

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

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| In the Matter of: |) | |
| |) | |
| Betty's Gojo Restaurant and Lounge, LLC |) | Case No.: 18-CMP-00106 |
| t/a Betty's Gojo |) | License No.: ABRA-102500 |
| |) | Order No.: 2019-872 |
| Holder of a |) | |
| Retailer's Class CR License |) | |
| |) | |
| at premises |) | |
| 7616 Georgia Avenue, N.W. |) | |
| Washington, D.C. 20012 |) | |

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Aliya Crockett, Member

ALSO PRESENT: Betty's Gojo Restaurant and Lounge, t/a Betty's Gojo, Respondent

John Lui, 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**

INTRODUCTION

The Alcoholic Beverage Control Board (Board) finds that Betty's Gojo Restaurant and Lounge, t/a Betty's Gojo, (hereinafter "Respondent" or "BG") violated D.C. Official Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1 for failing to file the required quarterly report for the period ending on September 30, 2018. BG shall pay a fine of \$4,000.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 9, 2019. *ABRA Show Cause File No. 18-AUD-00106*, Notice of Status Hearing and Show Cause Hearing, 2 (Aug. 9, 2019). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 7616 Georgia Avenue, N.W., Washington, D.C., on August 13, 2019. *ABRA Show Cause File No. 18-AUD-00106*, Service Form. The Notice charges the Respondent with one violation, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent's license.

Specifically, the Notice charges the Respondent with the following violation:

Charge I: [The Respondent] failed to file a quarterly statement [for the quarter ending September 30, 2018], in violation of D.C. Official Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

Notice of Status Hearing and Show Cause Hearing, 2.

Both the Government and Respondent appeared at the Show Cause Status Hearing on September 25, 2019. The parties proceeded to a Show Cause Hearing and argued their respective cases on October 9, 2019.

FINDINGS OF FACT

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

1. BG holds a Retailer's Class CR License at 7616 Georgia Avenue, N.W., Washington, D.C. *ABRA License No. 102500*. ABRA Compliance Specialist Monica Clark indicated that as a restaurant license holder, BG is obligated to submit quarterly reports related to its food and alcohol sales as a condition of its license. *Transcript (Tr.)*, October 9, 2019 at 7-8. As a compliance specialist, Ms. Clark is responsible for receiving and reviewing the quarterly reports submitted by restaurant license holders. *Id.* On October 30, 2018, it was required that all restaurant license holders, including BG, file quarterly reports for the quarter ending on September 30, 2018. *Id.* at 10. Nevertheless, no quarterly report was received by the deadline. *Id.* BG's quarterly report was received and date stamped as received by ABRA on December 13, 2018. *Id.* at 13. BG indicates that it was mailed on October 26, 2018. *Id.* at 20.

CONCLUSIONS OF LAW

2. 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 (D.C.) Official Code pursuant to D.C. Code § 25-823(a)(1).

3. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2019). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep't of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) *citing Children's Defense Fund v. District of Columbia Dep't of Employment Servs.*, 726 A.2d 1242, 1247 (D.C.1999).

4. Under § 25-113(b)(2)(A),

The licensee shall file with the Board quarterly statements, on the dates and in the manner prescribed by the Board, reporting for the preceding quarter: the gross receipts for the establishment; its gross receipts for sales of alcoholic beverages; its gross receipts for the sale of food; its total expenses for the purchase of food and alcoholic beverages; its expenses for the purchase of food; and its expenses for the purchase of alcoholic beverages.

D.C. Official Code § 25-113(b)(2)(A). Furthermore, under § 1207.1, “Within thirty (30) days after the end of each quarter, the holder of a Retailer's license Class CR, CH, DR, or DH shall file with the Board a statement of expenditures and receipts by the licensed establishment during that quarter” 23 DCMR § 1207.1.

5. In this case, quarterly reports for the quarter ending on September 30, 2018, were due by October 30, 2018. *Supra*, at ¶ 1. No quarterly report was received by the legal deadline. *Id.* Instead, the required quarterly report was not received until December 13, 2018. *Id.* The Board further notes that BG’s mailing of the form on October 26, 2018, does not alter the fact that the required report was not received by ABRA by the deadline as required by law.

6. BG’s investigative history shows that this is the Respondent’s sixth secondary tier violation within four years, which is fined as a primary tier violation. 23 DCMR § 804.1(D) (West Supp. 2019); *Case Report*, Case No. 18-AUD-00106, 2 (Nov. 1, 2018). The fine for a sixth secondary tier violation within five years is treated as a third level primary offense that may be fined between \$4,000 and \$6,000. 23 DCMR §§ 801.1(c), 804.1(D) (West Supp. 2019).

ORDER

Therefore, the Board, on this 20th day of November 2019, finds BG guilty of violating D.C. Official Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1. The Board imposes the following penalty on BG:

(1) For the violation described in Charge I, BG shall pay a fine of \$4,000.

IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800.1, the violation found by the Board in this Order shall be deemed a secondary tier violation.


IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board



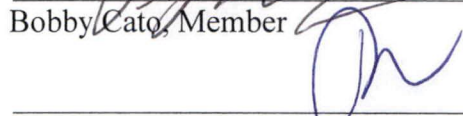
Donovan Anderson, Chairperson



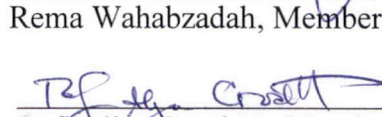
James Short, Member



Bobby Cato, Member



Rema Wahabzadah, Member



Rafi Aliya Crockett, 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, Reeves Center, 2000 14th Street, NW, 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, 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 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).