

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

_____)	
Kraken 3400, LLC)	Case Nos.: N/A
t/a Kraken Axes)	License Nos.: 109296, 110012
)	Board Order No.: 2018-479
Application for a New)	
Retailer's Class CT License)	
)	
at premises)	
3400 A Georgia Avenue, N.W.)	
Washington, D.C., 20010)	
)	
D.C. Fieldhouse, LLC)	
t/a D.C. Fieldhouse)	
)	
Application for a New)	
Retailer's Class CX License)	
)	
at premises)	
151 T Street, S.W.)	
Washington, D.C. 20593)	
)	
<i>Applicants</i>)	
_____)	

TO: Anna Marie Valero
3400 A Georgia Avenue, N.W.
Washington, D.C. 20010

**ORDER REQUIRING APPLICANT TO DEMONSTRATE FITNESS FOR LICENSURE
UNDER § 25-301 AND ORDER**

Kraken 3400, LLC, t/a Kraken Axes, (Kraken Axes) and D.C. Field House, LLC, t/a D.C. Field House (D.C. Field House) (hereinafter collectively the "Applicant") are hereby directed to appear before the Alcoholic Beverage Control Board (Board), located at the Reeves Center, 2000 14th Street, N.W., Suite 400, Washington, D.C., on August 15, 2018, at 1:30 p.m. to demonstrate their qualifications for licensure.¹

¹ This date and the time of the hearing may be changed to accommodate the applicant and any potential witnesses.

The purpose of the hearing is to determine whether the owner(s) listed in the Application qualify for licensure under District of Columbia (D.C.) Official Code § 25-301. Because this hearing may result in an administrative action or order that impacts the Applicant's rights, the hearing shall be conducted as a contested case hearing using the procedures provided by the D.C. Administrative Procedure Act (D.C. APA) (D.C. Official Code § 2-501 *et seq.*) and the hearing procedures described in Title 23 of the D.C. Official Code (Title 23). Please also note that Title 25 of the D.C. Official Code (Title 25) places the burden of proof on the Applicant to demonstrate through substantial evidence that he or she meets the qualifications described in § 25-301. *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 288 A.2d 666, 666-69, 671 (D.C. 1972). If the Board finds that the Applicant is unfit for licensure, this may result in the denial of the application(s). In addition, in lieu of denying the application(s), the Board may impose conditions on the license under D.C. Official Code § 25-104(e). Finally, any information obtained during these proceedings may be used by ABRA or forwarded to other government agencies to support additional administrative or criminal actions against the Applicant, the individual owners, or others.

All pleadings, or any other written communication, addressed to the Board, should be delivered to Martha Jenkins, General Counsel, 2000 14th Street, N.W., Suite 400, Washington, D.C. **You should contact General Counsel Martha Jenkins at (202) 442-4456 upon receipt of this notice to discuss any potential settlement, consent order, or stipulation that you want the Board to consider in accordance with D.C. Official Code § 2-509(a).**

All documents referenced in this notice are incorporated by reference, and also form the basis of the counts described below. Please contact ABRA's Public Information Officer at (202) 442-4425 if the Applicant seeks to obtain copies of any document. Please also note that the Board has the right to obtain additional information regarding the application(s) under 23 DCMR §§ 500.3, 1614.3.

Under D.C. Official Code § 2-509(b), the Applicant may personally appear at the hearing, and may be represented by legal counsel. At the scheduled hearing, the Applicant has the right to produce witnesses and evidence on his or her behalf and to cross-examine witnesses. The Applicant may also examine evidence produced and have subpoenas issued on his or her behalf to require the production of witnesses and evidence.

The Board reserves the right to amend this notice in accordance with D.C. Official Code § 2-509 based on new information that is discovered during the hearing process. The Board also reserves the right to schedule additional hearings to address preliminary motions or additional information received by the Board during the hearing process.

All hearings are conducted before the Board in the English language. If a party or witness is deaf, or because of a hearing impediment cannot readily understand or communicate the spoken English language, the party or witness may apply to the Board for the appointment of a qualified interpreter. Please note that under § 2-509, the Applicant's failure to appear at the time and place set for the hearing, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter or entering a default judgment.

