

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

In the Matter of:)	
)	
Green Island Heaven and Hell, Inc.)	Case No.: 18-CMP-00049
t/a Green Island Café/Heaven & Hell)	License No.: ABRA-74503
)	Order No.: 2019-091
Holder of a)	
Retailer's Class CT License)	
)	
at premises)	
2327 18th Street, N.W.)	
Washington, D.C. 20009)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member

ALSO PRESENT: Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell,
Respondent

Jonathan Farmer, Counsel, on behalf of the Respondent

Walter Adams II, 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 Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell, (hereinafter "Respondent" or "Green Island Café/Heaven & Hell") failed to hire the Metropolitan Police Department (MPD) Reimbursable Detail as required by a Board Order between January 25, 2018, and January 28, 2018, in

violation of D.C. Official Code § 25-823(a)(6). In light of this violation, the Respondent shall pay a fine of \$4,000.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on September 25, 2018. *ABRA Show Cause File No. 18-CMP-00049*, Notice of Status Hearing and Show Cause Hearing, 2 (Sept. 25, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2327 18th Street, N.W., Washington, D.C., on October 4, 2018. *ABRA Show Cause File No. 18-CMP-00049*, 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 I: [In violation of D.C. Official Code § 25-823(a)(6),] [y]ou failed to adhere to the terms of the Board Order dated August 16, 2017 regarding the use of MPD Reimbursable Detail [between January 25, 2018 and January 28, 2018]

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

Both the Government and Respondent appeared at the Show Cause Status Hearing on November 7, 2018. The parties proceeded to a Show Cause Hearing and argued their respective cases on December 12, 2018.

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:

I. Background

1. The Respondent holds a Retailer's Class CT License at 2327 18th Street, N.W., Washington, D.C. *ABRA License No. 74503*. On August 16, 2017, in Board Order No. 2017-439, the Board issued an order requiring the Respondent to "hire at least two officers with the MPD Reimbursable Detail for a minimum of four hours and at least one hour after the close of business between Thursday and Sunday" *In re Green Island Heaven & Hell, Inc., t/a Green Island Café/Heaven & Hell*, Case No. 16-PRO-00116, Board Order No. 2017-439, 8 (D.C.A.B.C.B. Aug. 16, 2017).

II. ABRA Investigator Felicia Dantzler

2. On Friday, January 12, 2018, ABRA Investigator Felicia Dantzler was informed that ABRA had received a complaint alleging that the Respondent had not complied with an order requiring the Respondent to hire the MPD Reimbursable Detail. *Transcript (Tr.)*, December 12, 2018 at 20, 45. In response to the complaint, she visited the establishment around 2:30 a.m., on January 13, 2018. *Id.* at 22.

3. After arriving at the establishment, she saw police officers sitting in a patrol car parked across the street from the establishment. *Id.* The officers indicated that they were not part of the reimbursable detail. *Id.* She then went to the establishment and spoke to the owner, Mr. Woldemariam. *Id.* at 24. Mr. Woldemariam admitted to the investigator that he did not have any detail officers working that night due to a dispute over payment and that no detail would be present on January 14, 2018. *Id.* at 24-25.

4. The investigator returned to the establishment on Sunday, January 28, 2018, around 1:00 a.m. *Id.* at 25. Upon arriving, she asked the owner, Mr. Woldemariam, if reimbursable detail officers were present. *Id.* at 26. The owner indicated that he did not have the detail present because of a dispute over the payment. *Id.* at 27.

III. Brenda Smith

5. Brenda Smith serves as the Reimbursable Detail Coordinator for the Metropolitan Police Department (MPD). *Id.* at 47-48. In order to participate in the program, an establishment must enter into a contract with MPD. *Id.* at 52. Under the program, establishments are generally required to pay their invoices within 30 days. *Id.* at 50.

6. As of the date of the alleged violations in this matter, the Respondent was a regular participant in the program. *Id.* at 63. Nevertheless in January 2018, the Respondent was suspended from the program. *Id.* at 64. Specifically, on January 4, 2018, Ms. Smith sent the Respondent a delinquency notice informing him that payment or proof of payment for various invoices was due on January 9, 2018. *Id.* at 83, 86, 139; *Email from Brenda Smith, RDO Coordinator, to Heaven & Hell* (Jan. 4, 2018). On January 9, 2018, Ms. Smith sent the Respondent a notice indicating that the Respondent had been suspended from the reimbursable detail program and in violation of the Board Order based on the lack of payment of various invoices. *Tr.*, 12/12/18 at 89-90; *Email from Brenda Smith, RDO Coordinator, to Heaven & Hell* (Jan. 9, 2018). This meant that MPD would no longer provide reimbursable detail officers at the establishment until the debts were paid. *Tr.*, 12/12/18 at 90-91.

