

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

In the Matter of:)	
)	
Rajaji, Inc.)	License No.: 70945
t/a Rajaji Curry House)	Case No.: 13-CMP-00648
)	Order No.: 2014-051
)	
)	
)	
)	
Holder of a Retailer's Class CR License)	
at premises)	
2603 Connecticut Ave. N.W.)	
Washington, D.C. 20008)	
)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Mike Silverstein, Member

ALSO PRESENT: Rajaji, Inc., t/a Rajaji Curry House, Respondent

Walter Adams, Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

INTRODUCTION

The Alcoholic Beverage Control Board (Board) finds that Rajaji, Inc. t/a Rajaji Curry House, (Respondent) failed to post the required window lettering, licenses and signs at its establishment as required by law on October 23, 2012 and October 26, 2012. In light of these violations and the Respondent's history of prior violations, the Board finds that the appropriate penalties are fines in the total amount of \$1,600.

Procedural Background

This case arises from the violations charged in Case Number 13-CMP-00648. The Office of the Attorney General issued a Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on July 2, 2013. *ABRA Show Cause File No.*, 13-CMP-00648, Notice of Status Hearing and Show Cause Hearing, 1-3 (Oct. 30, 2013) [Notice]. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2603 Connecticut Ave., N.W., Washington, D.C. 20008, on July 3, 2013. *ABRA Show Cause File No.*, 13-CMP-00648, Service Form.

The Notice charges the Respondent with a number of violations, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license. Specifically, the Notice, charges the Respondent with the following violations:

Charge I:

[On October 23, 2012], [y]ou failed to post, in a conspicuous place on the front window or front door of the license's premises, the correct name of the licensee and the class and number of the license in plain and legible lettering in violation of D.C. Official Code § 25-711(b)

Charge II:

[On October 26, 2012], [y]ou failed to post, in a conspicuous place on the front window or front door of the license's premises, the correct name of the licensee and the class and number of the license in plain and legible lettering in violation of D.C. Official Code § 25-711(b)

Charge III:

[On October 23, 2012 and October 26, 2012], [y]ou failed to pose your ABC license in a conspicuous place in violation of D.C. Official Code § 25-711(a)....

Charge IV:

[On October 23, 2012 and October 26, 2012], [y]ou failed to post in a conspicuous place, a sign which reads: "Warning: Drinking alcoholic beverages during pregnancy can cause birth defects," in violation of D.C. Official Code § 25-712

Charge V:

[On October 23, 2012 and October 26, 2012], [y]ou failed to post a notice, maintained in good repair and in a place clearly visible from the point of entry to the establishment, stating the minimum age required for the purchase of an alcoholic beverage and the patron's obligation to produce valid identification displaying proof of legal drinking age in violation of D.C. Official Code § 25-713. . . .

The Show Cause Status Hearing for Case Number 13-CMP-00648 occurred September 18, 2013. The Government and the Respondent appeared at the Show Cause Hearing for this matter on October 30, 2013.

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, ABRA License Number 70945. See ABRA Licensing File No. 70945. The establishment's premises are located at 2603 Connecticut Ave., N.W., Washington, D.C. 20008. Id.
2. Alcoholic Beverage Regulation Administration (ABRA) Investigator Earl Jones testified on behalf of the Government at the hearing. *Transcript (Tr.)*, October 30, 2013. On October 23, 2012 at approximately 4:15 p.m., Investigator Earl Jones visited Rajaji Curry House, located at 2603 Connecticut Ave. N.W., to conduct a regulatory inspection of the establishment's licenses. *Tr.*, 10/30/13 at 13-14. Prior to entering the establishment, Investigator Jones observed that the establishment did not have the proper window lettering on any of the exterior or interior windows or front windows or doors. Id. at 16. The lettering is supposed to consist of the establishment's trade name, ABRA license number, the establishment's retail class and corporation name. Id. at 17.
3. Investigator Jones then entered the establishment and identified himself to the licensed manager, Krishna Luitel. Id. at 20-21. After explaining the reason for his visit, the Investigator observed that the establishment did not have its basic business license, Certificate of Occupancy or alcohol license posted on its walls. Id. at 18. He further observed that there were no ABRA warning signs regarding drinking while being pregnant or legal notices stating the minimum drinking age of 21. Id.
4. Investigator Jones asked Mr. Luitel where the legally required signs were posted. Id. at 21. Mr. Luitel stated that the establishment had been painted 15 days prior to the Investigator's visit, and that they were waiting for the walls to dry thoroughly to apply another coat before reposting the licenses. Id.
5. While looking around the rest of the premises, Investigator Jones noticed several framed pictures on the walls. Id. at 20. He also observed a sign on the furthest back wall by the kitchen with verbiage, but was unable to recall what the sign stated. Id. Mr. Luitel did not answer Investigator Jones when he asked why the framed pictures and sign were on the walls while the required ABRA postings were not. Id. at 22.
6. Investigator Jones indicated to Mr. Luitel that not having the required government licenses and signs posted were violations. Id. at 23. The Investigator then issued a citation to the establishment in the amount of \$850 for the failure to post licenses and window lettering, and the failure to post the under 21 and pregnancy warning signs. Id. at 23-24. He also provided Mr. Luitel with temporary window lettering to affix to one of the front windows or front door, and