The Board seeks the **DENIAL** of the applications filed by Kraken and D.C. Field House based on 23 DCMR § 401.1, and the Board's determination that the Applicant, Anna Velero, is unfit for licensure under D.C. Official Code § 25-301(a)(1). The basis of this contemplated action is as follows:

FINDINGS OF FACT

I. Facts related to the application of Kraken Axes.

1. Kraken 3400, LLC, t/a Kraken Axes, (Kraken) has applied for a Retailer's Class C Tavern License at 3400 A Georgia Avenue, N.W., and assigned ABRA License No. 109296. *ABRA Application* (Kraken Axes), 1. As reported by its application, the sole managing member and 100 percent interest holder of Kraken 3400, LLC, is Anna Marie Valero. *Id.*

II. Facts related to the April 2018 investigation of Kraken Axes.

2. On Thursday, April 12, 2018, Alcoholic Beverage Regulation Administration (ABRA) Investigator Vanessa Pleitez entered the premises of Kraken Axes to investigate a report regarding the posting of a placard. *Case Report No. 18-CMP-00106*, at 1-2. Upon entering, she was greeted by Erik Lorentzen. *Id.* at 1. Mr. Lorentzen admitted that the business was under construction, but was open for business. *Id.* He further told the investigator that Kraken had a fully stocked bar and had the capability to provide mixed drinks and beer to the public. *Id.* Investigator Pleitez was then greeted by Kraken's owner, Anna Marie Valero. *Id.* While inside the establishment, she observed the bar with a chalkboard wall advertising alcoholic and non-alcoholic beverages. *Id.* She also observed three pallets of beer. *Id.* Ms. Valero indicated that Kraken operated through the auspices of temporary permits and licensed caterers while it waited for its permanent license. *Id.* at 2. Social media posts from February and March 2018 indicate that the establishment hosted events with alcohol before Investigator Pleitez's visit. *Id.* at 3.

3. Ms. Valero told the investigator that Kraken had hired Eco Catering to conduct an event during the evening on April 12, 2018. *Id.* at 2. The investigator then asked to see the temporary licenses obtained by Kraken. *Id.* Ms. Valero indicated that James Martens could assist in this search. *Id.* During this search, Mr. Martens informed the investigator that the items at the bar "were dropped off earlier that day from the caterer they contracted for that evening." *Id.*

4. Mr. Martens confirmed that Eco Catering would facilitate the event. *Id.* He then provided the investigator with a copy of Eco Catering's license, which indicated that it had expired on March 31, 2018. *Id.* Mr. Martens told the investigator that he had an updated license for Eco Catering on his computer. *Id.* He further agreed to send invoices and the catering contract for the evening. *Id.* As Mr. Martens searched for information on his computer, Investigator Pleitez observed an invoice from District Still, a Class A Off-Premise Retailer. *Id.* at 2. Mr. Martens indicated that District Still, LLC, located at 175 R Street, N.E., had provided alcohol for a prior event authorized by a temporary license. *Id.*

5. At a Fact Finding Hearing on June 27, 2018, Ms. Valero contradicted the statement she made to the investigator on April 12, 2018, where she said that Eco Catering was conducting an

event on that day. *Id.* at 40-41. Specifically, she contradicted this prior statement by saying at the hearing that no catered event occurred on April 12, 2018, and instead, Kraken Axes merely taught patrons how to throw axes and did not provide alcohol. *Id.* at 41, 43.

6. During her investigation, Investigator Pleitez asked Ms. Valerio if Mr. Martens was the owner. *Case Report No. 18-CMP-00106*, at 2. In response, she said that “well that depends on who you ask, but no, I am technically the owner.” *Id.*

7. After Investigator Pleitez’s visit, ABRA Investigator Shawn Townsend contacted Eco Catering. *Id.* at 3. The owner, Robert Wood confirmed that Eco Catering did not cater any events on April 12, 2018. *Id.* In fact, Mr. Wood indicated that his catering company has never facilitated an event at Kraken, although his company has submitted contract proposals to Kraken Axes in the past. *Id.* Nevertheless, Mr. Wood indicated that he would not do business with Kraken Axes because, their “parent company”—who he believed to be District Still—engaged in “bad business practices.” *Id.* at 3. Specifically, Mr. Wood accused District Still of failing to deliver an order. *Id.* At the Fact Finding Hearing on June 27, 2018, the owner, Robert Wood said they did not agree to cater that day, and his partner rejected a telephone offer to conduct catering from Mr. Martens that day. *Tr.*, 6/27/18 at 56-57.

