

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

In the Matter of:)	
)	
VIRA 1, LLC)	Case No.: 18-CMP-00111
t/a RASA Indian Grill)	License No: ABRA-106768
)	Order No: 2018-733
Holder of a)	
Retailer's Class CR License)	
)	
at premises)	
1247 First Street, SE)	
Washington, D.C. 20003)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member

ALSO PRESENT: VIRA 1, LLC, t/a RASA Indian Grill, Respondent

Jessica Gunzel, Assistant Attorney 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 VIRA 1, LLC, t/a RASA Indian Grill (Respondent), violated District of Columbia (D.C.) Official Code § 25-113a(c). The Board finds that a fine is not warranted in this matter. Rather, the Respondent is warned against committing this violation in the future.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 9, 2018. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1247 First Street, SE, Washington, D.C. 20003, on August 14, 2018.

The Notice charged the Respondent with the following violations:

Charge I: You failed to obtain approval of the Board before making a substantial change, in violation of D.C. Official Code § 25-762(b)(2)...

Charge II: You operated a sidewalk café without the required license endorsement, in violation of D.C. Official Code § 25-113a (c)...

ABRA Show Cause File No. 18-CMP-00111, Notice of Status Hearing and Show Cause Hearing, 2-3 (August 9, 2018).

The Office of the Attorney General (OAG) and the Respondent appeared at the Show Cause Status Hearing on September 26, 2018, where there was no settlement of the matter.

A Show Cause Hearing was scheduled for November 7, 2018. As a preliminary matter, the Board granted the Government's Motion to dismiss Charge I and the parties proceeded to a hearing on the remaining charge where they argued their respective cases.

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

I. Background

1. VIRA 1, LLC, t/a RASA Indian Grill holds a Retailer's Class CR License, License No. ABRA-106768. See ABRA Licensing File No. ABRA-106768. The establishment's premises is located at 1247 First Street, SE, Washington, D.C. See ABRA Licensing File No. ABRA-106768.

2. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated August 9, 2018. See ABRA Show Cause File No. 18-CMP-00111. The Notice charges the Respondent with the two violations enumerated above. See ABRA Show Cause File No. 18-CMP-00111.

3. The Show Cause Hearing was held on November 7, 2018. Charge I was dismissed by the Government at the commencement of the hearing.

II. Testimony of ABRA Investigator Kevin Puente

4. The Government presented its case through the testimony of ABRA Investigator Kevin Puente. *Transcript (Tr.)*, 11/7/18 at 8-9. Investigator Puente authored the Investigative Report, whose contents and exhibits serve as the basis of the factual nature of the incident.¹

5. On Thursday, May 3, 2018, Investigator Puente visited the Respondent's establishment to conduct a regulatory inspection. *Id.* at 10. Investigator Puente identified himself to the owner, Mr. Rahul Vinod. *Id.* at 11. During the regulatory inspection, Investigator Puente observed the operations of a sidewalk café. *Id.* After reviewing the establishment's ABC License, Investigator Puente determined that the Respondent did not have a valid Sidewalk Café Endorsement attached to his Retailer's Class CR license. *Id.* at 12.

6. Mr. Vinod produced the Sidewalk Café Permit issued by the District Department of Transportation (DDOT) and showed it to Investigator Puente. *Id.* Investigator Puente informed Mr. Vinod that he had to submit the Sidewalk Café Permit and the Certificate of Use to ABRA in order to obtain a valid Sidewalk Café Endorsement on his Retailer's Class CR license. *Id.* at 13.

7. Investigator Puente reviewed ABRA's records and confirmed that ABRA's Licensing Division had previously informed the Respondent in writing that ABRA needed a Sidewalk Café Permit in order to issue the Sidewalk Café Endorsement. *Id.* at 13-14.

III. Testimony of Rahul Vinod

8. Rahul Vinod is one of the owners of the licensed establishment. *Id.* at 16. He opened his establishment in December 2017. *Id.*

9. Mr. Vinod acknowledged that on May 3, 2018, his restaurant was operating a sidewalk café without an endorsement. *Id.* at 17. However, Mr. Vinod indicated that on October 20, 2017, he received an email from his assigned ABRA Licensing Specialist informing him that once he obtained a Sidewalk Café Permit, the Sidewalk Café Endorsement would be added to the ABC License. *Id.* at 18, 34; Respondent's Exhibit 1.

