

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

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In the Matter of:	)	
	)	
3566 14th Street NW, LLC	)	Case No.: 19-CMP-00172
t/a La Dulce Noche	)	License No.: ABRA-092426
	)	Order No.: 2021-169
Holder of a	)	
Retailer’s Class CR License	)	
	)	
at premises	)	
3566 14th Street, N.W.	)	
Washington, D.C. 20010	)	

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

**ALSO PRESENT:** 3566 14th Street NW, LLC, t/a La Dulce Noche, Respondent

Stephen Ortiz, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds that 3566 14th Street NW, LLC, t/a La Dulce Noche, (hereinafter “Respondent” or “La Dulce Noche”) violated D.C. Official Code §§ 25-823(a)(7), 25-723(b)(2), and 23 DCMR § 705.9 on September 15, 2019, by selling and serving alcohol after its Board approved hours and the legal hours of sale, service, and consumption of alcohol. Based on the Respondent’s history of prior violations, the Board will impose a fine of \$30,000 and a 30-day suspension. The Board is further imposing a “last call”

requirement to ensure that the Respondent complies with the legal sale, service, and consumption hours required by its license and the law. Therefore, the Respondent shall cease the sale and service of alcohol at 2:30 a.m. on Friday and Saturday, and 1:30 a.m., Sunday through Thursday.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on January 17, 2020. *ABRA Show Cause File No. 19-CMP-00172*, Notice of Status Hearing and Show Cause Hearing, 2 (Jan. 17, 2020). 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: [On September 15, 2019,] [y]ou failed to follow the terms of your Board-approved license by operating outside the approved hours of sales, in violation of D.C. Code § 25-723(b)(2) and 23 DCMR § 705.9, for which the Board may take the proposed action under D.C. Code § 25-823(a)(7).**

*Notice of Status Hearing and Show Cause Hearing*, at 4.

The parties proceeded to a Show Cause Hearing and argued their respective cases on March 3, 2021.

### **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. La Dulce Noche holds a Retailer's Class CR License at 3566 14th Street, N.W., Washington, D.C. *ABRA License No. 092426*. The establishment's license only permits the Respondent to operate and sell, serve, and permit the consumption of alcohol from 9:00 a.m. and 3:00 a.m. *Id.*
2. ABRA Investigator Vanessa Pleitez and ABRA Investigator Kevin Puente were monitoring the 14th Street Corridor on September 15, 2019. *Transcript (Tr.)*, March 3, 2021 at 13. At around 2:55 a.m., the investigators observed a group of people enter the Respondent's establishment. *Id.* At 3:00 a.m., Investigator Pleitez saw a woman close the front curtains of the establishment. *Id.* At 3:17 a.m., Investigator Pleitez attempted to enter the premises in an undercover capacity. *Id.* at 14, 32.

3. When Investigator Pleitez approached the entrance, the owner, Jose Solloso, opened the door. *Id.* at 14. She requested to use the bathroom and Mr. Solloso let her inside. *Id.*
4. Inside the Respondent's establishment, Investigator Pleitez saw three patrons sitting at a table. *Id.* The patrons had half full beer bottles on the table. *Id.* She also saw three patrons standing near the bar. *Id.*
5. When she reached the restroom, the owner turned the music up and began flicking the lights. *Id.* at 15. The owner said in Spanish, "I'm going to make you guys feel like you're at the club." *Id.*
6. Inside the restroom, Investigator Pleitez contacted Investigator Puente and requested assistance. *Id.* Investigator Pleitez then made her way to the front door. *Id.* While passing through the establishment, she saw a patron hand Mr. Solloso \$20.00. *Id.* She then observed Mr. Solloso pour two shots. *Id.* Finally, she observed Mr. Solloso and the patron each drink a shot. *Id.*
7. Investigator Pleitez then unlocked the front door and allowed Investigator Puente to enter. *Id.* The investigators then identified themselves to the owner. *Id.* While the investigators were discussing the violations, he appeared to be intoxicated. *Id.* at 16, 25. They further observed the owner begin to ask patrons to leave and pay their checks. *Id.* The investigators left the establishment at approximately 3:25 a.m. *Id.* at 33.

