

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

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In the Matter of:	)	
	)	
Los Brothers, Inc.	)	Case No.: 20-CIT-00569
t/a La Molienda	)	License No.: ABRA-60398
	)	Order No.: 2022-001
Holder of a	)	
Retailer's Class CR License	)	
	)	
at premises	)	
3568 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:** Los Brothers, Inc., t/a La Molienda, Respondent

Janika Jordan, 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 Los Brothers, Inc., t/a La Molienda, (hereinafter "Respondent" or "La Molienda") violated emergency regulations necessary to combat the coronavirus 2019 pandemic on November 1, 2020. The Board issues a \$1,000 fine for the violation, and also issues a warning for the failure to serve patrons open containers as required by 23 DCMR § 721.3.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on July 8, 2021. *ABRA Show Cause File No. 20-CIT-00569*, Notice of Status Hearing and Show Cause Hearing, 2 (Jul. 8, 2021). 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 November 1, 2021,] [y]ou operated after allowed hours, did not place tables more than six feet apart, permitted more than six patrons to be seated at a table, did not keep a reservation log, and pemitted patrons to sit at a staffed bar, in violation of 23 DCMR § 810.2 (Oct. 7, 2020) . . . .

**Charge II:** [On November 1, 2021,] [y]ou served patrons closed containers of alcohol, in violation of 23 DCMR § 721.3 . . . .

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

The parties proceeded to a Show Cause Hearing and argued their respective cases on October 27, 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 Molienda holds a Retailer's Class CR License at 3568 14th Street, N.W., Washington, D.C. *ABRA License No. 60398*.

2. On November 1, 2020, at around 12:30 a.m., ABRA Investigator Kevin Puente and ABRA Supervisory Investigator Mark Brashears were monitoring establishments on the 14th Street, N.W., corridor. *Transcript (Tr.)*, October 27, 2021 at 11. While in the neighborhood, Investigator Puente observed crowd inside La Molienda and people sitting at the establishment's bar. *Id.* at 11, 19-20. He also observed alcohol being consumed and bartenders making alcoholic beverages at the bar where patrons were sitting. *Id.* at 11-12, 23. Finally, he observed alcohol being consumed at tables and closed containers of alcohol in buckets sitting on the tables. *Id.* at 13.

3. The investigative team entered the premises at around 12:35 a.m. *Id.* Inside, Investigator Puente observed that the tables were not six feet apart and more than six patrons were sitting at a

table. *Id.* at 13, 19-20. He also observed many tables with buckets filled with closed containers of alcohol. *Id.* at 14.

4. The investigative team met the owner, Teofilo Ayala, and advised him of the existence of an emergency Mayor's Order regulating the hospitality industry during the coronavirus pandemic. *Id.* at 13. Mr. Ayala indicated that he believed he could stay open because there were extended hours due to daylight savings time. *Id.* at 13-14. The investigators advised him that extended hours had been cancelled due to the emergency order. *Id.* at 14. The owner also could not produce a reservation log upon the request of the investigative team. *Id.*

### CONCLUSIONS OF LAW

5. 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.

6. 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).

7. Under the emergency rules in effect at the time of the incident, La Molienda was obligated to comply with the following regulations:

(c) Ensure for non-movable communal tables that parties are seated at least six feet (6 ft.) apart from one another and that the communal table is marked with six-foot (6 ft.) divisions, such as with tape or signage;

(l) Not have more than six (6) individuals seated at a table or a joined table outside or inside;

(k) Cease indoor and outdoor sales, service, and consumption of alcoholic beverages, excluding carry-out and delivery, to 10:00 p.m., seven (7) days a week, and cease operations at midnight, seven (7) days a week, effective 12:01 a.m. on November 25, 2020, unless further restricted by settlement agreement or Board Order; [and]

(v) Implement a reservation system by phone, on-line, or on-site and consider keeping customer logs to facilitate contact tracing by DC Health.

23 DCMR § 810 (West Supp. 2021) (citing emergency order effective October 1, 2020 until November 24, 2020). In this case, the Respondent exceeded the permitted alcohol consumption

hours, had patrons too close together, and failed to implement a reservation system as required under the Mayor's emergency order and the Board's emergency regulations.

8. The Board issues a warning for Charge II based on the Respondent's history at the time of the violation which shows no prior secondary tier violations.

### **ORDER**

Therefore, the Board, on this 12th day of January 2022, finds Los Brothers, Inc., t/a La Molienda, guilty of violating 23 DCMR § 810.2. The Board imposes the following penalty on La Molienda:

- (1) For the violation described in Charge I, La Molienda shall pay a fine of \$1,000; and
- (2) For the violation described in Charge II, La Molienda shall receive a **WARNING**.

**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** 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

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*Donovan Anderson*  
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Donovan Anderson, Chairperson

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*James Short*  
Key: 547ae373f822de6ac8d1b332ad2949ec

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James Short, Member

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*Bobby Cato*  
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Bobby Cato, Member

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Rafi Crockett, Member

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Jeni Hansen, Member

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*Edward Grandis, Member*  
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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).