

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

<b>In the Matter of:</b>	)	
	)	
Sizzling Express-Columbia Plaza, Inc.	)	
t/a Sizzling Express	)	Case No.: 14-CMP-00677
	)	License No.: ABRA-060396
Holder of a	)	Order No.: 2015-270
Retailer's Class CR License	)	
	)	
at premises	)	
538 23rd Street, N.W.	)	
Washington, D.C. 20037	)	

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

**ALSO PRESENT:** Sizzling Express-Columbia Plaza, Inc., t/a Sizzling Express  
  
Yong Kim, on behalf of the Respondent  
  
Louise Phillips, 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 Sizzling Express-Columbia Plaza, Inc., t/a Sizzling Express (Respondent), violated District of Columbia (D.C.) Official Code § 25-113(b)(2)(A). The Board finds that a fine is not warranted in this matter. Rather, the Respondent is warned against committing this violation in the future.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on February 4, 2015. *ABRA Show Cause File No. 14-CMP-00677*. The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 538 23rd Street, N.W., Washington, D.C. 20037, on February 13, 2015. *ABRA Show Cause File No. 14-CMP-00677*, Service Form.

The Notice charged the Respondent with the following violation:

Charge I: The Respondent failed to file the required quarterly statement report, in violation of D.C. Official Code § 25-113(b)(2)(A) (2012 Repl.) for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2012 Repl.).

The Show Cause Status Hearing occurred on March 18, 2015. The Government and the Respondent appeared at the Show Cause Hearing for this matter on April 22, 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:

#### **I. Background**

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated February 4, 2015. *See* ABRA Show Cause File No. 14-CMP-00677. Sizzling Express-Columbia Plaza, Inc., t/a Sizzling Express holds a Retailer's Class CR License, License Number ABRA-060396. *See* ABRA Licensing File No. ABRA-060396. The establishment's premises are located at 538 23rd Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-060396.

2. The Show Cause Hearing was held on April 22, 2015. The Notice charges the Respondent with a single violation enumerated above. *See* ABRA Show Cause File No. 14-CMP-00677.

#### **II. Stipulation to Facts**

3. The Government and the Respondent stipulated to the admissibility, sufficiency and accuracy of the evidence contained in ABRA's investigative report and the Notice to Show Cause. *Transcript (Tr.)* 4/22/15 at 2, 3. *See* ABRA Show Cause File No. 14-CMP-00677.

Specifically, the stipulated facts as set forth in the Notice are:

(a) The Respondent failed to file the required quarterly statement with the Board for the period of April 1 through June 30, 2014.

### III. Arguments as to Penalty

4. The Government recommends that because the violation is a secondary tier violation, the Board should fine the Respondent \$350.00 to be paid within thirty (30) days. *Tr.* 4/22/15 at 3, 4.
5. The Respondent offered the following mitigating factors for the Board's consideration in assessing a penalty. *Tr.* 4/22/15 at 4-6.
6. He admitted the facts and acknowledged that he did not timely file the quarterly statement report, and he stated that the fine recommended by the Government was too much of a financial burden for a small business like his. *Tr.* 4/22/15 at 4-6.

### CONCLUSIONS OF LAW

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 District of Columbia 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. THE RESPONDENT VIOLATED § 25-113(b)(2)(A)

8. The Board finds that the Respondent failed to timely file its Quarterly Statement for the period of April 1 through June 30, 2014 in violation of D.C. Official Code § 25-113(b)(2)(A).
9. The Respondent admitted to the violation by stipulating to the facts. The stipulated facts are received into evidence in lieu of further proof and testimony. Thus the Board holds the Respondent liable for violating D.C. Official Code § 25-113(b)(2)(A).

#### II. PENALTY

10. 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 first secondary tier violation within a five year period, for which the Board shall impose a mandatory warning as required by D.C. Official Code §23-800. As such, the Board imposes a mandatory warning. *Licensing File No. ABRA-060396*, Investigative History; D.C. Official Code § 25-113(b)(2)(A).

## ORDER

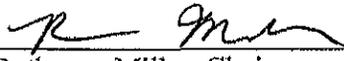
Based on the foregoing findings of fact and conclusions of law, the Board, on this 20<sup>th</sup> day of May, 2015, finds that the Respondent, Sizzling Express-Columbia Plaza, Inc., t/a Sizzling Express, located at 538 23rd Street, N.W., Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code § 25-113(b)(2)(A).

The Board hereby **ORDERS** that:

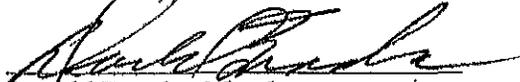
- 1) For the violation described in Charge I, the Respondent is **WARNED** against committing this violation in the future.

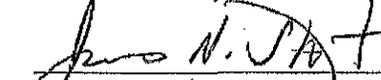
Copies of this Order shall be sent to the Respondent and the Government.

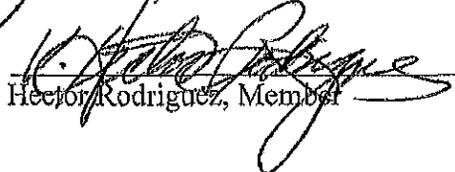
District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

  
Nick Alberfi, Member

  
Donald Brooks, Member

  
James Short, Member

  
Hector Rodriguez, 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).