

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

<b>In the Matter of:</b>	)	
	)	
Armand's Chicago Pizzeria, Inc.	)	
t/a Armand's Chicago Pizzeria	)	
Holder of a Retailer's Class CR License	)	Case No. 12-AUD-00003
	)	License No. ABRA-000826
	)	Order No. 2012-343
at premises	)	
4231 Wisconsin Avenue, N.W.	)	
Washington, D.C. 20016	)	

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ALSO PRESENT:** Michael Stern, Senior 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**

On April 3, 2012, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated March 28, 2012, on Armand's Chicago Pizzeria, Inc., t/a Armand's Chicago Pizzeria (Respondent), at premises 4231 Wisconsin Avenue, Street, N.W., Washington, D.C., charging the Respondent with the following violation:

**Charge I:** The Licensee failed to timely file its quarterly statement, in violation of D.C. Official Code § 25-113(b)(2)(A), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The Licensee failed to timely file the quarterly statement for the period of July through September of 2011, third quarter of 2011, which was due by October 30, 2011.

The Board held a Show Cause Status Hearing on May 2, 2012, and the Respondent failed to appear. The matter proceeded to a Show Cause Hearing on June 6, 2012. The Respondent failed to appear at the Show Cause Hearing, and the Board proceeded to a Show Cause Hearing, pursuant to D.C. Official Code § 25-447(e), which allows for an ex parte proceeding.

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 Hearing and Show Cause Hearing, dated March 28, 2012. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 12-AUD-00003. The Respondent holds a Retailer's Class CR license and is located at 4231 Wisconsin Avenue, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-000826.
2. The Show Cause Hearing was held on June 6, 2012. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 12-AUD-00003.
3. The Government presented its case through the testimony of one witness, ABRA Compliance Analyst, Adeniyi Adejunmobi. *Transcript (Tr.)*, 6/6/12 at 5.
4. Mr. Adejunmobi testified that he is a Compliance Analyst for ABRA, and he is responsible for reviewing quarterly statements of ABC-licensed establishments. *Tr.*, 6/6/12 at 5.
5. Mr. Adejunmobi testified that the Respondent failed to file a quarterly statement for the period of July 1, 2011 through September 30, 2011, which was due on October 30, 2011. *Tr.*, 6/6/12 at 6-7. Mr. Adejunmobi stated that, as of October 30, 2011, there was any statement filed by the Respondent. *Tr.*, 6/6/12 at 7.
6. The Respondent failed to appear at the Show Cause Hearing held on June 6, 2012, and did not present any testimony or evidence, nor did the Respondent refute the evidence submitted by the Government.

### CONCLUSIONS OF LAW

7. 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.*

8. 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).

9. With regard to Charge I, the Board must determine whether the Respondent failed to timely file quarterly statements on the dates and in the manner prescribed by the Board, in violation of D.C. Official Code § 25-113(b)(2)(A).

10. The Board credits the testimony of ABRA Compliance Analyst, Adeniyi Adejunmobi, who testified that the Respondent did not file the statutorily required quarterly statements for the third quarter of 2011. It also appears, from the record and the Board’s own administrative files, though not charged in the Notice, that the Respondent did not timely file four additional quarterly reports; namely, first quarter of 2011 (calendar year), second quarter of 2010 (calendar year), second quarter of 2009 (fiscal year), and third quarter of 2008 (fiscal year). Additionally, the Respondent failed to appear at the Show Cause Hearing and did not contact the Office of the Attorney General for the District of Columbia or ABRA to request a continuance.

11. 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 to Show Cause, dated March 28, 2012, to warrant the imposition of a fine and the suspension of the Respondent’s Class CR Retailer’s License further set forth below.

12. The Board takes administrative notice that this violation is the fifth secondary tier violation within four years and, thus, warrants a higher fine under D.C. Official Code § 25-830.

### **ORDER**

Based on the foregoing findings of fact and conclusions of law, the Board, on this 12<sup>th</sup> day of September 2012, finds that the Respondent, Armand's Chicago Pizzeria, Inc., t/a Armand’s Chicago Pizzeria, located at 4231 Wisconsin Avenue, N.W., Washington, D.C., holder of a Retailer’s Class CR 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 \$4,000.00 by no later than thirty (30) days from the date of this Order. Failure to remit the fine in a timely manner may subject the Respondent to additional sanctions.

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

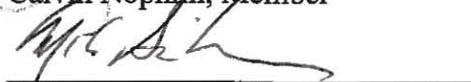
District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

  
Nick Alberti, Member

  
Donald Brooks, Member

  
Calvin Nophlin, Member

  
Mike Silverstein, Member

I dissent from the Board's decision.

\_\_\_\_\_  
Herman Jones, 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 14<sup>th</sup> 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).