

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

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In the Matter of:	)		
	)		
Astede Corporation	)	Case No.:	22-CMP-00082
t/a Nile Ethiopian Restaurant	)	License No.:	ABCA-60432
and Nile Market	)	Order No.:	2023-391
	)		
Holder of a	)		
Retailer’s Class CR License	)		
	)		
at premises	)		
7815 Georgia Avenue, N.W.	)		
Washington, D.C. 20012	)		

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

ALSO PRESENT:   Astede Corporation, t/a Nile Ethiopian Restaurant and Nile Market,  
                          Respondent

                          Wendell Robinson, Counsel, on behalf of the Respondent

                          Kevin Lutes and Shani C. Brown, Assistant Attorneys General  
                          Office of the Attorney General for the District of Columbia

                          Martha Jenkins, General Counsel  
                          Alcoholic Beverage and Cannabis Administration

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

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**INTRODUCTION**

The Alcoholic Beverage and Cannabis Board (Board) finds that on September 30, 2022, Astede Corporation, t/a Nile Ethiopian Restaurant and Nile Market (Respondent) violated D.C. Official Code § 25–701 and 23 DCMR § 707.1 by failing to have an owner or Board-approved ABC manager present during the hours of sale, service, and consumption of

alcohol and D.C. Code § 25–823(a)(5)(C) by making a false or misleading statement during a regulatory inspection. The Respondent shall pay a \$1,500 fine for the violations.

### PROCEDURAL BACKGROUND

This case arises from the Notice of Status and Show Cause Hearing (Notice) for Case No. 22–CMP–00082, which the Board executed on February 8, 2023. *Show Cause File No. 22–CMP–00082*, Notice of Status and Show Cause Hearing, 2–3. On February 10, 2023, the Alcoholic Beverage and Cannabis Administration (ABCA) personally served the Notice on Respondent at 7815 Georgia Avenue, N.W., Washington, D.C. 20012. The Notice charges the following violations:

**Charge I:** [On September 30, 2022,] [the establishment] failed to have the establishment’s owner or Board-approved ABC manager present during hours of sale, service, and consumption of alcohol, in violation of D.C. Code § 25–701 and 23 DCMR § 707.1, for which the Board may take the proposed action under D.C. Code § 25–823(a)(1).

**Charge II:** [On September 30, 2022,] [the establishment] made a false or misleading statement during a regulatory inspection or investigation, in violation of D.C. Code § 25–823(a)(5)(C), for which the Board may take the proposed action under D.C. Code § 25–823(a)(1).

Notice at 2.

The District of Columbia and Respondent appeared for a Status Hearing on March 15, 2023. On May 3, 2023, the parties appeared for a Show Cause Hearing and presented their cases. The Board further considered the Proposed Findings of Fact and Conclusions of Law filed by the Government as part of its deliberations.

### 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. The Respondent holds a Retailer’s Class CR license at 7815 Georgia Avenue, N.W., Washington, D.C., which is License No. 60432. On September 30, 2022, at 10:30 p.m., ABCA Investigator Jovan Miller visited the establishment to deliver a service form. *Transcript (Tr.)*, May 3, 2023 at 14, 22. The establishment’s hours of sales on Fridays were 12:00 p.m. to 2:00 a.m. *Id.* at 23-24. Investigator Miller entered and observed patrons drinking alcohol and Nile employees serving alcohol. *Id.* at 19–21. He introduced himself as an ABCA investigator and asked for an ABC manager or owner. *Id.* at 15. Getu Amde appeared, introduced himself as the

establishment’s owner, and presented an expired temporary ABC manager license to Investigator Miller. *Id.* at 15, 19. Investigator Miller called Supervisory Investigator (SI) Mark Brashears to confirm whether Mr. Amde owned the establishment, and SI Brashears confirmed Mr. Amde was not the owner of record. *Id.* at 16–18. Investigator Miller spoke with Mr. Amde again, and Mr. Amde claimed to be the ABC manager despite lacking a valid ABC manager license. *Id.* at 19. There was no other ABC manager or owner present. *Id.* at 191. ABCA’s records further show that Mr. Amde filed an incomplete application for transfer of the license for Nile Ethiopian Restaurant and Nile Market, which was the subject of an April 3, 2023, deficiency letter issued by the agency. *Id.* at 24–25, 26–32.

