

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

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In the Matter of:	)		
	)		
Fab Lounge, Inc.	)	Case No.:	19-CMP-00034
t/a Safari Restaurant and Lounge	)	License No:	ABRA-090424
	)	Order No:	2019-125
Holder of a	)		
Retailer's Class CT License	)		
	)		
at premises	)		
4306 Georgia Avenue, N.W.	)		
Washington, D.C. 20011	)		

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

**ALSO PRESENT:** Fab Lounge, Inc., t/a Safari Restaurant and Lounge, Respondent  
  
Nunu Wodwessen, on behalf of the Respondent  
  
Walter Adams, Assistant Attorney General  
Office of the Attorney General for the District of Columbia  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

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**INTRODUCTION**

On February 24, 2019, a fight occurred at Fab Lounge, Inc., t/a Safari Restaurant and Lounge, ("Respondent" or "Safari") where a disc jockey was severely beaten and a shooting occurred outside after patrons were ejected from the establishment. While the Respondent may not have pulled the trigger, the actions of management that night allowed for violence to occur and escalate. Specifically, the Respondent operated the establishment in violation of multiple provisions of its security plan and illegally gave control over security to a third party promoter. This case further reveals that the establishment has been illegally transferred to a new ownership, and that the owner of record is solely maintaining the license for the benefit of persons

unidentified on the license. In light of these severe violations, the Board is satisfied that the continued operations of the establishment constitute an imminent danger to the public that cannot be remedied by an unauthorized and unaccountable management. Therefore, the suspension shall remain in effect, and shall not be lifted until the final resolution of a future show cause enforcement proceeding related to this incident.

### ***Procedural Background***

This matter comes before the Board after the Metropolitan Police Department (MPD) Chief of Police Peter Newsham suspended the Respondent's Retailer's Class CT License under the authority granted by District of Columbia Official Code § 25-827. *Letter from Metropolitan Police Department, Chief of Police, Peter Newsham, 1 (Feb. 24, 2019).*

On February 28, 2019, the Board executed a notice issued by the Office of the Attorney General for the District of Columbia to the Respondent informing the establishment that the suspension would continue based on the continuing danger to the public. *Notice of Summary Suspension, 2 (Feb. 28, 2019) [Notice]*. Specifically, the notice alleged that on February 24, 2019, the Respondent allowed a promoter to provide security for the event and the establishment failed to comply with its security plan. *Id.*, at 2. The notice further indicated that a disc jockey was severely injured after patrons assaulted him, patrons ejected by the establishment engaged in violence when one patron retrieved a firearm and shot two patrons, and the establishment failed to properly communicate with the police regarding the incident. *Id.* at 3.

The Respondent was served with notice of the continued suspension on March 4, 2019. A hearing was requested by the Respondent on the same day. The parties came before the Board for a summary suspension hearing on March 8, 2019.

The question before the Board is whether “. . . the operations of a licensee present an imminent danger to the health and safety of the public,” and if so, “. . .the Board may summarily revoke, suspend, fine, or restrict, without a hearing, the license to sell alcoholic beverages in the District.” D.C. Code § 25-826(a).

### **FINDINGS OF FACT**

The Board having considered the evidence contained in the record, the testimony of witnesses, the arguments of the parties, and the documents comprising the Board's official file, makes the following findings:<sup>1</sup>

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<sup>1</sup> The full transcript in this matter was not available at the time this Order was written; however, the Board is sufficiently versed in the evidence and testimony after holding the summary suspension hearing to make the findings of fact and conclusions of law contained in this Order. This action was necessary on the part of the Board, because § 25-826(c) requires the Board to issue an Order within 3 business days of the Summary Suspension Hearing. D.C. Code § 25-826(c).

