

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

In the Matter of:)	
)	
)	
Tsion Market, LLC)	Case No.: 22-251-00006
t/a Martha’s Market)	License No.: ABRA-116862
)	Order No.: 2022-650
Holder of a)	
Retailer’s Class B License)	
)	
at premises)	
2400 Minnesota Avenue, S.E.)	
Washington, D.C. 20020)	

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

ALSO PRESENT: Tsion Market, LLC, t/a Martha’s Market, Respondent

Richard Bianco, Counsel, on behalf of the Respondent

Walter Adams and Christopher Southcott, Assistant Attorneys 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 Tsion Market, LLC, t/a **Error! Reference source not found.**, (hereinafter “Respondent” or “Martha’s Market”) violated D.C. Code §§ 25-823(a)(2), 25-701, and 23 DCMR § 707.1 where on March 4, 2022, the ownership’s failure to properly superintend the business directly led to the drug dealing and shooting that occurred at the store when the ownership illegally left the store in the care of an employee

without authorization to manage a store, and that unauthorized employee stored a firearm for a third party on the premises and otherwise knowingly permitted drug dealing on the premises. In light of the seriousness of the violations and the egregious failures of the store's ownership, the Board finds that revocation is the only appropriate remedy.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on May 6, 2022. *ABRA Show Cause File No. 22-251-00006*, Notice of Status Hearing and Show Cause Hearing, 2 (May 6, 2022). 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 violation:

Charge I: [On March 4, 2022,] [y]ou allowed the licensed establishment to be used for an unlawful or disorderly purpose . . . [in violation of] D.C. Code § 25-823(a)(2).

Charge II: [On March 4, 2022,] [y]ou failed to superintend the licensed premises in person or through a member licensed by the Board in violation of D.C. Code § 25-701 and 23 DCMR § 707.1

Notice of Status Hearing and Show Cause Hearing, at 2-4.

Both the Government and Respondent appeared at the Show Cause Status Hearing on June 15, 2022. The parties proceeded to a Show Cause Hearing and argued their respective cases on August 3, 2022.

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

- A. Martha's Market holds a Retailer's Class B License at 2400 Minnesota Avenue, S.E., Washington, D.C. *ABRA License No. ABRA-116862*. On April 11, 2022, the Board issued a summary suspension against Martha's Market, which ran indefinitely until the adjudication of a related show cause proceeding. *In re Tsion Market, LLC, t/a Martha's Market*, Case No. 22-251-00006, Board Order No. 2022-153 (D.C.A.B.C.B. Apr. 11, 2022).

II. Facts Related to the Summary Suspension

B. The Board adopts the findings of fact made by the Board in its prior Summary Suspension Order. The Board notes that the same parties were present at the summary suspension hearing, both parties had an opportunity to engage in cross-examination at the hearing, and the same evidence has been included in the present record. *Transcript (Tr.)*, August 3, 2022 at 12-13, 28-29, 67.

C. Specifically, the Board adopts the following findings from the summary suspension hearing:

1. Tsion Market, LLC, t/a Martha's Market (the licensee) has a Class B-Retail Grocery license to sell alcoholic beverages issued by the District of Columbia Alcohol Beverage Control Board (the Board).
2. The licensee's registered business address is 2400 Minnesota Ave., S.E., Washington, D.C. 20020.
3. The licensee operates a small market with a sealed-off booth area and several aisles.
4. The licensee's establishment sells merchandise, including loose rolling papers, single plastic sandwich bags, and digital pocket weight scales.
5. The licensee's establishment also sells individual, loose cigarettes from an open pack of cigarettes.
6. On March 4, 2022, at approximately 6:11 p.m., an adult male (the victim) was shot in the leg during an attempted armed robbery in the licensee's establishment.
7. The robbery occurred during the licensee's hours of operation.
8. The owner was not present during the robbery.
9. The only employee present during the robbery was a clerk inside the booth.
10. The clerk is not an ABC manager licensed by the Board.
11. During the attempted robbery, the clerk reached into a cubby hole, took out a black plastic bag with a pistol, and held it.
12. After the shooting, the assailants fled the establishment, and the clerk opened the booth door and handed the pistol to the victim.
13. The victim left the establishment with the pistol he received from the clerk to pursue the assailants and then returned to the establishment with the pistol.