## CONCLUSIONS OF LAW

The Board may fine, suspend, or revoke the license of a licensee who violates any of the provisions of Title 25 of the D.C. Code, the regulations promulgated under that Title, or any other laws of the District under D.C. Code § 25–823(a)(1). The District has the burden to prove, by substantial evidence, that Respondent committed the charged violations. 23 DCMR § 1711.6. The substantial evidence standard requires the Board to rely on “relevant evidence which a reasonable trier of fact would find adequate to support a conclusion.” *Citizens for Responsible Options v. D.C. Bd. of Zoning Adjustment*, 211 A.3d 169, 180 (D.C. 2019) (citing *Dorchester Assocs., LLC v. D.C. Bd. of Zoning Adjustment*, 976 A.2d 200, 216 (D.C. 2009)). The Board shall base its decision on the “substantial evidence” in the record. 23 DCMR § 1718.3 (West Supp. 2023). Furthermore, “[H]earsay evidence is admissible in administrative proceedings” and may constitute “substantial evidence.” *Compton v. Dist. of Columbia Bd. of Psychology*, 858 A.2d 470, 476 (D.C. 2004). In that vein, “The weight to be given to any piece of hearsay evidence is a function of its truthfulness, reasonableness, and credibility.” *Id.* at 477.

### I. The Board Sustains Charge I.

2. Under D.C. Code § 25–701, Respondent must have “an . . . owner or Board- approved manager . . . on the premises at all times during the establishment’s hours of sale, service, and consumption of alcoholic beverages.” Under 23 DCMR § 707.1, “[a]n owner or the Board- approved manager shall be present at the licensed establishment during the hours in which alcoholic beverages may be sold, served, or consumed on the licensed premises.”

3. On September 30, 2022, at approximately 10:30 p.m., Investigator Miller entered Nile Ethiopian Restaurant and Nile Market during the establishment’s Board-approved hours of sale, service, and consumption of alcohol and found no owner or Board-approved manager present. *Supra*, at 1. The Board credits the testimony of Investigator Miller that on September 30, 2022, he entered Nile Ethiopian Restaurant and Nile Market for a regulatory inspection and observed patrons drinking and being served alcohol. *Id.* Mr. Amde was neither the owner of the establishment nor a Board-approved manager on September 30, 2022. *Id.* No other Board- approved manager or owner was present when Investigator Miller visited the establishment on September 30, 2022. *Id.* Respondent submitted no testimony or evidence to rebut the District’s evidence. Thus, the facts in the record, the testimony of Investigator Miller, and the documents comprising the Board’s official file constitute substantial evidence to support Charge I against Respondent.

## II. The Board Sustains Charge II.

4. D.C. Code § 25–823(a)(5)(C) forbids Respondent from “[p]roviding false or misleading statements with the intention of influencing, impeding, or obstructing the investigation . . . .” Under D.C. Code § 25–405(a), “[a] voluntary transaction which results in (1) the transfer to an individual of 50% or more of the legal or beneficial ownership of (A) the licensed establishment, or (B) the entity owning or controlling the licensed establishment, or (2) a change in stock ownership or partnership interest of 50% or more, within any 12 month period, shall require application for transfer of the license to new owners from the Board.” Under D.C. Code § 25–405(b), “[a]n application to transfer a license to a new owner shall be filed by the transferee and approved by the Board before the consummation of the transfer.”

5. Mr. Amde had no basis to claim to be an owner as of September 30, 2022 based on the submission of the transfer application that was not approved. *Supra*, at 1. Consequently, Mr. Amde made a false or misleading statement to Investigator Miller with the intention of influencing, impeding, or obstructing the investigation by claiming he was the owner because an owner is not required to possess a valid Board-approved manager license to superintend the establishment. *Id.* Furthermore, Mr. Amde’s intention when making the false or misleading statement is also reasonably inferred as to influence, impede, or obstruct the investigation based on the fact that once Investigator Miller confirmed he was not an owner, he then attempted to avoid a potential charge under D.C. Code § 25–701 and 23 DCMR § 707.1 by changing his story to claim he was a Board-approved manager for the establishment. The Board also notes that the Respondent did not provide testimony or documentary evidence to rebut the District’s evidence. Therefore, there is sufficient evidence in the record to sustain Charge II.

## III. The Board Rejects the Respondent’s Defenses.

6. The Board finds Respondent’s defenses and testimony unpersuasive.

7. First, Respondent’s argument that Mr. Amde was the owner of record on September 30, 2022, is factually inaccurate. The Respondent proffered no witnesses or exhibits to rebut the District’s testimony and exhibits on this issue. Indeed, ABCA’s records make it clear, as confirmed by SI Brashears when he spoke with Investigator Miller on September 30, 2022, that Mr. Amde was not the licensee on that date. *Supra*, at 1. The Board credits the hearsay evidence about SI Brashears’ statements to Investigator Miller because there is no showing of bias by SI Brashears or Investigator Miller against Respondent and ABCA’s own records confirm the finding described in that evidence. Moreover, SI Brashears identified that information based on a review of ABCA records in the scope of his employment, and he described that information to Investigator Miller during the ordinary course of Investigator Miller’s regulatory inspection. Finally, the Respondent could have presented affirmative evidence showing the ownership of Mr. Made. Thus, the Board rejects this defense asserted by Respondent.

