

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

In the Matter of:)

Rotini, Inc. t/a)
Ristorante Piccolo)

Holder of a)
Retailer's Class CR License)

1068 31st Street, N.W.)
Washington, D.C. 20007)
_____)

Case No.: 18-CMP-00234
License No.: 014125
Order No: 2018-608

TO: Karen Kowkabi, Owner
Rotini, Inc.
1068 31st Street, N.W.
Washington, D.C. 20007

Gholan Kowkabi and Houman Asady-Kang
Papardelle 1068 Inc.
1815 H Street, N.W., Suit 12th F
Washington D.C. 20006

CEASE AND DESIST AND ORDER TO SURRENDER LICENSE

INTRODUCTION

The Alcoholic Beverage Control Board has found compelling evidence that Karen Kowkabi, owner of Rotini, Inc., t/a Ristorante Piccolo, illegally transferred her license to Gholan Kowkabi, the owner of Papardelle 1068 Inc., (hereinafter collectively "Respondents"). In light of these facts, the Board hereby orders the parties and their agents to cease selling, serving, and distributing alcoholic beverages, cease permitting the consumption of alcoholic beverages, and surrender the alcohol license to the Board in compliance with D.C. Official Code § 25-791.

FINDINGS OF FACT

The Board bases its decision on the following factual findings:

1. A Retailer's Class CR License has been issued to Rotini, Inc., t/a Ristorante Piccolo at 1068 31st Street, N.W., Washington, D.C. *Case Report No. 18-CMP-00234* at 1 (Oct. 10, 2018). 5, 2017). ABRA's records show that the current recognized owner of Ristorante Piccolo and the holder of its liquor license is Rotini, Inc., which is owned by Karen Kowkabi. *Id.* at 2-3.
2. On October 10, 2018, Alcoholic Beverage Regulation (ABRA) Investigators Kevin Puente and Mark Brashears entered Ristorante Piccoli at approximately 2:55 p.m. *Id.* at 2. The manager identified himself as Houman Asady-Kang. *Id.* Mr. Asady-Kang indicated that no licensed owner or manager was present, even though patrons appeared to be consuming alcohol inside the premises. *Id.*
3. Investigator Puente further observed that the establishment only had an entertainment endorsement listed on its license. *Id.* Nevertheless, there appeared to be a sidewalk café or summer garden set up outside the premises. *Id.*
4. During the inspection, Mr. Asady-Kang identified Gholan Kowkabi as the owner of the premises. *Id.* ABRA's records indicate that in 2016 Karen Kowkabi was the sole owner and applied for renewal. *Id.* at 2-3. Nevertheless, in September 2018 a new Certificate of Occupancy for the premises was issued in the name of Papardelle 1068 Inc. *Id.* at 3. Furthermore, a new business license was issued to Papardelle 1068 Inc. *Id.* A transfer application filed by the prior owner and Papardelle 1068 Inc. indicate that a transfer had been executed but no application for a temporary operating retail permit authorized a new owner to operate the business. *Id.* ABRA's records further indicate that the transfer has not been approved by the Board as of the date of this Order.

CONCLUSIONS OF LAW

5. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease ". . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public . . ." D.C. Official Code § 25-829(a).

I. THE OPERATION OF RISTORANTE PICCOLO BY AN UNAPPROVED OPERATOR PRESENTS AN IMMEDIATE AND IRREPERABLE HARM TO THE PUBLIC.

6. The Board finds that the continued operation of Ristorante Piccolo by an unapproved operator constitutes an immediate and irreparable harm to the public.

a. Ristorante Piccolo and the new owner failed to comply with § 25-405.

7. First, Ristorante Piccolo unlawfully transferred its license without the permission of the Board in violation of § 25-405. Under § 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." D.C. Code § 25-405(a). As ABRA's records show, Ristorante Piccolo

consummated the transfer without the approval of the Board. *Supra*, at ¶ 4. As a result, these facts constitute a clear violation of § 25-405.

b. The new owner has failed to obtain a temporary operating permit in accordance with § 703.