7. The Respondent paid the amounts owed for the invoices on January 16, 2018. *Id.* at 92. As a result, the Respondent was suspended from the reimbursable detail program from January 8, 2018, to January 16, 2018, and had no detail officers present during that time period. *Id.* at 92-93.

8. On January 17, 2018, Ms. Smith indicated that the Respondent contested a number of charges for reimbursable detail services made by MPD. *Email from Brenda Smith, RDO*

Coordinator, to Heaven and Hell (Jan. 17, 2018). The email indicated that she would unsuspend the Respondent while she researched the dispute, but indicated that officers would be sent “asap.” *Id.*

9. On January 19, 2018, Ms. Smith sent another delinquency notice to the Respondent based on the failure to pay additional invoices. *Tr.*, 12/12/18 at 101. She then followed up by sending a suspension notice on January 23, 2018, for the failure to pay the other invoices. *Id.* at 102-03. Payment for the owed invoices was later made on January 30, 2018. *Government Exhibit No. 104* (“Payment – January 30th”).

CONCLUSIONS OF LAW

10. 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).

IV. Standard of Proof

11. 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).

V. The Board Sustains Charge I.

12. The Board sustains Charge I. Under § 25-823(a)(6), it is a violation for the Respondent to fail to follow a Board Order. D.C. Official Code § 25-823(a)(6). Under Board Order No. 2017-439, the Respondent was required to hire at least two officers with the MPD Reimbursable Detail between Thursday and Sunday for the time period set out by the Board in its Order. *Supra*, at ¶ 1. In this case, the Respondent operated the establishment between Thursday, Sunday, January 25, 2018, and January 28, 2018, despite being suspended from the reimbursable detail program and unable to hire more officers. *Supra*, at ¶¶ 3-4, 9. Under these circumstances, the Respondent violated the Board’s Order.

13. The Board notes that it considered the parties’ arguments regarding the dispute between MPD and the Respondent over whether the Respondent had properly paid its invoices, whether it was appropriately suspended from the reimbursable detail program, or whether the Respondent’s complaints regarding the services provided by the program were legitimate. *Tr.*, 12/12/18 at 159, 166-67. Nevertheless, this is irrelevant to the issue of whether the Respondent complied with the Board’s Order. The conditions contained in the Order had no carve out for fee disputes or suspensions from the programs. In this case, the Respondent had adequate notice that he owed money and was suspended from the program during the dates at issue. *Supra*, at ¶¶ 5-9. Nothing prevented the Respondent from paying the money and maintaining good standing in the program, while at the same time requesting a refund or credit for any overpayment. Nothing prevented the

Respondent from ceasing operations on the relevant days in order to maintain compliance with the Order. And nothing prevented the Respondent from seeking relief from the condition before the violation occurred. Instead, by choosing to operate in violation of the Board's Order, the Respondent assumed the risk of being charged with a violation of § 25-823(a)(6). Consequently, the Board finds its determination of liability entirely justified and appropriate.

VI. Penalty

14. The present violation constitutes the Respondent's second primary tier violation. A second primary tier violation may be fined between \$2,000 and \$4,000. 23 DCMR § 801.1(b) (West Supp. 2019).

ORDER

Therefore, the Board, on this 27th day of February 2019, finds Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell, guilty of violating D.C. Official Code § 25-823(a)(6). The Board imposes the following penalty on Green Island Café/Heaven & Hell:

- (1) For the violation described in Charge I, Green Island Café/Heaven & Hell shall pay a fine of \$4,000.

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 § 800.1, the violations found by the Board in this Order shall be deemed a primary 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 ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

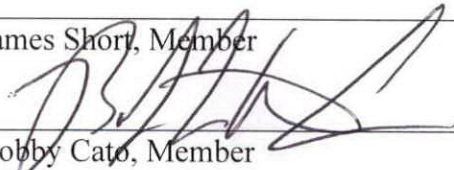


Nick Alberti, Member



Mike Silverstein, Member

James Short, Member



Bobby Cato, Member

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).