8. On April 13, 2018, ABRA Investigator Mark Brashears and ABRA Investigator Kevin Puentes went to Kraken Axes to investigate a complaint. *Case No. 18-CMP-00180*, 1 (Apr. 13, 2018). Outside, they observed and recorded three individuals packing alcohol into boxes inside the premises. *Id.* They then entered the establishment and spoke with Ms. Valero and Mr. Martens. *Id.* at 1-2. Mr. Martens indicated that a catered event was going to occur that evening. *Id.* at 2.

9. Inside, Investigator Brashears observed a large amount of alcohol, including a large amount stored in cases, crates, and pallets, on the side of the establishment opposite the bar. *Id.* at 2. The area where the packing boxes and other materials related to shipping were located appeared to be an area separate from Kraken Axes. *Id.* Moreover, the people packing boxes were using computers as they packed the boxes. *Id.*

10. Ms. Valero indicated to the investigator that all of the alcohol was from a prior event. *Id.* Furthermore, at a Fact Finding Hearing on June 27, 2018, she claimed that the alcohol was owned by the event company, Drink the District. *Tr.*, 6/27/18 at 18, 65. Moreover, at the hearing, she also indicated that the alcoholic beverages were being stored at the establishment because they could not be returned. *Id.* at 94.

11. A review of ABRA’s records indicates that District Still, LLC, t/a District Still, (District Still) assigned ABRA License No. 102521, and presently located at 175 R Street, N.E., applied to transfer its license to 3400 B Georgia Avenue, N.W. *Id.* at 4. District Still holds a Retailer’s Class A License and is owned by James Martens. *Id.* The lease document with District Still’s application shows that it would split the premises located at 3400 Georgia Avenue, N.W., with Kraken Axes. *Id.* Investigator Brashears observed that the area where he saw people pack alcohol on April 13, 2018, is the same area depicted in the lease reserved for District Still. *Id.* This space arrangement is also depicted in the lease filed by Kraken Axes. *Id.* at 5.

12. ABRA's records show that the transfer application filed by District Still was rejected because another licensee holding a Retailer's Class A License was located too close to District Still's proposed location in accordance with D.C. Official Code § 25-333(a). *Id.* at 4.

13. On July 18, 2018, ABRA Investigators Mark Brashears and Nicole Langway visited CubeSmart at 175 R Street, N.E., which is District Still's licensed location. *Id.* at 5. CubeSmart's attendant indicated that District Still had changed storage units from the one contained in ABRA's records. *Id.* The attendant further noted that District Still's storage unit was shared between Mr. Martens and Ms. Valero. *Id.*

14. On July 18, 2018, the two investigators returned to Kraken Axes. *Id.* Investigator Brashears looked inside the premises and saw a black cloth divider separating Kraken Axes' space from the space controlled by District Still. *Id.* In District Still's space, Investigator Brashears saw people working at computers and packing boxes. *Id.*