14. After the victim returned to the establishment, the clerk helped the victim into the store's booth area.
15. The victim placed a wad of cash on a counter inside the booth that was later found by the Metropolitan Police Department (MPD).
16. The pistol was found in a box inside the booth.
17. At that time, the victim had a digital scale, cash, an open container of plastic bags, and a plastic bag containing a green leafy substance.
18. The victim entered the booth twice and conversed with the clerk before the robbery.
19. At one point, the victim placed his items on the counter.
20. Before the attempted robbery, the victim entered the booth and stashed a black plastic bag with a semiautomatic pistol in a cubby hole inside the booth.
21. The pistol remained in the same location until the clerk retrieved the pistol during the attempted robbery.
22. Beginning at approximately 6:07 p.m., the victim engaged in at least three hand-to-hand transactions with individuals in the establishment.
23. During the transactions, the victim weighed material on a digital pocket scale, placed them in a plastic sandwich bag, and exchanged the items for cash.
24. On prior dates, the owner was not present at the establishment.
25. MPD officers arrived at the scene shortly after the attempted robbery.
26. MPD officers reviewed security footage of the attempted robbery and searched the establishment.
27. In the search, MPD officers found the pistol the clerk passed to the victim hidden in a cardboard box inside the booth.
28. In the search, MPD officers found narcotics containing 7, 247, and 925 [sic] opiate-blue stamped 30/M pills of the prescription drug Oxycodone Hydrochloride, five items of a rock-like white substance, two bottles of the prescription drug Promethazine (a common ingredient in the drug known as "lean"), and a clear plastic bag containing a green leafy substance similar in appearance to marijuana.
29. The establishment has no license to sell or distribute the items found by MPD.

30. On March 13, 2022, at approximately 8:10 p.m., ABRA Investigator Mark Ruiz inspected the establishment and spoke with the owner.
31. The owner admitted to leaving the establishment on March 4, 2020, at approximately 2:30 p.m., so the store clerk was the only employee.
32. The owner admitted knowing the clerk had no ABC manager's license.
33. The owner admitted knowing it was illegal to sell individual cigarettes and said he only did so in the evenings.
34. When asked about selling individual rolling papers, open plastic bags, and the digital pocket weight scales, the owner admitted that he sells what the community buys.
35. The licensee's store clerk produced a pistol from a concealed location in a secured booth of the establishment and handed the pistol to a shooting victim in the establishment.
36. The licensee failed to have an ABC manager or owner present during licensed hours of sale
37. Sergeant Greg Morrison works for the Metropolitan Police Department (MPD) and is assigned to the Sixth District. The Respondent's establishment is in the portion of the city that Sgt. Morrison regularly patrols. Sgt. Morrison and other officers have been inside the establishment on multiple occasions.
38. During prior business checks, he has observed that people inside the market appeared uncomfortable with MPD's presence. Additionally, on one occasion, staff inside the market accused officers of loitering when inside and told police to leave. The behavior was observed on other occasions.
39. On March 4, 2022, Sgt. Morrison responded to the shooting. The owner, Anteneh Fantaye, arrived at the scene, and Sgt. Morrison had a conversation with the owner after the shooting. During the conversation, the owner admitted that in the past he observed through the store's camera footage that someone had passed a firearm to another one of the store's clerks. The owner said he told the clerk not to hold firearms for other people.
40. ABRA Investigator Mark Ruiz conducted an inspection of the Respondent's establishment on March 13, 2022. During his inspection, Investigator Ruiz observed the sale of a single cigarette. When he notified the owner of this action, the owner admitted that this was a frequent practice at the establishment.
41. During the investigation, Investigator Ruiz observed security footage from the date of the incident. Video footage (Exhibit 4) from the March 4 incident shows the shooting victim standing in the customer area at the cashier booth in the convenience store. Sitting on the cashier booth counter is a green notebook, a digital scale, and a box of sandwich bags. The video then shows the victim weighing an item on the cashier

booth counter, placing it in a bag, and then handing it to a female wearing a blue scarf on her head. The video then shows the victim conduct another transaction with a male wearing a white hat and orange shirt. After the male and female leave, the victim stands by the counter with a clear plastic bag with a white substance inside.