stated that the document would need to be posted immediately. Id. at 24. The Investigator then requested a signature on the citation, to which Mr. Luitel refused. Id. The Investigator then left the establishment. Id.

7. According to his testimony, on October 26, 2012, Investigator Jones drove by Rajaji Curry House while on duty and noticed the temporary window lettering was still not posted. Id. at 25. The Investigator pulled over, entered the establishment and spoke with Mr. Luitel. Id. Once again, the Investigator advised Mr. Luitel that he had to post the lettering. Id. Mr. Luitel agreed and posted the window lettering while the Investigator was present. Id.

8. Mr. Aryal, testifying on behalf of the Respondent at the hearing, admits that the required postings were not up during the days the Investigator inspected the establishment. Id. at 60. Mr. Aryal claims, however, that the establishment was undergoing a paint project, as well as a pest control extermination, that prevented the restaurant from posting the required signage. Id. at 37. He stated however, that the licenses were at the establishment at all times and remained on the floor beside the bar area during the painting and extermination process. Id. at 42-43. Mr Aryal was not present on October 23, 2013 or October 26, 2013 when the Investigator was at establishment. Id. at 60.

9. Mr. Aryal also admitted that the window lettering, which was not posted on the exterior of the establishment due to the paint project, could have been taped to the front window. Id. at 67.

CONCLUSIONS OF LAW

10. 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). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if the Board determines “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. Official Code § 25-447.

I. Failure to Post Licenses (Charge I, II & III)

11. The Board determines that the Respondent failed to carry or post licenses in a conspicuous place in violation of D.C. Official Code §§ 25-711(a) and 25-711(b).

12. Section 25-711 states, “A person receiving a license to manufacture, sell, or permit the consumption of alcoholic beverages shall frame the license under glass and post it conspicuously in the licensed establishment...” D.C. Official Code § 25-711(a). The law further states “The licensee under a retail license or a club license, shall post, in a conspicuous place on the front window or front door of the licensee's premises, the correct name or names of the licensee or licensees and the class and number of the license in plain and legible lettering not less than one inch nor more than 1.25 inches in height.” D.C. Official Code § 25-711(b). Failure to post or

carry licenses in accordance with the provisions of Section 25-711 shall be a secondary tier violation. D.C. Official Code § 25-800.

13. On October 23, 2012, during a regulatory inspection, ABRA Investigator Earl Jones observed that there was no Board-approved window lettering on any of the exterior windows or front door. Supra, at ¶ 2. The Investigator also observed that the establishment did not have its ABC License, Certificate of Occupancy or Basic Business License posted on any of the interior walls of the establishment. Supra, at ¶ 3. Mr. Luitel stated that the required lettering and licensing were not posted due to a recent paint and extermination project, yet the Board does not credit this argument because other framed pictures remained on the wall. Supra, at ¶¶ 4-5. Furthermore, the Investigator informed the manager about the posting requirements and provided the manager with temporary lettering before exiting the establishment. Supra, at ¶ 6. On October 26, 2012, the Investigator observed that the establishment had not posted the temporary window lettering that was provided several days earlier. Supra, at ¶ 7.