III. Facts related to Certificate of Occupancy of 3400 Georgia Avenue, N.W.

15. On July 5, 2018, Investigator Brashears contacted Timothy Handy, with the District of Columbia Department of Consumer and Regulatory Affairs (DCRA). *Case No. 18-CMP-00180*, at 3. Mr. Handy reported that 3400 Georgia Avenue, N.W., had no current Certificate of Occupancy, and that the last certificate for the address was for an agricultural related business. *Id.* On July 13, 2018, David Brewer, the Records Room Manager for DCRA conducted a records search for 3400 Georgia Avenue, N.W. *Letter from David Brewer, Records Room Manager, District of Columbia Department of Consumer and Regulatory Affairs*, 1 (Jul. 13, 2018). DCRA reported that no Certificate of Occupancy has been issued or assigned to 3400 Georgia Avenue, N.W., for the period between April 13, 2016, and July 13, 2018. *Id.* During the Fact Finding Hearing on June 27, 2018, Ms. Valero admitted that she has had at least one to two events where patrons were consuming alcohol since December 2017. *Tr.*, 6/27/18 at 68-69. ABRA's records show that the Board issued eleven temporary licenses at 3400 Georgia Avenue, N.W., between December 1, 2017, and June 19, 2018; specifically two were issued to Ms. Valero (ABRA License Nos. 110387 and 110386), and the other nine were issued to Mr. Martens. *ABRA License Nos. 108529, 108528, 108549, 108823, 109766, 109767, 109765, 110010, 110008, 110386, 110387*). Ms. Valero stated during the hearing that she was unaware of whether her Certificate of Occupancy was properly posted as required by law. *Id.* at 64-65.

IV. Facts related the application D.C. Field House.

16. Ms. Valero has also applied for a Retailer's Class CX Multipurpose Facility license at 151 T Street, S.W., for Field House LLC, t/a D.C. Field House, which has been assigned ABRA License No. 110012. *ABRA Application, ABRA License No. 110012*. During the Fact Finding Hearing on June 27, 2018, she admitted that she owned a twenty percent stake in Drink the District, LLC, and has applied for temporary licenses and submitted alcoholic beverage orders to suppliers on behalf of that company. *Case Report 18-CMP-00154*, 3; *Tr.*, 6/27/18 at 46. James Martens is also an owner of Drink the District, LLC. *Tr.*, 6/27/18 at 29-30.

17. On June 18, 2018, ABRA Investigator Countee Gillam observed an event at 151 T Street, S.W., where patrons were consuming alcoholic beverages. *Case Report 18-CMP-00154*, 1. The event was being run by Ioannis Gliatis, who works for Drink the District, LLC. *Id.* When the investigator requested the event’s license, Mr. Gliatis presented an expired and altered photocopy of a temporary license with a name and watermark removed, and he stated to the investigator that ABRA officials said that the event could proceed, although a later investigation found this statement regarding those ABRA officials to be false. *Id.* at 1-2; *Case Report No. 18-CMP-00171*, 1 (Jun. 21, 2018). In fact, ABRA’s records show that the location has not been assigned a permanent alcohol license and no temporary license was issued by the Board for June 18, 2018, for that location.

18. On June 21, 2018, ABRA Investigators Mark Brashears, Kevin Puente, Jason Peru, and Shawn Townsend visited 151 T Street, S.W., and observed an event where food and alcohol was being sold, served, and consumed. *Case Report No. 18-CMP-00171*, at 2. The event was being facilitated and managed by Mr. Gliatis, who indicated that he believed he was operating legally because that is what he was told by his central office and Kathleen Martens. *Id.* At the event, Jewell Spriggs provided the Caterer’s License for Mixology Bartending & Catering, LLC, t/a Guava Catering Company. *Id.* at 3. Ms. Spriggs indicated that her catering company did not provide any food or beverages. *Id.* Investigator Puente later contacted the catering company and spoke with Tamara Russell, an event coordinator. *Id.* Ms. Russel indicated that they were advised by Drink the District, LLC, that a temporary license had authorized the event, and she believed that her company was only providing bartending services. *Id.*

CONCLUSIONS OF LAW

COUNT I: Denial of the application filed by Kraken Axes is warranted where the Applicant allowed, permitted, or engaged in various violations of the law that merit denial of the application under 23 DCMR § 401.1.

19. Section 401.1 states, “[t]he Board may deny a license to an applicant if evidence shows that the applicant has permitted at the establishment conduct which is in violation of this title.” 23 DCMR § 401.1 (West Supp. 2018). The following violations whether considered separately or together merit denial of the application filed by Kraken Axes:

- 1. Between December 2017 and April 13, 2018, the Applicant held or permitted another party to host events and invite members of the public onto the premises, and stored alcohol at the premises even though the premises lacked an appropriate Certificate of Occupancy.**

20. Section 25-823(a)(1) makes it unlawful for a licensee to violate the “laws of the District.” D.C. Code § 25-823(a), (a)(1). Under § 110A.1 of 12 of the D.C. Municipal Regulations,

no *person* shall use any *structure*, land, or part thereof for any purpose, and no change in use or load shall be made, until a Certificate of Occupancy has been issued stating that the use complies with the applicable *Zoning Regulations* and the *Construction Codes*, including related building, electrical, plumbing, mechanical and fire protection

requirements.

