

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

<b>In the Matter of:</b>	)	
	)	
Langston Bar & Grille, LLC	)	
t/a Langston Bar & Grille	)	
	)	Case No. 13-CMP-00583
Holder of a	)	License No. ABRA-076260
Retailer's Class CT License	)	Order No. 2014-501
	)	
at premises	)	
1831 Benning Road, N.E.	)	
Washington, D.C. 20002	)	

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Mike Silverstein, Member  
Hector Rodriguez, Member  
James Short, Member

**ALSO PRESENT:** Antonio Roberson, on behalf of Langston Bar & Grille, LLC, t/a  
Langston Bar & Grille, Respondent

Fernando Rivero, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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The Alcoholic Beverage Control Board (Board) finds that Langston Bar & Grille, LLC, t/a Langston Bar & Grille, (Respondent), violated District of Columbia (D.C.) Official Code § 25-113(b)(2)(A), on May 1, 2013. As a result, the Respondent must pay a \$500.00 fine.

***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on June 4, 2014. The Alcoholic Beverage Regulation

Administration (ABRA) served the Notice on the Respondent, located at 1831 Benning Road, N.E., Washington, D.C., on July 23, 2013.

The Notice charged the Respondent with the following violation:

Charge I: The Respondent failed to timely file with the Board the required quarterly statements reporting for the preceding quarter: gross receipts for the establishment; gross receipts for sale of alcoholic beverages; gross receipts for food sales; total expenses for the purchase of food and alcoholic beverages; and expenses for purchases of food and alcoholic beverages separately, 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).

*ABRA Show Cause File No. 13-CMP-00583*, Notice of Status Hearing and Show Cause Hearing, at 2 (June 4, 2014).

On August 29, 2013, Citation #8070 was issued to the Respondent in the amount of \$500.00 for the violation incurred on May 1, 2013, D.C. Official Code § 25-113(b)(2)(A).

On September 2, 2013, the Respondent refused to pay the citation and instead, requested a hearing.

The Respondent failed to appear at the Show Cause Status Hearing held on August 13, 2014. The Board scheduled a Show Cause Hearing for October 15, 2014.

The Government and the Respondent appeared at the Show Cause Hearing for this matter on October 15, 2014.

## FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

### I. BACKGROUND

1. The Respondent holds a Retailer's Class CT License, License No. ABRA-076260. *See* ABRA Licensing File No. ABRA-076260. The establishment's premises are located at 1831 Benning Road, N.E., Washington, D.C. At the time of the violation, the Respondent was licensed as a Retailer's Class CR (Restaurant) and as such, was required by law to file Quarterly Statements.

### II. THE TESTIMONY OF ABRA COMPLIANCE ANALYST MONICA CLARK

2. ABRA Compliance Analyst Monica Clark testified on behalf of the Government. *Transcript (Tr.)*, 10/15/14 at 7.

3. As part of her responsibilities, Analyst Clark reviews Quarterly Statements filed by ABC licensed establishments, records the data provided by the statements and conducts audits. *Tr.* 10/15/14 at 7. She reviewed the Quarterly Statement filed by the Respondent for first quarter 2013. *Tr.* 10/15/14 at 9; Government's Exhibit 1. The deadline for filing Quarterly Statements for first quarter 2013 was April 30, 2013. *Tr.* 10/15/14 at 12. Ms. Clark received the Respondent's Quarterly Statement for first quarter 2013 on August 13, 2013. *Tr.* 10/15/14 at 12. The Quarterly Statement was hand-delivered to ABRA by the owner's personal assistant. *Tr.* 10/15/14 at 12, 16. The assistant met with Analyst Clark at the time of delivery of both the first quarter and the second quarter statements. *Tr.* 10/15/14 at 17. Analyst Clark initialed the statements and returned one copy of each statement to the assistant. *Tr.* 10/15/14 at 18.

### III. THE TESTIMONY OF ANTONIO ROBERSON

4. Antonio Roberson testified on behalf of the Respondent. *Tr.* 10/15/14 at 23. Mr. Roberson is the owner of the establishment.

