

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

In the Matter of:)	
)	
Cafe Europa, Inc.)	
t/a Panache)	
)	
Holder of a)	Case No. 15-AUD-00055
Retailer's Class CR License)	License No. ABRA-060754
)	Order No. 2016-071
at premises)	
1725 De Sales Street, N.W.)	
Washington, D.C. 20036)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ALSO PRESENT: Walter Adams, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Elizabeth Bookwalter, 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 Cafe Europa, Inc., t/a Panache (Respondent), violated District of Columbia (D.C.) Official Code § 25-113(b)(2)(A), on February 1, 2015. As a result, the Respondent must pay a \$6,000.00 fine.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Alcoholic Beverage Control Board executed on October 7, 2015. The ABRA served the Notice on the Respondent, located at premises 1725 De Sales Street, N.W., Washington, D.C., on October 13, 2015.

The Notice charged the Respondent with the following violation:

Charge I: [By January 31, 2015] [y]ou failed to file Quarterly Statements for the period of October - December 2014, in violation of D.C. Official Code § 25-113(b)(2)(A)...

ABRA Show Cause File No. 15-AUD-00055, Notice of Status Hearing and Show Cause Hearing, 2 (October 7, 2015).

The Respondent appeared at the Show Cause Status Hearing held on November 18, 2015. A Show Cause Hearing was scheduled for January 13, 2016.

The Respondent failed to appear at the Show Cause Hearing held on January 13, 2016. The Board proceeded to hearing pursuant to D.C. Official Code § 25-447(e), which allows for an ex parte proceeding.

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-060754. *See* ABRA Licensing File No. ABRA-060754. The establishment's premises are located at 1725 De Sales Street, N.W., Washington, D.C. *See* ABRA Licensing File ABRA-060754.
2. The Show Cause Hearing was held on January 13, 2016. The Notice charges the Respondent with the single violation enumerated above. *See* ABRA Show Cause File No. 15-AUD-00055.
3. The Government presented its case through the testimony of one witness, ABRA Compliance Analyst, Monica Clark. *Transcript (Tr.)*, 1/13/16 at 6.
4. Upon review of the ABRA records, Ms. Clark determined that the Respondent failed to timely file its Quarterly Statement for the period of October through December, 2014, which was due on January 31, 2015. *Tr.*, 1/13/16 at 10. The Quarterly Statement was filed by the Respondent on March 19, 2015. *Tr.*, 1/13/16 at 10; Government's Exhibits 2.
5. The Board finds that the Respondent was given adequate notice of the charges brought against it, and adequate notice of the Show Cause Hearing before the Board. The Respondent did not appear at the hearing and did not file any testimony or exhibits refuting the evidence submitted by the Government. Furthermore, the Respondent did not contact the Office of the Attorney General or ABRA to request a continuance of the hearing. As such, the finding of facts are undisputed.

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 October 1 through December 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 March 19, 2015, after the due date of January 31, 2015.

9. The Respondent's Investigative History shows that this is the Respondent's sixth secondary tier violation within five years. *Licensing File No. ABRA-060754*, Investigative History. Thus, the Board may fine the Respondent between \$4,000.00 and \$6,000.00. *Licensing File No. ABRA-060754*, Investigative History; DCMR § 23-802.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 17th day of February, 2016, finds that the Respondent, Cafe Europa, Inc., t/a Panache, located at 1725 De Sales Street, 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 \$6,000.00 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.

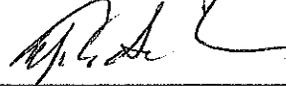
District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



James Short, Member

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



Ruthanne Miller, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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).