

Administration (ABRA) served the Notice on the Respondent, located at 831 Kennedy Street, N.W., Washington, D.C., on May 16, 2014.

The Notice charged the Respondent with the following violation:

Charge I: The Respondent failed to meet the food sales requirements of \$2,000 per occupant or 45% gross food sales for the period January 1, 2013 – December 31, 2013, in violation of D.C. Official Code §§ 25-113(b)(3)(B)(i)(I) and 25-113(j)(1) (2012 Repl.), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823 (1) (2012 Repl.).

The Respondent was personally served with a copy of the Notice on May 16, 2014. The Respondent failed to appear at the Show Cause Status Hearing held on June 18, 2014.

The Respondent also failed to appear at the Show Cause Hearing held on September 10, 2014. The Board proceeded to hearing pursuant to D.C. Official Code § 25-447(e), which allows for an ex parte proceeding.

FINDINGS OF FACT

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated May 7, 2014. *See* ABRA Show Cause File No. 14-AUD-00021. The Respondent holds a Retailer's Class CR license and is located at 831 Kennedy Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-079873.
2. The Show Cause Hearing was held on September 10, 2014. The Notice charges the Respondent with a single violation enumerated above. *See* ABRA Show Cause File No. 14-AUD-00021.
3. The Government presented its case through the testimony of one witnesses, ABRA Compliance Analyst, Adeniyi Adejunmobi. *Transcript (Tr.)*, 9/10/14 at 8-9.
4. Mr. Adejunmobi stated that after reviewing the Respondent's four self-certified Quarterly Statements, he determined that the Respondent failed to meet the food sales requirements of \$2,000.00 per seat or 45% gross food sales for the year of 2013. *Tr.* 9/10/14 at 11-12; Government's Exhibit A. Mr. Adejunmobi determined that the Respondent's food sales were about \$740.00 per seat. *Tr.* 9/10/14 at 13.
5. The Respondent failed to appear at the Show Cause Hearing held on September 10, 2014. The Respondent did not present any testimony or evidence, nor did she refute the evidence submitted by the Government. Furthermore, the Respondent did not contact the Office of the Attorney General for the District of Columbia or ABRA to request a continuance of the hearing.

CONCLUSIONS OF LAW

6. The Board determines that the Respondent committed the violation described in Charge I of the Notice.
7. 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 Official Code pursuant to D.C. Official Code § 25-823(1). D.C. Official Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2013). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830.
8. The Board finds, as to Charge I, that the Respondent failed to meet the food sales requirements of \$2,000.00 per occupant or 45% gross food sales for the period January 1, 2013 – December 31, 2013. The Board makes this finding based on the testimony of Mr. Adejunmobi and the evidence in the record which reveal that the Respondent's food sales was about \$740.00 per seat.
9. The Board takes administrative notice that Charge I is the Respondent's third primary tier violation within three (3) years. *Licensing File No. ABRA-079873*, Investigative History. Thus, the Board may fine the Respondent between \$4,000.00 and \$6,000.00. *Licensing File No. ABRA-079873*, Investigative History; 23 DCMR § 801.

ORDER

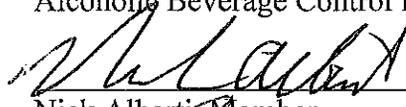
Based on the foregoing findings of fact and conclusions of law, the Board, on this 22nd day of October, 2014, finds that the Respondent, Garay Corporation, t/a Corina's Restaurant, located at 831 Kennedy Street, N.W., Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code §§ 25-113(b)(3)(B)(i)(I) and 25-113(j)(1) (2012 Repl.).

The Board hereby **ORDERS** that:

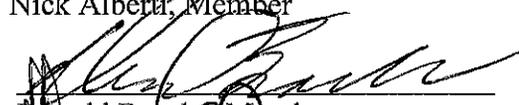
- 1) Respondent must pay a fine in the amount of \$5,000.00 by no later than sixty (60) days from the date of this Order or its license shall be suspended until all outstanding fines are paid.

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

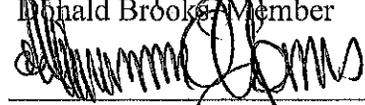
District of Columbia
Alcoholic Beverage Control Board



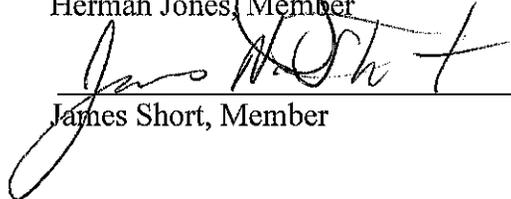
Nick Alberti, Member



Donald Brooks, Member

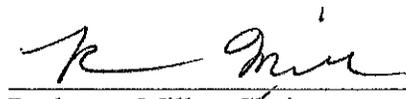


Herman Jones, Member

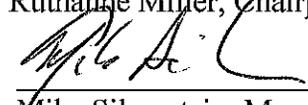


James Short, Member

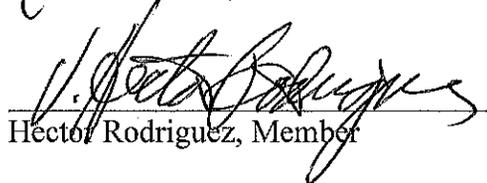
We concur with the majority's decision as to its finding of the Respondent's liability, but we disagree with the penalty selected by the majority of the Board.



Ruthanne Miller, Chairperson



Mike Silverstein, Member



Hector Rodriguez, Member

Pursuant to D.C. Official Code § 25-433, 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, 2000 14th Street, N.W., Suite 400S, Washington, DC 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to D.C. Official Code § 25-433, 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).