

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

In the Matter of:

Kezira, Inc.
t/a Kezira Lounge

Holder of a
Retailer’s Class CR License

at premises
3013 Georgia Avenue, N.W.
Washington, D.C. 20001

Case No.: 23-CMP-00014
License No.: ABRA-117490
Order No.: 2024-139

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

PARTIES: Kezira, Inc., t/a Kezira Lounge, Respondent

Alycia Hogenmiller, 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) finds that Kezira, Inc., t/a Kezira Lounge, (hereinafter “Respondent” or “Kezira Lounge”) on February 10, 2023, committed four violations by illegally impeding the entry of the Metropolitan Police Department and the Alcoholic Beverage and Cannabis Administration into the premises, illegally operating after hours, illegally operating above capacity, and illegally operating on an unauthorized floor. The Respondent shall pay a total fine of \$16,000 for the offenses.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on October 25, 2023. *ABCA Show Cause File No. 23-CMP-00014*,

Notice of Status Hearing and Show Cause Hearing, 2 (Oct. 25, 2023). The records of the Alcoholic Beverage and Cannabis Administration show service of the investigative report occurred on March 9, 2023, and a copy of the notice was sent by Certified Mail on November 14, 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 February 10, 2023,] [y]ou interfered or failed to cooperate with the Alcoholic Beverage and Cannabis Administration (ABCA) and [the] Metropolitan Police Department (MPD) by refusing to allow an ABCA investigator and MPD officer to enter [the premises] without delay . . . [in violation of] D.C. Code § 25-823(a)(5)
- Charge II:** [On February 10, 2023,] [y]ou made a substantial change in operations without Board approval by exceeding the establishment's approved occupancy limit, in violation of D.C. Code §§ 25-762(a) and (b)(1)
- Charge III:** [On February 10, 2023,] [y]ou made a substantial change in operations without Board approval by operating, selling alcohol, and providing entertainment outside of Board-approved hours, in violation of D.C. Code § 25-762(a) and (b)(13)
- Charge IV:** [On February 10, 2023,] [y]ou made a substantial change in operations without Board approval by expanding the operation of the licensed establishment to another floor, in violation of D.C. Code § 25-762(a) and (b)(3)

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 proceeded to a Show Cause Hearing and argued their respective cases on February 28, 2024. The Board notes that the Respondent failed to appear at the hearing, and 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.

1. Kezira, Inc., t/a Kezira Lounge, holds a Retailer's Class CR License at 3013 Georgia Avenue, N.W., Washington, D.C. *ABCA License No. 117490*.

2. Metropolitan Police Department (MPD) Officer Nicholas Pastore arrived at the Respondent's establishment on February 10, 2023, at around 3:50 a.m., to assist investigators with the Alcoholic Beverage and Cannabis Administration (ABCA) in gaining entry to the business. *Transcript (Tr.)*, February 28, 2024 at 11. Outside the premises, he saw people exit the business and heard people talking inside the premises. *Id.* at 11-12. The investigative team then knocked on the door and announced that they an dpolice were present; however, the establishment did not open the door. *Id.* at 12.

3. The investigative team knocked on the door for an hour before the establishment opened it. *Id.* at 13. Once the door opened, many patrons left the business. *Id.* He further observed patrons leave with open containers of alcohol. *Id.* at 13-14. Inside the establishment, the officer observed more patrons in the basement. *Id.* at 15.

4. ABCA Investigator Mark Ruiz was also present at the scene and originally attempted to gain entry after hearing a report from MPD regarding a noise complaint. *Id.* at 22. While knocking on the door, he heard music, observed patrons observe them knocking, and heard patrons shout expletives at them. *Id.* at 23. The investigative teams then called the fire marshal because they noted that the door was padlocked. *Id.* at 24. The fire marshal then began to breach the front door due to the safety violation and refusal to open the door. *Id.* at 25. Once permitted inside, Investigator Ruiz observed a patron with a bottle of Corona beer in the basement. *Id.* at 26. He further counted approximately 67 patrons inside the premises. *Id.*

5. ABCA's records show that the certificate of occupancy for the business indicates that the Respondent was not authorized to use the basement and should not have had patrons there. *Id.* at 29. The agency's records further show that the establishment's capacity was also limited to 44 persons and that the Respondent's operating hours ended at 2:00 a.m. *Id.* at 28, 30. A member of the investigative team believes he saw the owner flee the establishment in a rideshare without interacting with the government officials on scene. *Id.* at 36.

CONCLUSIONS OF LAW

6. 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).

I. Standard of Proof

7. 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 Board Sustains the Charges Brought by the Government.

8. The Board finds the Respondent liable for all charges.

9. It is a violation for the licensee or her agents to “interfere[] or fail[] to cooperate with an ABRA or Metropolitan Police Department investigation by: (A) Refusing to allow an ABRA investigator, a designated agent of ABRA, or a member of the Metropolitan Police Department to enter or inspect without delay the licensed premises” D.C. Code § 25-823(b)(5)(A). In this case, the Board sustains Charge I because the establishment kept the door locked and refused to open it despite being aware that MPD and ABCA sought admittance. *Supra*, at ¶¶ 2-3.

10. It is further a violation for an establishment to “increase the occupancy” of the business by allowing more people inside than permitted. D.C. Code § 25-762(b)(1). In this case, the Board sustains Charge II because the investigative team found 67 people inside, when the business was limited to 44 people maximum. *Supra*, at ¶¶ 4-5.

11. It is also a violation to operate after the businesses approved hours. D.C. Code § 25-762(a)(13). In this case, the Board sustains Charge III because investigators observed patrons with alcohol inside the premises after 2:00 a.m. *Supra*, at ¶¶ 1-5.

12. Finally, it is also a violation for the business to operate on unapproved floors. D.C. Code § 25-762(b)(3). In this case, the Board sustains Charge IV because the business permitted patrons to have alcohol in the unapproved basement. *Supra*, at ¶¶ 3, 5.

III. Penalty

13. The Board fines the Respondent \$2,000 for each offense.

ORDER

Therefore, the Board, on this 27th day of March 2024, finds Kezira Lounge liable for all charges. The Board imposes a \$8,000 fine, which is issued as follows:

- (1) For the violation described in Charge I, Kezira Lounge shall pay a \$2,000 fine (D.C. Official Code § 25-823(a)(5) (Primary));
- (2) For the violation described in Charge II, Kezira Lounge shall pay a \$2,000 fine (D.C. Official Code § 25-762(a) and (b)(1) (Primary));
- (3) For the violation described in Charge III, Kezira Lounge shall pay a \$2,000 fine (D.C. Official Code § 25-762(a) and (b)(13) (Primary)); and
- (4) For the violation described in Charge IV, Kezira Lounge shall pay a \$2,000 fine (D.C. Official Code § 25-762(a) and (b)(3) (Primary)).

IT IS FURTHER ORDERED that all fines shall be paid within thirty (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 SeamsesDocu.com
Donovan Anderson
Key: ac430b9b59d5f0e4b730060d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamsesDocu.com
James Short
Key: 547ae373820de0ac8d1b332d42048e

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).