5. Mr. Roberson faxed the first quarter statement to ABRA on April 11, 2013. *Tr.* 10/15/14 at 23, 32, 36; Respondent's Exhibit 1. He generally faxes or hand-delivers his documents to ABRA. *Tr.* 10/15/14 at 40. He has experienced occasions where the transmission of his faxed documents were not completed to ABRA's facsimile machine. *Tr.* 10/15/14 at 23. When the transmittal sheet indicates that the transmission may not have cleared, he receives an error report. *Tr.* 10/15/14 at 23, 33. In those instances, he calls the receiving entity to confirm by phone whether the document was received. *Tr.* 10/15/14 at 23, 33.

6. Mr. Roberson was unaware in April 2013, that the transmission of his filing was not successful, so he did not call ABRA to confirm receipt. *Tr.* 10/15/14 at 23-24. He was only made aware of the transmission error when he received a citation from ABRA for failure to file a quarterly statement. *Tr.* 10/15/14 at 24, 26.

7. When Mr. Roberson was made aware that ABRA did not had not received the first quarter 2013 filing in April, he sent his personal assistant to hand deliver the document. *Tr.* 10/15/14 at 27-28.

8. The copy of Mr. Roberson's transmission verification report contains two dates. *Tr.* 10/15/14 at 31. One of the dates represents the date the report was printed. *Tr.* 10/15/14 at 31. The other date listed is the date Mr. Roberson attempted to fax the Quarterly Statement to ABRA. *Tr.* 10/15/14 at 32. Mr. Roberson admitted that there is no way to ascertain that he faxed the report by looking at the transmission verification report. *Tr.* 10/15/14 at 33, 41.

### CONCLUSIONS OF LAW

9. 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 District of Columbia Official Code § 25-823(1). D.C. Code § 25-830 (West Supp.

2014); 23 DCMR § 800, *et seq.* (West Supp. 2014). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if we determine “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Code § 25-447 (West Supp. 2014).

10. The Board finds that the Respondent violated §25-113(b)(2)(A) when it failed to timely file its quarterly report for first quarter 2013. Under §25-113(b)(2)(A), the licensee is required to file the quarterly statement reporting for the preceding quarter: gross receipts for the establishment; gross receipts for sales of alcoholic beverages; gross receipts for food sales; total expenses for the purchase of food and alcoholic beverages; and the expenses for purchases of food and alcoholic beverages separately.” D.C. Official Code §25-113 a (c).

11. In the instant case, the Board finds that there is sufficient evidence in the record to support this charge. The Board credits the testimony of Analyst Clark who stated that ABRA did not receive the Respondent’s quarterly report until August 2013, almost four months after the filing deadline. Though the Respondent testified that he faxed the quarterly report on April 11, 2013, he produced no documentation for the record that the fax transmission was successfully received by ABRA.

12. For the foregoing reasons, the Board finds that the Respondent failed to timely file its Quarterly Statement in violation of §25-113(b)(2)(A). Therefore, as a matter of law, the Board finds the Respondent guilty of Charge I.

13. The Board takes administrative notice that Charge I is the Respondent’s second secondary tier violation within two years. *Licensing File No. ABRA-076260*; Investigative History. Thus, the Board may fine the Respondent between \$500.00 and \$750.00. *Licensing File No. ABRA-076260*, Investigative History; DCMR § 23-802.

## ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 10th day of December, 2014, finds that the Respondent, Langston Bar & Grille, LLC, t/a Langston Bar & Grille located at 1831 Benning Road, N.E., Washington, D.C., holder of a Retailer’s Class CT license, violated D.C. Official Code § 25-113(b)(2)(A).

The Board hereby **ORDERS** that:

- 1) Respondent must pay a fine in the amount of \$500.00 by no later than thirty (30) 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



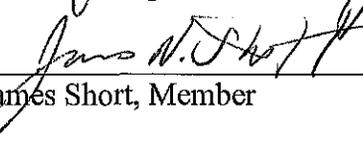
Ruthanne Miller, Chairperson



Mike Silverstein, Member

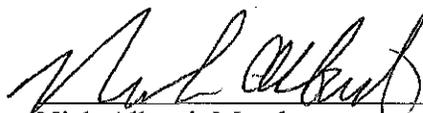


Hector Rodriguez, Member

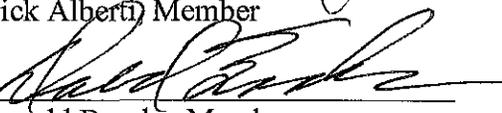


James Short, Member

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



Nick Alberti, Member



Donald Brooks, 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 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, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). 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).