14. In light of these facts, the Board sustains Charges I, II, and III in Case Number 13-CMP-00648, and finds the Respondent guilty of one violation of § 25-711(a) and two separate violations of § 25-711(b) on October 23, 2012, and October 26, 2012.

II. Failure to Post Signs: Warning Re: Pregnancy (Charge IV)

15. The Board determines that the Respondent failed to post in a conspicuous place, a sign which reads: "Warning: Drinking alcoholic beverages during pregnancy can cause birth defects." in violation of D.C. Official Code § 25-712.

16. Section 25-712 states "A licensee shall post in a conspicuous place, in accordance with regulations, a sign which reads: "Warning: Drinking alcoholic beverages during pregnancy can cause birth defects." D.C. Official Code § 25-712. A violation of this section "shall be a punishable by a civil penalty not to exceed \$100" and is a secondary tier violation. D.C. Official Code § 25-712(e); D.C. Official Code § 25-802.

17. On October 23, 2012, the Investigator observed that the licensed establishment failed to display the required pregnancy warning sign. Supra, at ¶ 3. As a result, the Board sustains Charge IV in Case Number 13-CMP-00648 and finds the Respondent in violation of § 25-712.

III. Failure to Post Signs: Legal Drinking Age/Valid ID (Charge V)

18. The Board determines that the Respondent failed to post a notice, providing the minimum age and identification requirement in violation of D.C. Official Code of § 25-713.

19. Section 25-713 states, "A retail licensee shall post a notice, maintained in good repair and in a place clearly visible from the point of entry to the establishment, stating: (1) The minimum age required for the purchases of an alcoholic beverage; and (2) The obligation of the patron to produce a valid identification document displaying proof of legal drinking age." D.C. Official Code § 25-713.

20. On October 23, 2012, the ABRA Investigator observed that the licensed establishment failed to display the required legal drinking age sign. *Supra*, at ¶ 3. Thus, the Board sustains Charge V in Case Number 13-CMP-00648 and finds the Respondent in violation of § 25-713.

IV. Penalty

21. In light of the Board's findings in this matter, D.C. Official Code § 25-823(1) requires the Board to impose civil penalties ranging from \$100 to \$750 for each committed violation. The Board issues a warning for the Respondent's failure to post the required window lettering, which is a minor violation. Nevertheless, the Board imposes a \$100 fine for the pregnancy violation, which is required by law, and a \$500 fine for the remaining violations, because the Respondent repeatedly failed to post the required signage, despite having ample warning that such signage was required by law.

22. The Respondent's Investigative History also shows that the Respondent has committed one secondary tier violation in the past three years. Thus, the present violations must be fined at the level of a second secondary tier violation within a two-year period. *ABRA Licensing File No. 70945*, Investigative History.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 17th day of February, 2013, finds that Rajaji, Inc. t/a Rajaji Curry House, is guilty of Charges I, II, III, IV and V in Case Number 13-CMP-00648.

Accordingly, it is **ORDERED** that:

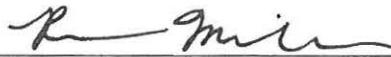
- (I) For the violation described in Charge I, the Respondent shall be served with a warning.
- (II) For the violation described in Charge II, the Respondent shall pay a fine of \$500 within 30 days from the date of this order.
- (III) For the violation described in Charge III, the Respondent shall pay a fine of \$500 within 30 days from the date of this order.
- (IV) For the violation described in Charge IV, the Respondent shall pay a fine of \$100 within 30 days from the date of this order.
- (V) For the violation described in Charge V, the Respondent shall pay a fine of \$500 within 30 days from the date of this order.

IT IS FURTHER ORDERED that Respondent shall pay the fines levied by the Board within 30 days from the date of this order or its license shall be suspended until all outstanding fines are paid.

IT IS FURTHER ORDERED, based on the separate violations that occurred on October 23, 2012 and October 26, 2012, the Respondent's Investigative History shall show that it committed two secondary tier violations on the date of this Order under D.C. Official Code § 25-830(b)(2).

The ABRA shall deliver copies of this Order to the Government, the Respondent, and the Metropolitan Police Department.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Donald Brooks, Member



Mike Silverstein, Member

I agree with the majority of the Board's determination regarding the liability of the Respondent. Nevertheless, I dissent as to fines selected, which I believe should be higher.



Nick Alberti, 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, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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 (April 2004) 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).