12 DCMR § 110A (West Supp. 2018).

21. The records of DCRA indicate that no Certificate of Occupancy has been issued or assigned to 3400 Georgia Avenue, N.W., between April 13, 2016 and June 13, 2018. *Supra*, at ¶ 15. Nevertheless, during this period the Applicant allowed patrons to enter and conducted axe throwing classes on the premises on April 12, 2018. *Supra*, at ¶ 5. In addition, not including any unknown catered events, Ms. Valero held two events on the premises and allowed her associate Mr. Martens to hold nine events at the property between December 2017 and June 2018. *Supra*, at ¶¶ 2, 4, 15. The Applicant also admitted to storing alcohol on the premises. *Supra*, at ¶ 10. In light of the lack of a Certificate of Occupancy, the Applicant has not been authorized to hold events at the establishment or store alcohol on the property; as a result, there is sufficient evidence to find that the Applicant has committed ongoing violations of § 110A.1 between December 2017 and April 13, 2018.

2. Between December 2017 and April 12, 2018, the Applicant held or permitted another party to host events and invite members of the public onto the premises, even though the premises lacked an appropriate Certificate of Occupancy, which rendered the property unsafe, overcrowded and unsuitable for use and occupancy, in violation of the Fire Code.

22. Section 25-823(a)(1) makes it unlawful for a licensee to violate the “laws of the District.” D.C. Code § 25-823(a), (a)(1). It is a violation for any person or entity to “utilize a building, occupancy, premises, or system regulated by the *Fire Code*, or cause the same to be done, in conflict with or in violation of any of the provisions of the *Fire Code*.” 12 DCMR § F-109H (109.1). According to § 100.1.1 of the Fire Code, “Structures . . . which involve illegal or improper occupancy . . . shall be deemed unsafe conditions.” 12 DCMR § F-110H (100.1.1). The Fire Code further provides in § 107.5 that “Overcrowding or admittance of any person beyond the *approved* capacity of a building or a portion thereof shall not be allowed.” 12 DCMR § F-107H (107.5).

23. The absence of a Certificate of Occupancy means that no occupancy is appropriate, legal, or proper for 3400 Georgia Avenue, N.W. *Supra*, at ¶ 15. Under these circumstances, all events held or authorized by the Applicant and other work performed at the premises were held or conducted in unsafe conditions and overcrowded in accordance with §§ 100.1.1 and 107.5 of the Fire Code. *Supra*, at ¶¶ 2, 4-5, 8, 14.

3. On or about April 12, 2018, Anna Valero interfered or attempted to interfere with an investigation by lying or making misrepresentations to an ABRA investigator as to whether a licensed caterer would be hosting an event at the establishment in violation of D.C. Official Code § 25-823(a)(5).

24. ABRA's investigators are empowered by statute to investigate violations of Title 25 of the D.C. Official Code. D.C. Code §§ 25-801(a)-(c), 25-802. Section 25-823(a)(5) makes it a violation for a licensee to "interfere[] with an investigation." D.C. Code § 25-823(a)(5).

25. Under § 25-102 and 23 DCMR § 213.2, a new applicant for licensure cannot sell alcohol or otherwise permit the consumption of alcohol on their premises unless the applicant has obtained a stipulated license, a temporary license, or hosts an event under the auspices of a Caterer's License. D.C. Code § 25-102(a), (d); 23 DCMR § 213.2 (West Supp. 2018).