8. Second, contrary to Respondent’s assertion, the Board can impose discipline against Respondent for Mr. Amde’s actions and statements on September 30, 2022. The Board is empowered to fine, revoke, or suspend licenses for violations of Title 25 of the D.C. Code.

See D.C. Code § 25–801. Furthermore, the actions of an employee during a single incident can be binding on an establishment for the purpose of imposing discipline. See *In re Kabin Group, LLC, t/a Kabin*, Case No. 17-251-00134, Board Order No. 2018-247, 6 (D.C.A.B.C.B. Apr. 25, 2018) (describing need to show demonstrable connection between licensee and disorderly conduct to impose discipline under D.C. Code § 25–823(a)(2) based on “licensee or his or her agents engag[ing] in actions or a method of operation” conducive to unlawful conduct) (emphasis added).

9. Courts have also affirmed the Board’s imposition of discipline based on the actions of employees. See *Am-Chi Restaurant, Inc. v. Simonson*, 396 F.2d 686–88 (D.C. Cir. 1968) (affirming discipline imposed under D.C. Code § 25–823(a)(2)). In *Am-Chi*, the U.S. Court of Appeals for the District of Columbia affirmed the Board’s decision to revoke a license where management engaged in a method of operation that if continued overtime “harbored sufficient danger of mischievous consequences sooner or later.” 396 F.2d at 688. Specifically, an exotic dancer had devised a prostitution scheme in which management was “an open part of that operation.” *Id.* at 686. The exotic dancer would have customers make illegal payments to the “head waiter” or maître d’hotel. *Id.* at 687. The licensee was responsible for these actions because, among other reasons, the maître d’hotel was part of the management and played an active role in the scheme. *Id.*

10. So too here, the Board may fine, revoke, or suspend Respondent’s license because Mr. Amde presented himself as the establishment owner and Board-approved manager while acting as Respondent’s agent. No other authorized representative of the establishment interceded (or was present to intercede) during this interaction with Investigator Miller, so Respondent left Mr. Amde in full control of what would take place at the establishment. While Mr. Amde was not in fact an owner or Board-approved manager, he acted on behalf of the establishment during the regulatory inspection and apparently was a manager for the establishment. He attempted to address Investigator Miller’s concerns on behalf of the establishment, albeit in a false or misleading manner. The establishment had nobody present to rebut Mr. Amde’s claim that he acted in a representative capacity, which left Investigator Miller to rely on Mr. Amde’s representations despite the well-established requirement that a licensee must have an owner or Board-approved manager present. And Mr. Amde evidenced an employer-employee relationship with Respondent when he presented Investigator Miller an expired Board-approved manager’s license. As a result, the licensee allowed and permitted Mr. Amde to operate the establishment; therefore, the licensee is responsible for his illegal actions.

### **III. Penalty**

11. Respondent’s Investigative History shows that Charge I constitute the Respondent’s second secondary tier violation within two years. *Case Report, 22–CMP–00082*, at 16. Thus, the Board has authority to fine Respondent no less than \$500. D.C. Code § 25–830(d)(1)(B). Furthermore, the Respondent’s Investigative History shows the Charge II constitutes the Respondent’s first primary tier violation within two years. *Case Report, 22–CMP–00082*, at 16. Therefore, the Board has authority to fine Respondent no less than \$1,000 for Charge II. D.C. Code § 25–830(c)(1)(A).

## ORDER

Therefore, the Board, on this 26th day of July 2023, finds the Respondent guilty of violating D.C. Code § 25-701 and 23 DCMR § 707.1. The Board imposes the following penalty:

- (1) For the violation described in Charge I, the Respondent shall pay a fine of \$500; and
- (2) For the violation described in Charge II, the Respondent shall pay a fine of \$1,000.

**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**, in accordance with 23 DCMR § 800 (West Supp. 2023), the violations found by the Board in this Order shall be deemed one secondary tier and one 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 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 SeamlessDocs.com  
*Donovan Anderson*  
Key: ac43cb66b6d580e4b730003d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com  
*James Short*  
Key: 547ae373f820d66ac6d1b3325d2948e

James Short, Member

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Jeni Hansen, Member

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*Edward Grandis, Member*  
Key: 5027bda7f9f0040ec14ddeb52541ce5

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 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).