

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

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|-----------------------------|---|-------------------------|
| In the Matter of:           | ) |                         |
|                             | ) |                         |
| Kiss, LLC                   | ) | Case No.: 21-CMP-00008  |
| t/a Kiss Tavern             | ) | License No: ABRA-104710 |
|                             | ) | Order No: 2021-170      |
| Holder of a                 | ) |                         |
| Retailer's Class CT License | ) |                         |
|                             | ) |                         |
| at premises                 | ) |                         |
| 637 T Street, N.W.          | ) |                         |
| Washington, D.C. 20001      | ) |                         |

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**BEFORE:** Donovan Anderson, Chairperson  
James Short, Member  
Bobby Cato, Member  
Rafi Aliya Crockett, Member  
Jeni Hansen, Member  
Edward S. Grandis, Member

**ALSO PRESENT:** Kiss, LLC, t/a Kiss Tavern, Respondent  
  
John Lui, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

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**ORDER DENYING MOTION FOR RECONSIDERATION**

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In Board Order No. 2021-134, issued on March 17, 2021, the Alcoholic Beverage Control Board found that on January 29, 2021, the ownership of Kiss, LLC, t/a Kiss Tavern, (Respondent) intentionally and willfully violated various rules and regulations designed to protect the public from the spread of COVID-19, and that staff engaged in a premeditated effort to evade detection with the knowledge of the ownership. Based on these findings, the Board revoked the Respondent's license in accordance with D.C. Official Code § 25-826(a) and 23 DCMR § 1613.1 (West Supp. 2021). The Respondent subsequently filed a motion for reconsideration, which is opposed by the Government.

The Respondent argues that he was not properly notified of the evidence or the consequences of the hearing. *Motion for Recon.*, at 2. The Board disagrees. First, as noted by the Government, § 1713.10 automatically makes investigative reports and their attachments part of the Board's official record in a contested case. 23 DCMR § 1713.10 (West Supp. 2021);

*Opposition*, at 7. Second, the records of the Board show that the Respondent’s counsel was served with the notice in this case on February 9, 2021, and that the later filed amended notice, issued on March 9, 2021, did not significantly change the information provided to the Respondent. *Opposition*, at 1 n.1. The February 9 Notice of Summary Suspension identified by name and title all of the Government’s witnesses called during the hearing and referenced “photographs” and “videos” taken by a specific investigator. *Notice of Summary Suspension*, Kiss Tavern, 3 (Feb. 9, 2021). The March 9 Summary Suspension notice, which contained the same information discussed in the February 9 notice, then notified the Respondent “that the Board may revoke” the Respondent’s license. *Notice of Summary Suspension*, Kiss Tavern, 1 (Mar. 9, 2021). Third, the Respondent’s motion fails to describe any evidence in its possession that it did not have the opportunity to present. Indeed, the owner was present at the establishment on the date of the incident and was present at the summary suspension hearing; therefore, if the Respondent had credible contradictory evidence, it has already exhausted the opportunity to present it in this matter. Finally, even if there were a failure to timely serve or provide notice of any evidence, the regulations do not require the exclusion of such evidence. 23 DCMR §§ 1700.2, 1713.2 (West Supp. 2021). Therefore, the Respondent has failed to demonstrate prejudice, and has had ample advanced notice of the charges, evidence, and consequences of those charges in this case.

As for the remaining reasons for reconsideration raised by the Respondent, these were adequately addressed in the Board’s prior Order and do not require additional discussion. *See In re Kiss, LLC, t/a Kiss Tavern, ABRA License No. 21-CMP-00008, Board Order No. 2021-134, ¶ 51 (D.C.A.B.C.B. Mar. 17, 2021).*

## ORDER

Therefore, the Board, on this 7th day of April 2021, hereby **DENIES** the motion for reconsideration. A copy of this Order shall be sent to the Respondent and the Government.

District of Columbia  
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com  
*Donovan Anderson*  
Key: ac82c606c0d5f0e40730003d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com  
*James Short*  
Key: 547ae973092406ae8d1e0325d2540e2

James Short, Member

eSigned via SeamlessDocs.com  
*Bobby Cato*  
Key: 2d6d2fca0d0e105d7f1e75bc79d7d20f

Bobby Cato, Member

Rema Wahabzadah, Member

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*Rafi Atiya Crockett, Member*  
Key: 1560e5184be18e4016150e6c129f1e2

Rafi Crockett, Member

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Jeni Hansen, Member

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*Edward Grandis, Member*  
Key: 5027fca7ff0f040ee14e0eb52541ce5

Edward S. Grandis, Member

Pursuant to 23 DCMR § 1719.1, 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, N.W., 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, 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).

Finally, in the case of a summary suspension, “A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2.” D.C. Code § 25-826(d).