42. Later in the video, two people, who are suspects related to the shooting and robbery, walk in wearing black masks. The victim begins speaking with one of the suspects at the counter. The two suspects suddenly pull out pistols and the victim backs away quickly into the back corner of the store. While not fully captured by the video, the victim is trapped in the corner and a struggle ensues. During the struggle, one of the suspects fires shots at the victim and then the suspects flee.

43. After the shooting, the cashier emerges from the cashier booth's door with a handgun in his right hand. From the booth door, the cashier hands the gun to the victim. The victim, displaying a limp, quickly runs out of the store, and then returns. The victim then enters the cashier booth door. The video footage also shows the plastic bag held by the victim broken on the floor.

44. Another video (Exhibit 5) shows the incident from the perspective of the cashier booth where the cashier was sitting. The footage shows that the victim's activities during the incident were visible from the interior of the cashier booth. The video shows that during the robbery, the cashier grabbed a black bag, and pulled out a firearm from the bag. After the clerk opens the door to the booth and the victim enters, the victim puts a bunch of cash on the booth's counter.

45. Another video (Exhibit 10) from the same date of the incident shows the victim inside the booth. The video shows the victim place a digital scale on the counter in front of the cashier. The victim then removes a green notebook, a clear plastic bag with a white substance, and plastic sandwich bags from a black bag. The video then shows the victim store a black bag in a cubby area inside the cashier booth and then conceal the area with a box. After the robbery, the video shows the victim giving something to the cashier.

46. As part of his investigation, Investigator Ruiz examined video footage from March 1, 2022, through March 3, 2022. As part of his review, he observed the victim and clerk inside the store on March 1, 2022, and March 3, 2022. They appeared to be acting in a similar manner on those days. Specifically, the footage shows the victim enter the cashier booth with a black bag and standing in front of the booth area.

47. Anteneh Fantaye is the owner of the convenience store and has owned the business for two and half years. He usually works there five days per week for about half a day. The store has five employees. The employee involved in the incident on March 4, 2022, is named Stefanos Threat. Mr. Threat began working for the Respondent approximately three months ago. The owner admits that he did not conduct any background checks when hiring Mr. Threat. Mr. Fantaye testified that he fired Mr. Threat based on his conduct on March 4, 2022.

48. Mr. Fantaye indicated that he never observed Mr. Threat or anyone else engage in narcotics trafficking at the store. Mr. Fantaye admitted that he has the ability to check his security cameras from his phone whenever he wants, but in the past has only checked it one time per day.

49. Mr. Fantaye indicated he has taken and will take steps to improve security at the store. First, the owner installed two more security cameras with alarms. Second, the owner installed more anti-loitering signs. Third, the business will perform background checks of all employees before hiring them. Fourth, the business will create written rules and policies for employees. Fifth, the business will provide employees with security training. Sixth, the owner will check the camera footage more frequently. Seventh, he has given the landlord access to the cameras system so that another person can check activity at the premises as well.

50. Mr. Fantaye described his conversation with Sgt. Morrison. Mr. Fantaye confirmed that he told Sgt. Morrison that, on an earlier date, he had observed another employee pass a firearm to the victim approximately five months before the incident on March 4, 2022. He then confirmed that he told the employee not to engage in that type of behavior anymore. He further indicated that he is not aware as to whether the employee he observed was acting under coercion or intimidation. Nevertheless, he admitted that the victim was frequently present in the store, even after the victim was observed receiving a gun from one of his employees in the past. The owner further admitted that he took no legal steps to bar the victim from the property after he was observed with a firearm in the store before the incident on March 4, 2022. He further admitted that he never reported the prior incident to the police.