26. As an ABRA investigator, it is within the scope of Investigator Pleitez's duties to determine whether the events hosted by Kraken Axes were lawful and complied with § 25-102 and § 213.2. In making that determination, Ms. Valero's statement that Eco Catering would be facilitating the event on April 12, 2018, would be a material fact. *Supra*, at ¶ 3. Mr. Martens, a third party assisting Ms. Valero with Kraken Axes, provided additional material statements and evidence related to Investigator Pleitez's inquiry by stating that the caterer had dropped off alcohol for the event earlier in the day and by showing a Caterer's License for Eco Catering. *Supra*, at ¶¶ 4-5. Nevertheless, Mr. Wood, the owner of Eco Catering, denied that his company had been hired or otherwise facilitated an event at Kraken Axes on that day. *Supra*, at ¶ 7. Furthermore, Ms. Valero later told the Board that no catered event occurred on April 12, 2018. *Supra*, at ¶ 5. This means that neither Ms. Valero nor Mr. Martens had any justification for telling Investigator Pleitez that Eco Catering would be hosting the event on April 12, 2018. Consequently, based on Ms. Valero and Mr. Martens' misrepresentations, Ms. Valero interfered or attempted to interfere with Investigator Pleitez's ability to confirm whether Kraken was compliant with § 25-102 and § 213.2 on April 12, 2018, in violation of § 25-823(a)(5).

4. On or about April 13, 2018, and June 27, 2018, Anna Valero interfered or attempted to interfere with an investigation by lying or making misrepresentations to an ABRA investigator and the Board as to whether District Still, an off-premise retailer, was illegally operating at 3400 Georgia Avenue, N.W. or other location, in violation of D.C. Official Code § 25-823(a)(5).

27. The Board and ABRA's investigators are empowered by statute to investigate violations of Title 25 of the D.C. Official Code. D.C. Code §§ 25-801(a)-(c), 25-802. Section 25-823(a)(5) makes it a violation for a licensee to "interfere[] with an investigation." D.C. Code § 25-823(a)(5).

28. Under §§ 25-112(a) and 25-754(a), all off-premise retailers are obligated to sell and store alcohol at the location listed on their license unless otherwise permitted by the Board. D.C. Code § 25-112(a) ("from the place described"); 25-754(a).

29. Both the Board and ABRA investigators are empowered to investigate and enforce the requirements of §§ 25-112 and 25-754 and ensure that off-premise retailers operate solely at approved locations. In determining compliance with these laws, the ownership of alcoholic beverages and activity related to the sale, service, delivery, and shipment of alcoholic beverages would be material facts. In this vein, on April 13, 2018, Ms. Valero told ABRA Investigator Brashears that the large amount of alcoholic beverages present at Kraken Axes was from a prior event, while on June 27, 2018, Ms. Valero told the Board that the product was owned by Drink the District, LLC, and could not be returned. *Supra*, at ¶ 10.

30. Yet, during his visit to Kraken Axes on April 13, 2018, and July 18, 2018, ABRA Investigator Mark Brashears did not just observe leftover alcohol being stored at the premises. *Supra*, at ¶¶ 9, 13. Instead, he observed large amounts of alcohol in cases, crates, and pallets; shipping materials; people packing boxes on multiple days; and multiple computers—all indicative of commercial activity. *Supra*, at ¶¶ 9, 14. He further observed that this activity was occurring in space previously controlled or sought to be controlled by District Still, an off-premise retailer that had attempted to move its business to that location in the building until ABRA rejected its application. *Supra*, at ¶¶ 11-12. In light of these observations by Investigator Brashears, Ms. Valero had no justification for claiming to the Board that it was merely leftover product that could not be returned. *Supra*, at ¶ 10.

31. Moreover, it is reasonable for the Board to find Ms. Valero's statement false and misleading for several reasons. First, Kraken Axes and District Still share space on the same unfinished floor; therefore, it is not credible that Ms. Valero is not sufficiently present or familiar with goings on at the premises to not be aware of activity occurring in plain view. *Supra*, at ¶¶ 2, 14. Second, it is reasonable to presume that Ms. Valero has knowledge of the activity of District Still and Drink the District, LLC, at Kraken Axes when she shares storage space with the off-premise retailer and is a part owner of the event company. *Supra*, at ¶¶ 13, 16. Finally, the Board may reasonably infer that Ms. Valero misrepresented the nature of the alcohol stored at the Kraken Axes site because Kraken Axes should not be storing alcohol on the part of the premises that has not been leased by Kraken Axes, and Ms. Valero, as an owner, should be familiar with her own inventory. Consequently, based on Ms. Valero's misrepresentation, she interfered or attempted to interfere with an investigation into whether District Still was complying with §§ 25-112 and 25-754 in violation of § 25-823(a)(5).