10. Mr. Vinod claimed that he mistakenly believed that once he obtained the Sidewalk Café Permit, he would be able to operate the sidewalk café and nothing more was required. *Id.* at 18-19. He stated that the sidewalk café opened for business on April 9, 2018 when they obtained the Sidewalk Café Permit. *Id.* at 19. He did not know that the endorsement had to be listed on the ABC License. *Id.* at 19, 22, 24.

11. Mr. Vinod indicated that on May 3, 2018, former Supervisor Investigator (SI) Keith Gethers instructed him that he needed to file the Sidewalk Café Permit in order to obtain the Sidewalk Café Endorsement. *Id.* Former SI Gethers indicated that Mr. Vinod could receive a warning if he did not remedy the violation. *Id.* at 19-20.

¹ The Board takes administrative notice that the Investigative Report referenced in this Board Order is part of the Board's official records.

12. Mr. Vinod also stated that on May 4, 2018, the day after former SI Gether's visit, he immediately submitted the Sidewalk Café Permit to ABRA and he obtained his ABC License with the valid Sidewalk Café Endorsement. *Id.* at 20. Mr. Vinod believes that he is entitled to a warning because he never intended to violate the law. *Id.* at 36-37.

13. As a result of the incident, Mr. Vinod assured the Board that he would not commit the same mistake again. *Id.* at 25. Additionally, Mr. Vinod agreed to attend an ABRA Licensed Orientation Training. *Id.* at 36-37.

CONCLUSIONS OF LAW

14. 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 Official Code pursuant to District of Columbia Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2013). 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. Official Code § 25-447.

I. THE RESPONDENT VIOLATED § 25-113a(c)

15. The Board finds that the Respondent failed to obtain a Sidewalk Café Endorsement before operating its sidewalk café in violation of D.C. Official Code § 25-113a(c). This finding is supported by the credibility of Investigator Puente's testimony, as well as the admission of the Respondent, that on May 3, 2018, he operated a sidewalk café without a Sidewalk Café Endorsement.

II. PENALTY

16. The ABRA Civil Penalty Schedule, set forth at 23 DCMR 800, provides the Board with discretion to issue a warning with respect to specific violations, including violation of § 25-113a(c), when circumstances warrant. The Board also has authority to fine, suspend or revoke a license if the licensee violates any of the provisions of District laws and regulations governing the sale of alcoholic beverages. A violation of D.C. Official Code § 25-113a(c) is considered a primary tier violation.

17. The Board weighed several factors when determining the appropriate penalty for this violation. With the exception of the case at hand, the Respondent has a record of compliance with ABC laws and regulations. The Respondent's Investigative History shows that the Respondent has had a warning and no other violations since the establishment's opening. Additionally, there have been no further violations since Investigator Puente's visit to the establishment on May 3, 2018. Licensing File No. ABRA-106768, Investigative History.

18. Furthermore, in light of the Respondent's misunderstanding regarding the requirements necessary to obtain a Sidewalk Café Endorsement and his immediate correction of the violation

when he was made aware, the Board does not believe that a fine is warranted in this matter. As such, the Board issues a Warning to the Respondent and strongly advises it to not commit this violation in the future.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 12th day of December, 2018, finds that the Respondent, VIRA 1, LLC, t/a RASA Indian Grill, located at 1247 First Street, SE, Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code § 25-113a(c).

The Board hereby **ORDERS** that:

- 1) For Charge I – Dismissed.
- 2) For Charge II – The Respondent is **WARNED** against committing this violation in the future, and orders the Respondent to comply with the laws and regulations that govern ABC licensees.
- 3) In addition, the Respondent shall attend an ABRA Licensed Orientation Training within ninety (90) days from the date of this Order.

Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

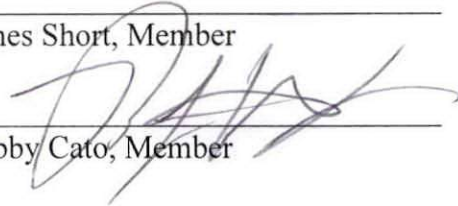


Nick Alberti, Member



Mike Silverstein, Member

James Short, Member



Bobby Cato, 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. 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. 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).