## **I. Background**

1. The Respondent, Fab Lounge, Inc., t/a Safari Restaurant and Lounge, holds a Retailer's Class CT License located at 4306 Georgia Avenue, N.W., Washington, D.C. *ABRA License No. 090424*. The Board takes official notice that ABRA's records indicate that Freze Teame is the holder of the liquor license and owner of the business.
2. The Respondent indicated that, as of the date of the summary suspension hearing, Mr. Teame is out of the country. Since August 2018, the establishment is currently run and managed by John Shuler. Mr. Shuler conducts the day-to-day operations of the establishment, while his wife handles administrative matters for the business. The owner stops by the establishment occasionally. Money generated by the business goes into an account controlled by Mr. Shuler, not Mr. Teame. Mr. Shuler pays himself from this account and makes purchases and pays bills for the business from his account. The Respondent presented a notarized affidavit granting Nunu Wodwessen power of attorney over the business.
3. The Respondent has a security plan on file with ABRA, dated September 18, 2013. *Case Report 19-251-00034*, Exhibit No. 13 [*Security Plan*]. As part of the plan, the Respondent will provide a "door host" at the "entrance." *Id.* at 2. Door hosts are further "responsible for keeping the headcount of all guests (using handheld click counters or the entrance ticket) entering the venue so as to maintain a safe level of occupancy of the establishment." *Id.* at 3. The establishment is also required to provide a "guest patrol" to "patrol the venue." *Id.* The security plan indicates that the guest patrol shall "be attired so as to be immediately recognizable as a staff member . . . ." *Id.* The plan further requires that "the Manager and Owner shall alert the appropriate authorities and coordinate with law enforcement" in response to a "physical altercation." *Id.* at 5. The plan requires that all incidents of violence shall "be recorded in the security log at the end of any night in which such event occurs." *Id.*

## **II. Incident on February 24, 2019**

4. On the night of February 24, 2019, Mr. Shuler allowed Tony Blunt, a promoter affiliated with a business trading as 8-Mile Productions, to host a hip hop event on the second floor of the premises. As part of the parties' verbal agreement, Mr. Blunt would retain any money earned through cover charges, while the establishment would retain all money earned from food and drink sales. The parties further agreed that the promoter would provide security. In organizing the event, the promoter collected money from performers for the opportunity to perform at the event.
5. Starting on February 23, 2019, going into the early morning of February 24, 2019, the event occurred at the establishment. The promoter provided an unidentified doorman to collect money and check identifications at the event. Nevertheless, it appears that the promoter overbooked and left the event early. Nowhere to be found, it appears that some patrons became enraged when they learned they had been ripped off.
6. The patrons then confronted the disc jockey that had provided music for the event. During this confrontation a large group of patrons assaulted the disc jockey and beat him

severely. In addition to beating the disc jockey with their hands and fists, a patron hit the disc jockey with a chair several times. The disc jockey later informed an ABRA investigator that his injuries as a result of the beating included a broken pinky finger, a disconnected retina, facial contusions, a concussion, and a fractured jaw.

7. During the fight upstairs, the bartender called Mr. Shuler, and he and others came upstairs to break up the combatants. He then ordered the patrons out of the establishment's front door and the front door was locked. No one associated with the establishment appears to have been outside or been in a position to engage in crowd control outside. Based on video recovered by MPD, outside the premises, a patron went to his vehicle to apparently retrieve a firearm. The patron then appears to get into a quick scuffle, and then shoots two patrons and flees. As a result of the shooting, one of the victims died and another is in critical condition.

8. Police arrived at the scene after receiving calls reporting an assault and a shooting at or around the establishment approximately 15 minutes after the incident occurred. Police found shell casings and a pool of blood approximately 30 feet from the establishment. Inside, the establishment appeared to remain in operation because patrons appeared to be present and music was playing. The front door appeared to be broken off its hinges.

9. Police conducted various interviews with persons affiliated with the Respondent. During an interview with police, Mr. Shuler indicated that he was the owner of the establishment, he indicated no physical altercation had occurred, and he indicated that he only saw two female patrons engage in a verbal altercation upstairs. One person, who was working at the establishment when the incident occurred, appeared visibly intoxicated as he spoke to police.

10. There is no evidence showing that the Respondent or his agents filed an incident report as required by the security plan. Security cameras located at the establishment were also not working, and appear to have been nonoperational for an extended period of time. Police also report that the Respondent's management and staff were uncooperative and evasive during their investigation of the incident at the establishment.

11. The bartender on the second floor may have called for police assistance, although it is not confirmed by the record at this point in time. There is no indication that management called the police as required by the Respondent's security plan.

### **CONCLUSIONS OF LAW**

12. In this case, the Government has shown various violations of the law committed by the Respondent that threaten the health, safety, and welfare of the public. "If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, fine, or restrict, without a hearing, the license to sell alcoholic beverages in the District." D.C. Code § 25-826(a).

In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, the Board may keep the licensee in the

summary suspension proceeding to monitor the licensee to make a determination if the conditions placed by the Board on the licensee are effective.

