

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

In the Matter of:)	
)	
HML Rose, Inc.)	
t/a Lindys Bon Appetit)	
)	
Holder of a)	Case Nos. 14-AUD-00061
Retailer's Class CR License)	License No. ABRA-023533
)	Order No. 2015-165
at premises)	
2040 I Street, N.W.)	
Washington, D.C. 20006)	

BEFORE: Ruthanne Miller, Chairperson
Donald Brooks, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James N. Short, Member

ALSO PRESENT: Big HML Rose, Inc., t/a Lindys Bon Appetit, Respondent

James Eckels, on behalf of the Respondent

Chrissy Gephardt, 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

The Alcoholic Beverage Control Board (Board) finds that Big HML Rose, Inc., t/a Lindys Bon Appetit (Respondent), violated District of Columbia (D.C.) Official Code § 25-113(b)(2)(A), on May 1, 2014. As a result, the Respondent must pay a \$4,000.00 fine.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Alcoholic Beverage Control Board executed on December 15, 2014. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the

Respondent, located at premises 2040 I Street, N.W., Washington, D.C., on December 17, 2014.

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, in violation of D.C. Official Code § 25-113(b)(2)(A) (2012 Repl.) and 23 DCMR § 1207.1, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2012 Repl.).

The Respondent failed to timely file the quarterly statement for the 1st quarter of 2014 ending March 31, 2014.

ABRA Show Cause File No. 14-AUD-00061, Notice of Status Hearing and Show Cause Hearing, 2 (December 15, 2014).

The Respondent failed to appear at the Show Cause Status Hearing held on January 21, 2015. A Show Cause Hearing was scheduled for March 4, 2015. On March 4, 2015, the Show Cause Hearing was rescheduled for April 8, 2015.

The Government and the Respondent appeared at the Show Cause Hearing for this matter on April 8, 2015.

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:

1. The Respondent holds a Retailer's Class CR License, License No. ABRA-023533. *See* ABRA Licensing File No. ABRA-023533. The establishment's premises are located at 2040 I Street, N.W., Washington, D.C. *See* ABRA Licensing File ABRA-023533.
2. The Show Cause Hearing was held on April 8, 2015. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 14-AUD-00061.
3. The Government presented its case through the testimony of one witness, ABRA Compliance Analyst, Monica Clark. *Transcript (Tr.)*, 4/8/15 at 5.
4. Upon review of the ABRA records, Ms. Clark determined that the Respondent failed to timely file its Quarterly Statement for the period of January through March, 2014, which was due on April 30, 2014. *Tr.*, 4/8/15 at 7. The Quarterly Statement was filed by the Respondent on June 30, 2014. *Tr.*, 4/8/15 at 7; Government's Exhibit 1.

5. James Eckels, the owner of the establishment, admitted that he did not timely file the quarterly statement. *Tr.*, 4/8/15 at 15.

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 that the Respondent failed to timely file its Quarterly Statement for the period of January 1 through March 31, 2014. The Board makes this finding based on the testimony of Ms. Clark and the evidence in the record that shows that the Quarterly Statement was filed by the Respondent on June 30, 2014, after the due date of April 30, 2014. Additionally, the Respondent admitted he failed to timely file the Quarterly Statement.

9. A violation of D.C. Official Code § 25-113(b)(2)(A) is a secondary tier violation under the law. The present violation is the Respondent's sixth secondary tier violation within a five year period, for which the Board may impose a fine of \$4,000 to \$6,000 as required by D.C. Official Code §23-801.1 and §23-802.1 As such, the Board imposes a fine of \$4,000.00. *Licensing File No. ABRA-023533*, Investigative History; D.C. Official Code § 25-113(b)(2)(A).

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 29th day of April, 2015, finds that the Respondent, Big HML Rose, Inc., t/a Lindys Bon, located at 2040 I Street, N.W., N.W., Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code § 25-113(b)(2)(A).

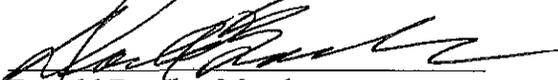
The Board hereby **ORDERS** that:

- 1) The Respondent must pay a fine in the amount of \$4,000.00 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.

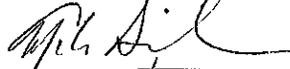
Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia
Alcoholic Beverage Control Board

Ruthanne Miller, Chairperson



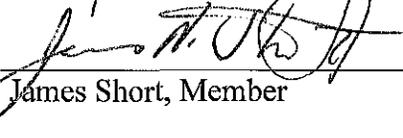
Donald Brooks, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, 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, 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).