8. Second, the new owner in this matter has not obtained a temporary operating permit, which would authorize the purchaser to operate the establishment while a transfer application was under review. 23 DCMR § 703 *et. seq.* (West Supp. 2018); *supra*, at ¶ 4. The failure of the parties to obtain this permit further supports the Board's conclusion to order the cessation of all alcohol-related activity at the establishment.

c. The sale of the license to an unapproved owner renders the business discontinued and requires the return of the license under § 25-791.

9. Under § 25-791(a), "A license which is discontinued for any reason shall be surrendered by the licensee to the Board for safekeeping." D.C. Code § 25-791(a). In this case, Ristorante Piccolo's owner of record has executed a transfer agreement and is no longer the owner or operator of the premises. *Supra*, at ¶ 4. Therefore, Ristorante Piccolo has legally discontinued operations, and the license must be surrendered to the Board for safekeeping in accordance with § 25-791.

d. The continued operation of the establishment by an unapproved operator causes immediate and irreparable harm to the public.

10. The Board finds that the continued operation of the establishment by an unapproved operator causes irreparable harm to the public by allowing the establishment to maintain a continuing nuisance and threatens the safety and welfare of the public. All violations of Title 25 are deemed nuisances pursuant to § 25-805. D.C. Code § 25-805; *see also Com. ex rel. Preate v. Danny's New Adam & Eve Bookstore*, 625 A.2d 119, 122 (1993) (It is well-settled that even a lawful business may be enjoined from operation if it is shown that, under the particular circumstance, its operation constitutes a public nuisance); *Camp v. Warrington*, 227 Ga. 674, 674, (1971) ("where it is made to appear with reasonable certainty that irreparable harm and damage will occur from the operation of an otherwise lawful business amounting to a continuing nuisance, equity will restrain the construction, maintenance or operation of such lawful business."). In this case, permitting the new owner to continue to illegally operate without approval would allow him to maintain and benefit from the operation of a continuing nuisance at the expense of the public.

11. Furthermore, the Board is convinced that the circumvention of the licensing process threatens the health, safety, and welfare of the public. The misuse of alcohol encourages crime, disorder, and other antisocial behavior. The licensing process keeps those who cannot be trusted to superintend a licensed establishment, such as criminals and individuals with a history of repeated violations of the District's alcohol laws, from obtaining a license. Therefore, the new

owners cannot be permitted to continue operating the establishment until a proper transfer application is filed, properly vetted, and approved by the Board.

ORDER

Therefore, the Board on this 17th day of October 2018, hereby all of the above mentioned parties to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages at 1068 31st Street, N.W., Washington, D.C.

IT IS FURTHER ORDERED that the parties shall surrender the license to the Board for safekeeping pursuant to § 25-791. In the alternative, ABRA is simultaneously authorized to seize the license in order to place it in safekeeping.

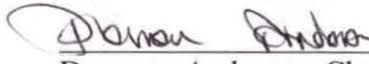
IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABRA shall no longer issue temporary licenses and one-day substantial change licenses for the above mentioned address.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance) should it be deemed necessary.

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that the establishment is continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, all of the persons engaging in such activity may be subject to both civil and criminal penalties.

ABRA shall serve notice by certified mail or personal delivery on the parties.

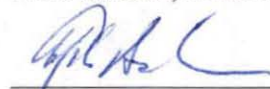
District of Columbia
Alcoholic Beverage Control Board



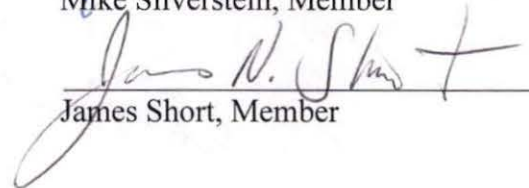
Donovan Anderson, Chairperson



Nick Alberti, Member



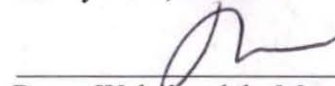
Mike Silverstein, Member



James Short, Member

Donald Isaac, Sr., Member

Bobby Cato, Member



Rema Wahabzadah, Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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, 500 Indiana Avenue, 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).