23 DCMR § 1613.1 (West Supp. 2019).

**I. The Respondent illegally transferred control of its security to a third party in violation of § 25-797.**

13. First, the Respondent unlawfully allowed a third party to provide and control security at the establishment in violation of D.C. Official Code §§ 25-797(a) and (b). Under D.C. Code § 25-797,

(a) The holder of an on-premises retailer's license. . . may rent out or provide the licensed establishment for use by a third party or promoter for a specific event; provided, that the licensee maintains ownership and control of the licensed establishment for the duration of the event, including modes of ingress or egress, and the staff of the establishment, including bar and security staff.

(b) Under no circumstances shall a licensee permit the third party or promoter to be responsible for providing security or maintain control over the establishment's existing security personnel.

(c) A violation of this section shall constitute a primary tier violation under section 25-830(c)(1).

D.C. Code § 25-797(a)-(c). In this case, the Respondent allowed the promoter to provide security and the promoter's security monitored the door. *Supra*, at ¶¶ 4-5. Under these circumstances, the events of February 24, 2019, constitute a clear violation of § 25-797.

**II. The Respondent violated its security plan in violation of § 25-823(a)(6).**

14. Second, the Respondent engaged in a number of violations of its security plan. Under § 25-823(a)(6), a licensee is obligated to comply with the terms of its security plan. D.C. Code § 25-823(a)(6). Under the terms of the Respondent's security plan, the establishment did not have its own doorman, which makes it impossible for the establishment to have followed the requirement to maintain a headcount of patrons. *Supra*, at ¶ 3. The establishment did not have a guest patrol patrolling the venue and no security, if they existed, wore recognizable clothing affiliated with the establishment. *Id.* Moreover, while a bartender may have called for police assistance, there is no evidence that the management called the police to report the altercation, despite being on notice when the crowd was ejected. *Id.* Finally, the establishment failed to record this incident in an incident log. *Supra*, at ¶ 10. Therefore, the Board finds that multiple violations of the Respondent's security plan occurred on February 24, 2019.

### III. The failure to provide adequate security on the night of the incident created an environment that allowed the assault to occur in violation of § 25-823(a)(2)

15. Third, the Respondent's failure to provide adequate security constitutes a violation of § 25-823(a)(2). Under § 25-823(a)(2), a licensee cannot "allow[] the licensed establishment to be used for any unlawful or disorderly purpose." D.C. Official Code § 25-823(a)(2). Section 25-823(b) further provides that "A single incident of assault, sexual assault, or violence shall be sufficient to prove a violation of subsection (a)(2) of this section; provided, that the licensee has engaged in a method of operation that is conducive to unlawful or disorderly conduct." D.C. Code § 25-823(b). Based on various court cases interpreting this statute, a violation may be found where "(1) . . . a licensee or their agents to cause, contribute, encourage, or participate (*demonstrable connection*) (2) in an unlawful or disorderly incident that occurs within or around the licensee's premises (*unlawful or disorderly purpose*) (3) through a method of operation (*method of operation*)." *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) (Order Denying Respondent's Motion for Reconsideration).

16. In regards to proving a demonstrable connection, as noted in *Kabin* "any action committed directly by the licensee or management or by their agents with the approval, direction, or control of the licensee or his or her management that tends to cause illegal conduct or is illegal itself always qualifies as a demonstrable connection." *Id.* at 7. In this case, management failed to provide security and illegally allowed a third party to provide security at the event. *Supra*, at ¶¶ 4-5. This failure to provide adequate security created an environment where a verbal altercation could escalate into the fight that resulted in the disc jockey being severely beaten. *Supra*, at ¶ 6. Moreover, the failure to provide adequate security created an environment that made continuing fights or shootings likely, because the Respondent had no ability to separate and separately eject combatants from the venue or engage in crowd control outside the premises until the police arrived. As a result, there is sufficient evidence to tie the acts of violence at and around the establishment to the operation of the establishment.

17. In regards to proving an unlawful or disorderly purpose, the Board notes that under D.C. law, the misdemeanor of simple assault requires only general intent to perform the assaultive act and does not require that any actual injury be incurred. *In re Kabin Group, LLC, t/a Kabin*, Case No. 17-251-00134, Board Order No. 2018-094, ¶ 20 (D.C.A.B.C.B. Mar. 14, 2018) *citing In re D.P.*, 122 A.3d 903, 908 (D.C. 2015) *and* D.C. Code § 22-404. In this case, the assault against the disc jockey satisfies the unlawful and disorderly purpose requirement of § 25-823(a)(2). *Supra*, at ¶ 6.

