superintend in person or keep a licensed ABC manager on duty at all times in violation of D.C. Code § 25-701 and 23 DCMR § 707.1, for which the Board may take the proposed action under D.C. Code § 25-823(a)(1) and (3).**

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

Both the Government and Respondent appeared at the Show Cause Status Hearing on February 12, 2025. The Government appeared at the Show Cause Hearing and argued its case on March 19, 2025. The Respondent was not present.

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. Emissary holds a Retailer's Class CR License at 2032 P Street NW, Washington, D.C. *ABCA License No. 101155*. On Thursday, June 27, 2024, at approximately 9:00 pm, ABCA Investigator Jerrita Millington, entered the Emissary after observing patrons indulging in alcoholic beverages in the summer garden. *Transcript (Tr.)*, March 19, 2025 at 7-8. Investigator Millington also observed that the establishment was operating during its Board-approved hours of operation. *Id.* at 7. Investigator Millington identified herself as an ABCA investigator to an Emissary employee, Daniel Encinales, and asked to speak with the ABC manager or owner. *Id.* at 8. Mr. Encinales informed Investigator Millington that he was the on-duty manager, but there was neither an on-duty ABC manager nor the owner present at the establishment. *Id.*

CONCLUSIONS OF LAW

2. 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). 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. Code § 25-447(f).

II. Standard of Proof

3. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2025). 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).

III. The Respondent did not have a Board-approved ABC manager or owner on duty during operating business hours thereby violating D.C. Code § 25-701 and DCMR § 23-707.1.

4. The Respondent violated D.C. Code § 25-701 and DCMR § 23-707.1 on June 27, 2024, when it did not have a Board-approved ABC Manager or Owner present during its licensed hours of sales, service, and consumption of alcoholic beverages. Under part (a-1)(1) of D.C. Code § 25-701, “...an establishment's owner or Board-approved manager shall be present on the premises at all times during the establishment's hours of sale, service, and consumption of alcoholic beverages.” D.C. Code § 25-701. 23 DCMR § 23-707.1 also states, “An owner or the Board-approved manager shall be present at the licensed establishment during the hours in which alcoholic beverages may be sold, served, or consumed on the licensed premises.” 23 DCMR § 23-707.1. On June 27, 2024, when Investigator Millington visited the establishment, Mr. Encinales admitted that neither the Board-approved ABC Manager nor the owner was present. *Tr.* at 8. For this reason, the Board finds that the Respondent violated D.C. Official Code § 25-701(a-1)(1) and 23 DCMR § 23-707.1 therefore, sustains the Charge.

IV. Penalty

5. The Respondent has two secondary tier violations on its record. A violation for D.C. Official Code § 25-701(a-1)(1) and 23 DCMR § 23-707.1 allows for a fine of \$750. 23 DCMR § 804 (West Supp. 2019).

ORDER

Therefore, the Board, on this 21st day of May 2025, finds Total Café & Cycling, LLC, t/a Emissary, guilty of violating D.C. Official Code § 25-701 and 23 DCMR § 23-707. The Board imposes the following penalty on Emissary:

(1) For the violation described in the Charge, Emissary shall pay a \$750 fine. (D.C. Official Code § 25-823(a)(1) and (3)).

IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800 (West Supp. 2025), the violations found by the Board in this Order shall be deemed a secondary tier violation.

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 SeamlessDocs.com
Donovan Anderson
Key: ac43cb06c09d5f094b730003d1dccc8

Donovan Anderson, Chairperson



Silas Grant, Jr., Member

Teri Janine Quinn

Teri Janine Quinn, Member



Ryan Jones, Member

David Meadows

David Meadows, 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, 899 North Capitol Street, N.E., Suite 4200-A, Washington, D.C. 20002.

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).