

Code § 25-113(b)(2)(A), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The Board held a Show Cause Status Hearing on March 28, 2012. There was no settlement of the matter and it proceeded to a Show Cause Hearing on May 2, 2012. The Respondent failed to appear at the Show Cause Hearing and the Board proceeded ex parte pursuant to D.C. Official Code § 25-447(e).

The Board having considered the evidence, the testimony of the Government's witness, the arguments of counsel, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Board issued a Notice of Status and Show Cause Hearings, dated February 8, 2012. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 11-CMP-00461. The Respondent holds a Retailer's Class DR license and is located at 1227 11th Street., N.W. *See* ABRA Licensing File No. ABRA-72654.
2. The Show Cause Hearing was held on May 2, 2012. *See* ABRA Show Cause File No. 11-CMP-00461. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 11-CMP-00461.
3. The Government presented its case through the testimony of one witness, ABRA Compliance Analyst, Adeniyi Adejunmobi. *Transcript (Tr.)*, 5/2/12 at 4.
4. Mr. Adejunmobi testified that he is a Compliance Analyst for ABRA, and that in the course of his duties, he regularly reviews the quarterly statements filed by certain ABC-licensed establishments. *Tr.*, 5/2/12 at 5. He testified that the Respondent failed to file its quarterly statement for second quarter 2011¹. *Tr.*, 5/2/12 at 6. Mr. Adejunmobi further testified that he checked the quarterly statement database on the date of the Show Cause hearing, and the Respondent had still not filed its quarterly statement for second quarter 2011. *Tr.*, 5/2/12 at 7-8.

CONCLUSIONS OF LAW

5. The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1) (2009). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 DCMR § 800, *et. seq.*

¹ The Board takes administrative notice that pursuant to 23 DCMR § 1207.1, the filing deadline for the Respondent's quarterly statement for second quarter 2011, is July 30, 2011.

6. In order to hold a Licensee liable for a violation of the ABC laws, the Government must show that there is substantial evidence to support the charge. Substantial evidence is defined as evidence that a “reasonable mind[] might accept as adequate to support the conclusion” and there must be a “rational connection between facts found and the choice made.” 2461 Corp. v. D.C. Alcoholic Bev. Control Bd., 950 A.2d 50, 52-53 (D.C. 2008).

7. With regard to Charge I, the Board finds that the Respondent failed to file its quarterly statement for second quarter 2011 on the dates, and in the manner prescribed by the Board, in violation of D.C. Official Code § 25-113(b)(2)(A). The Board credits the testimony of ABRA Compliance Analyst, Adeniyi Adejunmodi, who testified that the Respondent did not file the statutorily required quarterly statement for the second quarter of 2011.

8. The Board notes that the Respondent failed to appear at the Show Cause Hearing and did not contact the Office of the Attorney General, or ABRA to request a continuance.

9. Therefore, based upon the above, the Board finds that the Respondent’s violation of D.C. Official Code § 25-113(b)(2)(A), as set forth in Charge I of the Notice, dated February 8, 2012, warrants the imposition of a fine.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 6th day of June 2012, finds that the Respondent, Jose A. and Maria R. Carcamo, t/a El Sauce Restaurant and Carry-Out, located at 1227 11th Street, N.W., Washington, D.C., holder of a Retailer’s Class DR license, violated D.C. Official Code § 25-113 (b)(2)(A) and 23 DCMR § 2107.1.

The Board hereby **ORDERS** that:

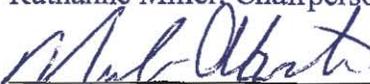
- 1) The Respondent shall pay a fine in the amount of \$1,000.00 no later than thirty (30) days from the receipt of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions.
- 2) The Respondent shall file all outstanding quarterly reports within seven (7) days of receipt of this Order.

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

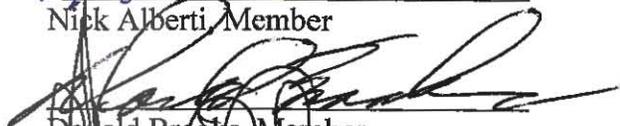
District of Columbia
Alcoholic Beverage Control Board



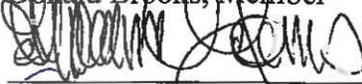
Ruthanne Miller, Chairperson



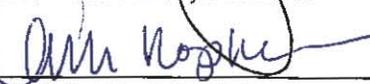
Nick Alberti, Member



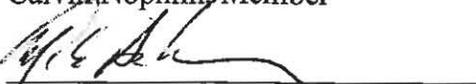
Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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 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).