18. In regards to showing a method of operation, as noted in *Levelle*, a method of operation that violates § 25-823(a)(2) includes providing an inadequate number of security or employees to supervise the establishment. *Levelle, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 924 A.2d 1030, 1036 (D.C. 2007). Similarly, a method of operation that violates § 25-823(a)(2) may also include the establishment failing to enforce its security procedures. *Id.* at 1037. In this case, the establishment failed to comply with its security plan, failed to provide adequate security, and gave control over security to a third party, which satisfies the method of operation requirement. *Supra*, at ¶¶ 3, 4-5.

19. The Board further notes that because this case involves an assault, there is no requirement that the Government show a pattern of similar behavior or incidents, “prior acts,” or “a continuous course of conduct,” as was previously required before the enactment of § 25-823(b). *In re Kabin Group, LLC, t/a Kabin*, Board Order No. 2018-247 at 10.

20. Therefore, the Board is satisfied that the failure to provide adequate security on the date of the incident constitutes a violation of § 25-823(a)(2).

**IV. The Respondent illegally transferred the business to new ownership without the approval of the Board and is not adequately superintending the business.**

21. The Respondent illegally transferred the business to new ownership without the approval of the Board and the ownership is not adequately superintending the business. Under § 25-301(a)(5), licensure is conditioned on “the applicant [remaining] the true and actual owner of the establishment for which the license is sought . . . and not [serve] as the agent of any other individual . . . or [entity] not identified in the application.” D.C. Code § 25-301(a)(5). Title 25 of the D.C. Official Code defines an interest as “the ownership or other share of the operation, management, or profits of a licensed establishment.” D.C. Code § 25-101(26). Furthermore, 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).

22. The record in this case shows that the sole owner of record, Mr. Teame, has effectively abandoned the establishment to Mr. Shuler, who is not listed on the Respondent’s license. *Supra*, at ¶ 1. In this case, Mr. Shuler maintains his own business accounts, separate from the owner, and has effective control over the business and its profits. While the parties may have some sort of management agreement, it is apparent that the license holder is merely maintaining the license for the benefit of Mr. Shuler, which renders Mr. Teame an agent of Mr. Shuler in violation of § 25-301(a)(5), and renders the business illegally transferred to Mr. Shuler without the authorization of the Board in violation of § 25-405.

**V. The continued operation of the establishment constitutes an imminent danger to patrons and the public warranting an indefinite suspension of the license.**

23. The Board is satisfied that the continued operation of the business constitutes an imminent danger to patrons at the establishment and the general public. This case identified multiple major security failures that created an environment conducive to violence both inside and outside the establishment on February 24, 2019. As the Board has said in the past, “One of the key principles of the District’s licensing system is that a purveyor of alcoholic beverages must remain accountable to its local community.” *Advisory Opinion*, Board Order No. 2014-314, at 4 (D.C.A.B.C.B. Aug. 13, 2014). Here, where the owner is absent and has effectively given control of the establishment to an unlicensed third party that appears unwilling to cooperate with law enforcement there is no accountability. And without accountability, the Board cannot trust that any measures required by the Board will be followed. As such, the license shall remain indefinitely suspended pending the outcome of a future show cause proceeding that resolves the issues identified in this Order.

## **ORDER**

Therefore, the Board, on this 12th day of March 2019, hereby **SUMMARILY SUSPENDS** the Retailer's Class CT License held by Fab Lounge, Inc., t/a Safari Restaurant and Lounge.

**IT IS FURTHER ORDERED** that the summary suspension ordered by the Board shall remain in effect until the Board issues its final written Order in a future show cause proceeding related to the incident.

**IT IS FURTHER ORDERED** that if the Office of Attorney General declines to prosecute the matter, the Respondent may request that the Board lift the suspension subject to the conditions expressed in this order.

**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.

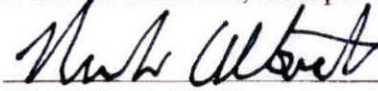
A copy of this Order shall be sent to the Respondent and the Government.



District of Columbia  
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



Bobby Cato, Member

Pursuant to 23 DCMR § 1719.1, 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, N.W., 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, 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).

Finally, in the case of a summary suspension, "A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2." D.C. Code § 25-826(d).