

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

In the Matter of:)	
)	
Fab Lounge, Inc.)	Case No.: 24-CMP-00022
t/a Safari Restaurant and Lounge)	License No.: ABCA-90424
)	Order No.: 2024-609
Holder of a)	
Retailer’s Class CT License)	
)	
at premises)	
4306 Georgia Avenue, N.W.)	
Washington, D.C. 20011)	

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: Fab Lounge, Inc., t/a Safari Restaurant and Lounge, Respondent

Colin Cenci, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

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

INTRODUCTION

The Alcoholic Beverage and Cannabis (Board) finds that Fab Lounge, Inc., t/a Safari Restaurant and Lounge, (hereinafter “Respondent” or “Safari”) violated a Board order and exceeded its occupancy on May 2, 2024. The Respondent shall pay a \$5,000 fine for the violations.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on June 4, 2024. *ABCA Show Cause File No. 90424*, Notice of Status Hearing and Show Cause Hearing, 2 (Jun. 4, 2024). 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 2, 2024,] [y]ou failed to follow the terms of Board Order No. 2021-084 by allowing use of the summer garden past 12:00 a.m. on a weekend

Charge II: [On March 2, 2024,] [y]ou made a substantial change in operations without Board approval by exceeding the establishment's approved occupancy limit, in violation of D.C. Code §§ 25-762(a) and (b)(1)

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

The Government appeared at the Show Cause Status Hearing on July 10, 2024. The parties proceeded to a Show Cause Hearing and argued their respective cases on July 31, 2024.

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. Fab Lounge, Inc., t/a Safari Restaurant and Lounge, holds a Retailer's Class CT License at 4306 Georgia Avenue, N.W., Washington, D.C. *ABCA Show Cause File No. 90424*.

2. ABCA Investigator Mikea Nelson visited the establishment on Saturday, March 2, 2024 based on a complaint made the agency. *Transcript (Tr.)*, July 31, 2024 at 11. She visited the establishment at around 12:25 a.m. and saw an event occurring at the establishment. *Id.* at 11-12. The investigator observed approximately 67 people in the establishment's summer garden. *Id.* at 13. A Board Order designated 2024-084 indicated the establishment's summer garden had to close at midnight. *Id.*

3. The investigator then asked staff selling tickets how many persons were inside the premises. *Id.* at 17. Staff at the door had a clicker that indicated that 215 persons were present at the establishment. *Id.* at 18. Nevertheless, the license for the business limited the number of persons inside the premises to 190 patrons and the summer garden to 10 patrons. *Id.* at 19.

CONCLUSIONS OF LAW

4. 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

5. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2024). 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). The Board further notes that “. . . hearsay 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.

II. Violations

6. Under D.C. Official Code § 25-823(a)(6), a license is obligated to follow conditions placed on its license by the Board. In this case, the Board required the licensee by Board order to close its sidewalk seating area at midnight but an investigator observed the sidewalk seating area still in operation. As such, the Board affirms Charge I.

7. Likewise, D.C. Official Code § 25-762(b)(1) prohibits the licensee from increasing its occupancy. Nevertheless, in this case, the Respondent had 67 persons in its sidewalk café area even though the capacity of that area was limited to 10 persons. The Board notes that a capacity violation is not contingent on whether patrons were drinking, smoking, or engaging in any other activity. As such, the Board affirms Charge II.

ORDER

Therefore, the Board, on this 28th day of August 2024, finds Fab Lounge, Inc., t/a Safari Restaurant and Lounge, guilty of violating D.C. Official Code §§ 25-823(a)(6) and 25-762(b)(1). The Board imposes the following penalty on Safari:

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

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.

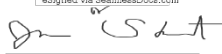
IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800 (West Supp. 2024), the violations found by the Board in this Order shall be deemed two primary tier violations.

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 SeamlessDocu.com

Key: 547ae373f8205e6eac8d1b3325d2949ec

James Short, Member



Silas Grant, Jr., Member

I concur with the Board's decision to find Safari liable for the offenses but I would impose a lower penalty.

eSigned via SeamlessDocu.com

Key: ac43cb08b50d5f0e4b730693d16ccc8

Donovan Anderson, Chairperson

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).