

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

In the Matter of:)	
Lamaree, Inc.)	
t/a Aroma Indian Restaurant)	
Holder of a Retailer's Class CR License)	Case Nos. 10-CMP-00793 & 11-CMP-00111
at premises)	License No. ABRA-001847
1919 I Street, N.W.)	Order No. 2012-016
Washington, D.C. 20006)	

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Daljeet Chhatwal, on behalf of Lamaree, Inc., t/a Aroma Indian Restaurant, Respondent

Walter Adams II, 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

On July 13, 2011, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated July 6, 2011, on Lamaree, Inc., t/a Aroma Indian Restaurant (Respondent or Licensee), at premises 1919 I Street, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Licensee failed to 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) (2001) and 23 DCMR § 1207.1, for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The Licensee failed to file the required quarterly report with the Board by October 31¹, 2010, for the period of July through September of 2010 (the third quarter of the fiscal year²), for which the Licensee was cited on December 10, 2010.

Charge II: The Licensee failed to 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) (2001) and 23 DCMR § 1207.1, for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

The Licensee failed to file the required quarterly report with the Board by January 31³, 2011, for the period of October through December of 2010 (the fourth quarter of the fiscal year⁴), for which the Licensee was cited on March 8, 2011⁵.

The Board held a Show Cause Status Hearing on August 10, 2011. There was no settlement of the matter and it proceeded to a Show Cause Hearing on October 5, 2011.

The Board having considered the evidence, the testimony of the Government's witness, the arguments of the parties, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated July 6, 2011. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Nos. 10-CMP-00793 & 11-CMP-00111. The Respondent holds a Retailer's Class CR license, located at 1919 I Street, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-001847.

2. The Show Cause Hearing was held on October 5, 2011. *See* ABRA Show Cause File Nos. 10-CMP-00793 & 11-CMP-00111. The Notice charges the Respondent with the two violations enumerated above. *See* ABRA Show Cause File Nos. 10-CMP-00793 & 11-CMP-00111.

3. The Respondent, Daljeet Chhatwal, stated that, according to his records, the quarterly reports for third and fourth quarter 2010 were filed. *Transcript (Tr.)*, 10/5/11 at 6. Mr. Chhatwal stated that he provided the quarterly report for third quarter 2010 to Walter Adams, Assistant Attorney General, but it appears that the quarterly report for

¹ The Board notes that the quarterly statement due date is October 30.

² The Board notes that the quarterly statements filing correspond with calendar year quarters.

³ The Board notes that the quarterly statement due date is January 30.

⁴ The Board notes that the quarterly statements filing correspond with calendar year quarters.

⁵ The Board notes that ABRA did not issue a citation for this violation.

fourth quarter 2010 is missing from the record. *Tr.*, 10/5/11 at 6. Mr. Chhatwal admitted that he did not timely file the quarterly reports and that he will provide the quarterly report for fourth quarter 2010 to ABRA. *Tr.*, 10/5/11 at 6.

4. The Government presented its case through the testimony of one witness, ABRA Compliance Officer, Adeniyi Adejunmobi. *Tr.*, 10/5/11 at 8. Mr. Adejunmobi is a Compliance Analyst with ABRA. *Tr.*, 10/5/11 at 9. Mr. Adejunmobi testified that license classes CR, DR, CH, and DH are required to file reports on a quarterly basis throughout the calendar year. *Tr.*, 10/5/11 at 9-10. Mr. Adejunmobi is responsible for reviewing quarterly statements submitted by licensed establishments and entering the quarterly report information into ABRA's database. *Tr.*, 10/5/11 at 10-11.

5. Mr. Adejunmobi explained that ABRA accepts quarterly reports in one of three ways: submission by hand (in-person), through the U.S. Postal Service, or via facsimile. *Tr.*, 10/5/11 at 12.

6. Mr. Adejunmobi testified that if a quarterly report is received by ABRA's front desk personnel, then it was likely hand-delivered. *Tr.*, 10/5/11 at 12. In that instance, the quarterly report is date and time stamped, and a copy of the quarterly report with the date and time stamp is provided to the licensee for its records. *Tr.*, 10/5/11 at 12-13. If the quarterly report is received by ABRA through the U.S. Postal Service, it is also date and time stamped and logged into another database. *Tr.*, 10/5/11 at 13.

7. Mr. Adejunmobi testified that he knows when a licensee has not filed its quarterly reports, because at the end of the deadline he runs a spreadsheet analysis, and from this analysis, he determines the establishments that have not filed their quarterly statements. *Tr.*, 10/5/11 at 13.

8. Mr. Adejunmobi stated that after he determines which licensees have not filed their quarterly reports, he prepares a list of those licensees and delivers it to the Supervisory Investigators within ABRA's Enforcement Division. *Tr.*, 10/5/11 at 14. The licensees on the list are issued a citation. *Tr.*, 10/5/11 at 14.

