

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

In the Matter of:)		
)		
Woodley Café Partners, Inc.)	Case No.:	18-CMP-00138
t/a Woodley Café)	License No.:	ABRA-076441
)	Order No.:	2019-500
Holder of a)		
Retailer's Class CR License)		
)		
at premises)		
2619 Connecticut Avenue, N.W.)		
Washington, D.C. 20008)		

BEFORE: Donovan Anderson, Chairperson
Mike Silverstein, Member
James Short, Member
Rema Wahabzadah, Member

ALSO PRESENT: Woodley Café Partners, Inc., t/a Woodley Café, Respondent

Farid Khairzada and Abdullah Sultan, License Holders, on behalf of the Respondent

Jessica Krupke, 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 Woodley Café Partners, Inc., t/a Woodley Café, (hereinafter "Respondent" or "Woodley Café") violated the requirement to have a licensed manager present while in operation on May 15, 2018, and operated its sidewalk café outside of its approved hours in violation of the terms of its alcohol license. The Respondent shall pay a fine of \$350 and receive a warning for the hours violation. The Board advises the Respondent that it cannot sell or permit the consumption of food, nonalcoholic

beverages, or alcoholic beverages outside of its hours of operation listed on its alcohol license in accordance with D.C. Official Code § 25-823(a)(7). The Respondent is further advised to immediately file a substantial change application to adjust its hours if it seeks to continue operating before 10:00 a.m. and cease such activity until the application is approved.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on March 13, 2019. *ABRA Show Cause File No. 18-CMP-00138*, Notice of Status Hearing and Show Cause Hearing, 2 (Mar. 13, 2019). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2619 Connecticut Avenue, N.W., Washington, D.C., on March 15, 2019. *ABRA Show Cause File No. 18-CMP-00138*, Service Form. 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 violations:

Charge I: [On May 15, 2018,] [y]ou failed to superintend in person or keep a licensed ABC Manager on duty at all times in violation of D.C. Official Code § 25-701 and 23 DCMR § 707.1

Charge II: [On May 15, 2018,] [y]ou made a substantial change in the nature of the operation of the . . . establishment as set forth in the initial application for the license, in that you operated the Sidewalk Café outside of the . . . approved hours, without obtaining the approval of the Board in accordance with D.C. Official Code § 25-404, in violation of D.C. Official Code §[§] 25-762(b)(13) [and 25-823(a)(7)]

Notice of Status Hearing and Show Cause Hearing, 2-3.

Both the Government and Respondent appeared at the Show Cause Status Hearing on April 10, 2019. The parties proceeded to a Show Cause Hearing and argued their respective cases on May 22, 2019.

FINDINGS OF FACT

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

I. Background

1. Woodley Café holds a Retailer's Class CR License at 2619 Connecticut Avenue, N.W., Washington, D.C. *ABRA License No. 076441*. On May 15, 2018, former ABRA Investigator Devon Todd, now serving as a Metropolitan Police Department (MPD) Officer, visited the

Respondent's establishment based on an anonymous complaint regarding the use of the outdoor seating area. *Transcript (Tr.)*, May 22, 2019 at 10-12. Upon receiving the complaint, Investigator Todd looked at ABRA's records and determined that the Respondent could not operate until 10:00 a.m. *Id.* at 12.

2. Former Investigator Todd visited the Respondent's establishment at 9:50 a.m. *Id.* Upon arriving, he observed patrons sitting in the sidewalk café with food and beverages. *Id.* at 13. Former Investigator Todd then entered the establishment and met with a waitress. *Id.* at 14. The waitress indicated that the establishment usually begins operating at 8:30 a.m. *Id.* He then requested to speak with a manager. *Id.* at 14. The waitress left the area, but after about 25 minutes returned and said the owners were on their way. *Id.* at 17. While the investigator was waiting, he observed the waitress make a phone call, and she said that no manager was present but someone would come in shortly. *Id.* at 18. After waiting, the investigator left the establishment, and later received a phone call from the owner, Mr. Sultan. *Id.* at 20-21. Mr. Sultan indicated that during the investigator's inspection he was outside parking his vehicle. *Id.* at 22.

CONCLUSIONS OF LAW

3. 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

4. In this matter, the Board shall only base its decision on the "substantial evidence" contained in the record. 23 DCMR § 1718.3 (West Supp. 2019). 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).

II. The Respondent Failed to Have a Licensed Manager While Operating in Violation of D.C. Code § 25-701 and 23 DCMR § 707.1.

5. Under § 25-701, "A person designated to manage an establishment shall possess a manager's license." D.C. Code § 25-701(a). Furthermore, § 707.1, "In the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises." 23 DCMR § 707.1 (West Supp. 2019). As noted above, no owner or manager was present during the former investigator's visit even though the business was in operation. *Supra*, at ¶¶ 2. Therefore, the Board finds sufficient evidence to sustain Charge I.

III. The Respondent Shall Receive a Warning for Charge II

6. In light of the Respondent's history of violations, the Respondent shall receive a warning for Charge II. The Board advises the Respondent that is obligated to follow the terms of its license under D.C. Official Code § 25-823, which means that it is prohibited from serving food, nonalcoholic beverages, and alcoholic beverages before or after its hours of operation. The Board further advises the Respondent to immediately file a substantial change application to adjust its hours if it seeks to continue operating before 10:00 a.m. and cease such activity until the application is approved.

IV. Penalty

7. Based on the violation history of the Respondent, the present offense shall be penalized as a first time secondary tier violation. 23 DCMR §§ 800, 802 (West Supp. 2019).

ORDER

Therefore, the Board, on this 26th day of June 2019, finds Woodley Café Partners, Inc., t/a Woodley Café, guilty of violating § 25-701 and 23 DCMR § 707.1. The Board imposes the following penalty on Woodley Café:

(1) For the violation described in Charge I, Woodley Café shall pay a fine of \$350.

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 § 800.1, the violation found by the Board in this Order shall be deemed a secondary tier violation.

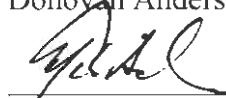
IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

The ABRA shall deliver copies of this Order to the Government and the Respondent.

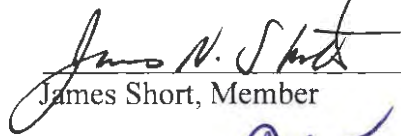
District of Columbia
Alcoholic Beverage Control Board



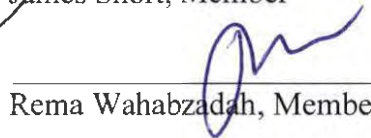
Donovan Anderson, Chairperson



Mike Silverstein, Member



James Short, Member



Rema Wahabzadah, 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. 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).