

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

In the Matter of:

Armand's Chicago Pizzeria, Inc.
t/a Armand's Chicago Pizzeria

Holder of a Retailer's Class CR License
at premises
4231 Wisconsin Ave., N.W.
Washington, D.C. 20011

Case No. 10-CMP-00593
License No. ABRA-826
Order No. 2011-489

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Louise Phillips, 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 July 26, 2011, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated July 20, 2011, on Armand's Chicago Pizzeria, Inc., t/a Armand's Chicago Pizzeria (Respondent), at premises 4231 Wisconsin Avenue, N.W., Washington, D.C., charging the Respondent with the following violation:

Charge I: The Licensee failed to file with the Board the required quarterly statements reporting for the preceding quarter, in violation of D.C. Official Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1, 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 September 14, 2011. There was no settlement of the matter and it proceeded to a Show Cause Hearing on November 9,

2011. 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 Hearing and Show Cause Hearing, dated July 20, 2011. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 10-CMP-00593. The Respondent holds a Retailer's Class CR license and is located at 4231 Wisconsin Ave., N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-826.
2. The Show Cause Hearing was held on November 9, 2011. *See* ABRA Show Cause File No. 10-CMP-00593. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 10-CMP-00593.
3. The Government presented its case through the testimony of one witness, ABRA Compliance Analyst, Adeniyi Adejunmobi. *Transcript (Tr.)*, 11/9/11 at 6.
4. Mr. Adejunmobi testified that he is a Compliance Analyst for ABRA and in the course of his duties, he regularly reviews the quarterly statements filed by certain ABC-licensed establishments. *Tr.*, 11/9/11 at 7. He testified that the Respondent failed to file its quarterly statement for second quarter 2010 in a timely fashion¹. *Tr.*, 11/9/11 at 7. Mr. Adejunmobi further testified that ABRA eventually received the quarterly report for the second quarter of 2010, on September 27, 2010. *Tr.*, 7/13/11 at 11-12.

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.*
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).

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 2010, is July 30, 2010.

7. With regard to Charge I, the Board must determine whether the Respondent failed to file its quarterly statement for second quarter 2010 on the dates and in the manner prescribed by the Board, in violation of D.C. Official Code § 25-113(b)(2)(A).

8. 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 2010, until September 27, 2010, almost one month after the filing deadline for that quarter.

9. The Board finds 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.

10. 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 July 20, 2011, warrants the imposition of a fine.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 7th day of December 2011, 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 \$1,000.00 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



Nick Alberti, Interim Chairperson



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).