### CONCLUSIONS OF LAW

8. 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.
9. In this matter, the Board shall only base its decision on the "substantial evidence" contained in the record. 23 DCMR § 1718.3 (West Supp. 2021). 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).
10. Under D.C. Official Code § 25-823(a)(7), licensees are required "to follow the terms of [their] license approved by the Board." D.C. Code § 25-823(a)(7). No retailer may sell, serve, or permit the consumption of alcohol on their premises between 3:00 a.m. and 8:00 a.m. in accordance with D.C. Official Code § 25-723(b)(1)-(2) and 23 DCMR § 705.9 (West Supp. 2021).

11. In this case, the Board is presented with conflicting testimony regarding the events of September 15, 2019. During his testimony, the owner insisted the investigator entered at 2:15 a.m., that he was trying to get patrons to leave, and that he did not serve alcohol when she was present. *Tr.*, 3/3/21 at 36-38. Nevertheless, the Board finds the investigator credible where the owner appeared intoxicated on the night of the incident, the investigator has no reason to lie regarding the events of September 15, 2019, and the investigator specifically waited and monitored the time before attempting to enter. *Supra*, at ¶¶ 2, 7. Therefore, the Board credits the investigator's observations in this case.

12. Based on the investigator's observations, the Respondent illegally operated past its approved hours. Specifically, the owner permitted additional patrons to enter at around 2:55 a.m., the investigator did not enter the establishment until 3:17 a.m., which gave the Respondent plenty of time to empty the premises of customers, and the owner sold, served, and permitted the consumption of a shot after 3:17 a.m. *Supra*, at ¶¶ 2-7. Therefore, the Board has ample evidence to sustain the charge.

13. The present violation constitutes a fourth level primary tier violation. The penalty for a fourth level violation by law is revocation or a fine of no less than \$30,000 accompanied by a suspension of 30 days. 23 DCMR § 801.1(d) (West Supp. 2021). The Board elects not to revoke the license because the underlying offense was not accompanied by violence or other bad acts.

14. The Board further imposes conditions on the license to ensure that the Respondent respects the lawful hours of operation and alcoholic beverage sales, service, and consumption. Consequently, the Board requires the Respondent to cease the sale and service of alcohol at 2:30 a.m. on Friday and Saturday, and 1:30 a.m., Sunday through Thursday.

### ORDER

Therefore, the Board, on this 7th day of April 2021, finds 3566 14th Street NW, LLC, t/a La Dulce Noche, **LIABLE** of violating D.C. Official Code §§ 25-823(a)(7), 25-723(b)(2), and 23 DCMR § 705.9. The Board imposes the following penalty and conditions on La Dulce Noche:

- (1) For the violation described in Charge I, La Dulce Noche shall pay a fine of \$30,000. The Respondent shall also receive a thirty (30) day suspension of its license for this offense.
- (2) The Respondent shall cease the sale and service of alcohol at 2:30 a.m. on Friday and Saturday, and 1:30 a.m., Sunday through Thursday. The Respondent's customers may continue to drink any beverages purchased or obtained prior to the last call hours set by the Board in this Order until the expiration of the Respondent's hours of sale, service, and consumption of alcoholic beverages.

**IT IS FURTHER ORDERED** that the thirty (30) day suspension of the Respondent's license shall start on May 1, 2021, and end at 11:59 p.m. on May 30, 2021.

**IT IS FURTHER ORDERED** that the Respondent must pay all fines imposed by the Board within one-hundred and twenty (120) 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

eSigned via SeamlessDocs.com  
*Donovan Anderson*  
Key: ac43cb09b60d5f6e4b730069d1dccc8

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Donovan Anderson, Chairperson

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*James Short*  
Key: 547ae3732020e6ac8d1b3320d2048ec

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James Short, Member

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Bobby Cato, Member

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Rema Wahabzadah, Member

eSigned via SeamlessDocs.com  
*Rafi Atiya Crockett, Member*  
Key: b5f0e0f1845e1f9e4016155e5c12f81cc

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Rafi Crockett, Member

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*Jeni Hansen, Member*  
Key: 82172091f0506447491b56f6c2a41880

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Jeni Hansen, Member

I abstain from this decision. I would support a fine of \$6,000 and a suitable number of days of closure. The calculation of whether there were four or three violations in four years is a matter of regulation not of the statute. In light of the economic hardships the ABC licensees and their employees have had to endure for the public good we should look at reviewing the regulation at least for the duration of the Mayor's Orders.

eSigned via SeamlessDocs.com  
*Edward Grandis, Member*  
Key: 5027bda7f7f9f0040ec14adeb52541ce5

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Edward S. Grandis, 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).