COUNT II: Denial of the application filed by D.C. Field House is warranted where the Applicant allowed, permitted, or engaged in various violations of the law that merit denial of the application under 23 DCMR § 401.1.

32. Section 401.1 states, “[t]he Board may deny a license to an applicant if evidence shows that the applicant has permitted at the establishment conduct which is in violation of this title.” 23 DCMR § 401.1 (West Supp. 2018). The following violations whether considered separately or together merit denial of the application filed by D.C. Field House:

- 1. On or about June 18, 2018, Drink the District, LLC, owned by Anna Valero, through one or more of its agents, altered or modified a license issued by ABRA and provided it to an investigator with the intent to deceive the investigator about the lawfulness of an event in violation of D.C. Official Code § 25-835.**

33. Section 25-835(a) provides that “It shall be unlawful for a person to willfully or knowingly alter, forge, counterfeit, endorse, or make use of any false or misleading document reasonably calculated to deceive the public as being a genuine license issued by ABRA.” D.C. Code § 25-835(a). Section 25-835(b) further provides that “It shall be unlawful for a person to willfully or knowingly furnish to . . . an ABRA investigator an altered, forged, counterfeited, endorsed, or false or misleading document reasonably calculated to deceive . . . the ABRA investigator as being a genuine license issued by ABRA. D.C. Code § 25-823(a)(5).

34. In this case, someone associated with Drink the District, LLC, altered a temporary license and provided it to Mr. Gliatis for use and display at an event on June 18, 2018. *Supra*, at ¶ 17. This altered license was also provided to ABRA Investigator Gillam in order to show the legality of the event. *Id.* In light of these actions, there is sufficient evidence to find a violation of §§ 25-835(a) and (b), and that Ms. Valero, at a minimum allowed or permitted it based on her ownership and involvement in Drink the District, LLC. *Supra*, at ¶ 16.

- 2. On or about June 18, 2018, Drink the District, LLC, owned by Anna Valero, through one or more of its agents interfered or attempted to interfere with an investigation by altering or modifying a license, providing it to an investigator with the intent to deceive the investigator about the lawfulness of an event, and lying or misrepresenting communications with ABRA in violation of D.C. Official Code § 25-823(a)(5).**

35. ABRA’s investigators are empowered by statute to investigate violations of Title 25 of the D.C. Official Code. D.C. Code §§ 25-801(b)-(c), 25-802. Section 25-823(a)(5) makes it a violation for a licensee to “interfere[] with an investigation.” D.C. Code § 25-823(a)(5).

36. Under § 25-102 and 23 DCMR § 213.2, a new applicant for licensure cannot sell alcohol or otherwise permit the consumption of alcohol on their premises unless the applicant has obtained a stipulated license, a temporary license, or hosts an event under the auspices of a Caterer’s License. § 25-102(a), (d); § 213.2

37. As an ABRA investigator, it is within the scope of Investigator Gillam’s duties to determine whether the event hosted at D.C. Field House’s proposed location were lawful and complied with § 25-102 and § 213.2. Nevertheless, on June 18, 2018, at a minimum, someone associated with Drink the District, LLC, altered a temporary license and provided it to Mr. Gliatis. *Supra*, at ¶ 17. This altered license was also provided to ABRA Investigator Gillam in order to show the legality of the event. *Id.* In addition to showing a fraudulent license, on June 18, 2018, someone associated with Drink the District, LLC, or Mr. Gliatis also lied about ABRA officials indicating the event could proceed. *Id.* All of these acts, whether taken separately or

apart, represent efforts to interfere or attempt to interfere in an investigation in violation of § 25-823(a)(5), and that Ms. Valero, at a minimum allowed or permitted it based on her ownership and involvement in Drink the District, LLC. *Supra*, at ¶ 16.