51. Mr. Fantaye admitted that he knew he needed an owner or licensed manager present to sell alcohol. He noted that he was aware that Mr. Threat had applied for but did not complete his application for an ABC manager's license. He further admitted that he allowed Mr. Threat to work alone in the evenings since December 2021. Mr. Fantaye indicated that he occasionally would be in and out of the establishment during Mr. Threat's shifts. The owner further admitted that no other employees at the store have an ABC manager's license at this time.

In re Tsion Market, LLC, t/a Martha's Market, Board Order No. 2022-153 at ¶¶ 1-51.

D. Mr. Fantaye provided additional testimony at the Show Cause Hearing. *Tr.*, 8/3/22 at 30. Specifically, he described additional steps taken to remedy the security situation at the establishment. *Id.* at 32. First, the establishment installed a new security system with audio and alarm capabilities and improved the camera viewing angles. *Id.* at 33-34, 36. He further indicated that the landlord would have access to the camera system. *Id.* at 35. Second, he indicated that the employee involved in the incident was fired and a new person was hired. *Id.* at 38. Mr. Fantaye indicated that he reviewed the new employee's criminal background check and had the new employee obtain an ABC Manager's License. *Id.* He further indicated that he intends to request criminal background checks when hiring. *Id.* at 39.

E. Marquita Martin also provided testimony at the Show Cause Hearing. *Id.* at 61-62. Ms. Martin resides in the neighborhood where the establishment is located. *Id.* at 62. She indicated that loitering around the establishment occurred in the past, but that she has not observed loitering outside the establishment in the past three to four months. *Id.* at 65.

CONCLUSIONS OF LAW

F. 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

G. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2022). 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 Respondent Allowed the Premises to Be Used for an Unlawful and Disorderly Purpose in Violation of D.C. Official Code § 25-823(a)(2).

H. As the Board previously noted in its Summary Suspension Order:

District law places various obligations on persons and businesses holding an alcohol license. Among these obligations, a licensee cannot “allow[] the licensed establishment to be used for any unlawful or disorderly purpose.” D.C. Official Code § 25-823(a)(2). As part of this requirement, the court has stated that the “failure to properly communicate with police about incidents” is “. . . the type[] of omission[] that [is] conducive to an unlawful and disorderly environment” *Levelle, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 924 A.2d 1030, 1037 (D.C. 2007). In *Kabin*, the Board further indicated that a demonstrable connection between illegal conduct and the licensee could be established by evidence “showing a pattern of illegal behavior that continued over time,” which demonstrates “negligent supervision” or “willful blindness . . . that may be conducive to the conduct at issue.” *In re Kabin Group, LLC, t/a Kabin*, Case No. 17-251-00134, Board Order No. 2018-247, 8 (D.C.A.B.C.B. Apr. 25, 2018). The Board also wrote in *Kabin* that the Board “foresees that methods of operation that could lead to a violation of § 25-823(a)(2) include situations where a . . . licensee or its agents know or should know that patrons are bringing weapons onto the premises . . . and the licensee fails to take adequate steps to curb this practice” *Id.* at 8-9.

In re Tsion Market, LLC, t/a Martha's Market, Board Order No. 2022-153 at ¶ 54.