9. Mr. Adejunmobi testified that the quarterly reports for third quarter 2010 (July, August, and September 2010) were due October 30, 2010. *Tr.*, 10/5/11 at 15. Mr. Adejunmobi testified that the Respondent failed to timely file a quarterly statement for the period of July 1, 2010 to September 30, 2010. *Tr.*, 10/5/11 at 15-16. Mr. Adejunmobi testified that he received the Respondent's third quarter 2010 report on December 29, 2010. *Tr.*, 10/5/11 at 16; *see* Government Exhibit 1.

10. Mr. Adejunmobi testified that the quarterly reports for fourth quarter 2010 (October, November, and December 2010) were due January 30, 2011. *Tr.*, 10/5/11 at 20. Mr. Adejunmobi testified that, as of January 30, 2011, he did not have any record of receiving a quarterly report for fourth quarter 2010 from the Respondent. *Tr.*, 10/5/11 at 20-21. Mr. Adejunmobi testified that, as of the date of the Show Cause Hearing, he had not received the quarterly reports for fourth quarter 2010 from the Respondent. *Tr.*, 10/5/11 at 21.

11. Mr. Chhatwal stated that he mailed the quarterly report for fourth quarter 2010 during the summer of 2010, again, but he did not have the report in his file. *Tr.*, 10/5/11 at 26. Mr. Chhatwal indicated that he will personally file the quarterly report for fourth quarter 2010 and get it stamped for evidence. *Tr.*, 10/5/11 at 26.

CONCLUSIONS OF LAW

12. The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1) (2009). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 DCMR § 800, *et. seq.*

13. In order to hold a Licensee liable for a violation of the ABC laws, the Government must show that there is substantial evidence to support the charge. Substantial evidence is defined as evidence that a “reasonable mind[] might accept as adequate to support the conclusion” and there must be a “rational connection between facts found and the choice made.” 2461 Corp. v. D.C. Alcoholic Bev. Control Bd., 950 A.2d 50, 52-53 (D.C. 2008)

14. With regard to Charge I, set forth in the Notice to Show Cause, dated July 6, 2011, the Board must determine whether the Licensee failed to file its quarterly report for third quarter 2010, in violation of D.C. Official Code § 25-113. In this case, the Board finds, based on the testimony of Mr. Adejunmobi and the law, that there is sufficient evidence to establish that the Respondent failed to timely file its quarterly report for third quarter 2010. Mr. Adejunmobi testified that the Respondent’s third quarterly report for 2010, for the months of July, August, and September, was due October 30, 2010, but was not received by ABRA until December 29, 2010.

15. With regard to Charge II, the Board must determine whether the Licensee failed to file its quarterly report for fourth quarter 2010, in violation of D.C. Official Code § 25-113. In this case, based on the testimony of Mr. Adejunmobi and the law, the Board finds that there is sufficient evidence to establish that the Respondent failed to file its quarterly report for fourth quarter 2010. Mr. Adejunmobi testified that the Respondent’s fourth quarterly report for 2010, for the months of October, November, and December, has not been filed by the Respondent.

16. Therefore, based upon the above, the Board finds that the Respondent’s violations of D.C. Official Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1, as set forth in Charge I and II of the Notice to Show Cause, dated July 6, 2011, to warrant the imposition of a fine of the Respondent’s Class CR Retailer’s License is further set forth below. We find that this penalty is justified due to the Respondent’s repeated failure to timely file quarterly statements since 2007. Further, this is the Respondent’s eighth (8th) secondary tier violation within four (4) years, which shall be fined according to the primary tier penalty schedule.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 11th day of January 2012, finds that the Respondent, Lamaree, Inc., t/a Aroma Indian Restaurant, located at 1919 I Street, N.W., Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code § 25-113(b)(2)(A) (2001) and 23 DCMR § 1207.1.

The Board hereby **ORDERS** that:

- 1) For Charge I, failure to timely file its quarterly report for third quarter 2010, the Respondent shall pay a fine in the amount of \$4,000.00.
- 2) For Charge II, failure to file its quarterly report for fourth quarter 2010, the Respondent shall pay a fine in the amount of \$4,000.00.
- 3) In total, the Respondent shall pay civil penalties in the amount of \$8,000.00 within sixty (60) days from date of this Order. Failure to remit the amount in full within the time specified may result in the imposition of additional sanctions.

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

District of Columbia
Alcoholic Beverage Control Board



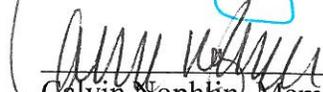
Nick Alberti, Interim Chairperson



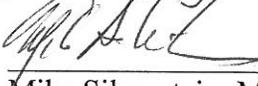
Donald Brooks, Member



Herman Jones, Member



Calvin Nophtin, Member



Mike Silverstein, 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, 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001.

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).