3. **On or about June 18, 2018, and June 21, 2018, Drink the District, LLC, owned by Anna Valero, through herself or one or more of her agents allowed, permitted, or engaged in the illegal sale or service of alcohol or otherwise permitted the consumption of alcohol on the premises in violation of D.C. Code § 25-102 and 23 DCMR § 213.2.**

38. Under § 25-102 and 23 DCMR § 213.2, a new applicant for licensure cannot sell alcohol or otherwise permit the consumption of alcohol on their premises unless the applicant has obtained a stipulated license, a temporary license, or hosts an event under the auspices of a Caterer's License. § 25-102(a), (d); § 213.2.

39. Drink the District, LLC, is owned in part by Ms. Valero, a company that she is actively involved in operating. *Supra*, ¶ 16. On June 18, 2018, no temporary license authorized the event where patrons were observed consuming alcoholic beverages. *Supra*, at ¶ 17. Likewise, on June 21, 2018, alcohol was being consumed at the event without any license authorizing the event. *Supra*, at ¶ 18. While one staff member of a caterer was present and displayed her license at the second event, the catering company later denied that it had been hired or intended to use its license, and that it had only intended to provide a bartender for an event that it was told had been authorized by a temporary license. *Id.* Under these circumstances, the Board finds it reasonable to attribute two separate violations of § 25-102 and § 213.2 committed by Drink the District, LLC, on June 18, 2018, and June 21, 2018, to Ms. Valero, when she is a part owner of the company and participates in its operations.

COUNT III: The Board may deem the Applicant unfit for licensure pursuant to D.C. Official Code §§ 25-301(a)(1) and 25-301(a-1) based on the Applicant's conduct, or if any of the violations identified above are sustained.

40. Section 25-301 states, "Before issuing, transferring to a new owner, or renewing a license, the Board shall determine that the applicant meets all of the following criteria: (1) The applicant is of good character and generally fit for the responsibilities of licensure." D.C. Official Code § 25-301(a)(1). Under this statute, the Board may consider the Applicant's participation and involvement in illegal activity. *Minkoff v. Payne*, 210 F.2d 689, 690-91 (D.C. Cir. 1953) (saying evidence that an applicant engaged in violations of the law is sufficient to merit a finding that the applicant is unfit for licensure). For these reasons, whether each violation is considered independently or together, the Board finds Ms. Valero unfit for licensure for the violations recounted above, as well as evidence showing a pattern of dishonesty, disregard for public safety, and mismanagement.

ORDER

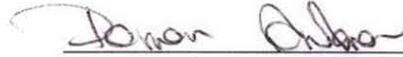
Therefore, the Board, on this 1st day of August 2018, hereby orders that the Applicant demonstrate to the satisfaction of the Board that he or she qualifies for licensure under D.C. Official Code § 25-301 in accordance with this Order.

IT IS FURTHER ORDERED that if the Applicant fails to appear, withdraws the applications, or does not challenge this Order, the application shall be deemed **DENIED** as of the date of the hearing for the reasons stated above. If a request for a hearing is made or the Applicant appears at the hearing, the findings of fact and conclusions of law contained in this Order shall be deemed the Board's Proposed Findings of Fact and Conclusions of Law.

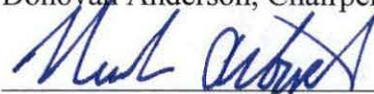
IT IS FURTHER ORDERED, if this Order becomes final, that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority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

A copy of this Order shall be provided to the above mentioned parties.

District of Columbia
Alcoholic Beverage Control Board



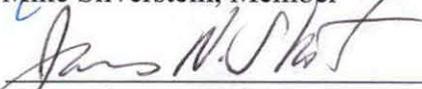
Donovan Anderson, Chairperson



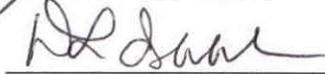
Nick Alberti, Member



Mike Silverstein, Member



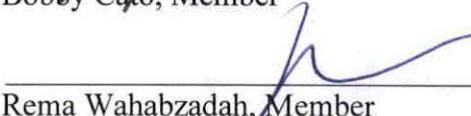
James Short, Member



Donald Isaac, Sr., Member



Bobby Cato, Member



Rema Wahabzadah, Member

Under 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, NW, 400S, Washington, D.C. 20009.

Also, under 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration under 23 DCMR § 1719.1 (2008) 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).