I. Furthermore, where the same facts have been presented to the Board, the Board reaches that same conclusion that it did at the Summary Suspension Hearing. Namely,

In this case, while the owner was not present, the shooting on March 4, 2022, has a demonstrable connection to the ownership's method of operation. On March 4, 2022, the victim was openly engaging in narcotics trafficking in the store's customer area in plain view with the participation of the store's cashier before the victim was shot inside the store. *Supra*, at ¶¶ 6, 11-13, 18-23, 28, 41-45. The ownership helped create this situation through several acts. First, the ownership was aware that the victim in this case had possessed a firearm in the past and on a prior occasion the victim had one of his employees hold a firearm for him in the store. *Supra*, at ¶¶ 39, 50. The owner further admitted that the victim was a frequent patron and loiterer at the store before this incident. *Id.* at 50. Nevertheless, the owner never reported the prior firearm transfer to the police, which could have resulted in an arrest or additional police monitoring of the store; took no legal steps to legally bar the victim from the premises; did not increase the frequency of checking the store despite knowing the past behavior of the victim and his continued presence; or otherwise investigated whether his store or employees were at risk of harm or being used to further criminal activity. In fact, the only thing the ownership did was provide a verbal warning to the employee, which was a wholly insufficient response to the dangerous or criminal activity implicated by what the owner had observed in the past. Second, the ownership's actions in this case further led to the incident at issue because Mr. Threat was not authorized to operate the store by himself; therefore, by failing to properly superintend the store, the ownership allowed it to be effectively taken over by criminals and become a target for drug related violence. As a result, had the ownership responded reasonably to the earlier incident, then it can be reasonably inferred that the drug dealing and shooting that occurred on March 4, 2022, would not have occurred.

Id. at ¶ 56. As a result, the Board sustains Charge I and finds the Respondent liable for the offense.

III. The Respondent Failed to Properly Superintend the Licensed Premises in Violation of D.C. Official Code § 25-701.

J. It is undisputed that the Respondent failed to have an ABC Manager present on March 4, 2022 and other occasions. As the Board previously noted in its Summary Suspension Order:

. . . [The licensee must “superintend in person, or through a manager approved by the Board, the business for which the license was issued.” D.C. Official Code § 25-823(a)(3). As part of the supervision requirement, the licensee is required to ensure that all persons hired to manage the business “shall [possess] a manager’s license . . . and be present on the premises at all times during the establishment’s hours of sale, service, and consumption of alcoholic beverages.” D.C. Code § 25-701(a), (a-1); *see also* 23 DCMR § 707.1 (West Supp. 2022).

In re Tsion Market, LLC, t/a Martha's Market, Board Order No. 2022-153 at ¶ 55. In this case, the ownership knew that the employee superintending the store lacked an ABC Manager's license and had supervised the store on various occasions between December 2021 and the incident on March 4, 2022. *Supra*, at ¶¶ C(32), C(51). As a result, the Board sustains Charge II and finds the Respondent liable for the violation.

IV. The Board Revokes the License.

K. The Board finds that revocation is the only appropriate remedy in this case where the violations at issue are egregious, put the welfare of the community at risk, and have a direct relation to the failure of the ownership to properly superintend the establishment. *Supra*, at ¶ I. In reaching this conclusion, the Board considered the Respondent's post-incident efforts to remedy the security situation at the establishment; however, the Board finds these steps wholly inadequate where the problem stems from the ownership's failure to properly superintend the business—not a lack of security cameras, the use of background checks, or the presence of loiterers. *Supra*, at ¶¶ D-E. The Board also considered whether the Respondent deserved a second chance in light of his violation history. Nevertheless, the Board is keenly aware that bullets may not only maim and kill their intended targets, but also innocent bystanders. As a result, the Board does not find it in the public interest to keep a licensee in operation when the negligence and irresponsibility of the ownership related to dangerous illegal activity and firearms leads to violence that puts the community at large in danger. Simply put, businesses that put the public at risk in this fashion have no place in the District of Columbia.

ORDER

Therefore, the Board, on this 14th day of September 2022, finds Tsion Market, LLC, t/a Martha's Market, guilty of violating D.C. Official Code §§ 25-823(a)(2), 25-701 and 23 DCMR § 707. Based on these offenses, the Board **REVOKES** the license.

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
Key: ac430b06c9d5f0be4c730009d1dccc8

Donovan Anderson, Chairperson

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James Short
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James Short, 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).