

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

In the Matter of:)	
)	
MST Enterprises, Inc.)	Case No.: 20-CMP-00017
t/a Churreria Madrid)	License No.: ABRA-60806
)	Order No.: 2021-287
Holder of a)	
Retailer's Class CR License)	
)	
at premises)	
2505 Champlain Street, N.W.)	
Washington, D.C. 20009)	

BEFORE: Donovan Anderson, Chairperson
Bobby Cato, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

ALSO PRESENT: MST Enterprises, Inc., t/a Churreria Madrid, 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 MST Enterprises, Inc., t/a Churreria Madrid, (hereinafter "Respondent" or "Churreria Madrid") violated D.C. Official Code § 25-113a(b)(1) for intentionally offering live entertainment without obtaining an entertainment endorsement on January 1, 2020. The Respondent shall a pay a fine of \$4,000 for the offense.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which charges the Respondent with the following violation:

Charge I: [On January 1, 2020,] [y]ou provided live entertainment in the form of a disc jockey without an entertainment endorsement, in violation of D.C. Code § 25-113a(b)(1)

Notice of Status Hearing and Show Cause Hearing, at 2. 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. The Show Cause Status Hearing in this matter was held on December 9, 2020. The parties proceeded to a Show Cause Hearing and argued their respective cases on April 7, 2021.

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. Churreria Madrid holds a Retailer’s Class CR License at 2505 Champlain Street, N.W., Washington, D.C. *ABRA License No. 60806*. While monitoring establishments on Wednesday, January 1, 2020, ABRA Investigator Mark Ruiz and other investigators heard loud music emanating from the Respondent’s establishment. *Transcript (Tr.) Apr. 7, 2021* at 13. Once inside, he observed a disc jockey by a window with a laptop and mixing board. *Id.* at 15. He further observed the disc jockey “actively mixing” and “playing music.” *Id.* After observing the interior, Investigator Ruiz reviewed the license with the establishment’s owner and noted that the license did not have an entertainment endorsement on it. *Id.* at 15, 18.
2. Before entering the establishment, Investigator Ruiz believed the establishment was operating after its approved hours. *Id.* at 19. Nevertheless, while inside, the investigative team established that the Respondent had been approved for extended holiday hours. *Id.*
3. At the hearing, the owner, Ernesto Giron, explained that on the night of the incident, the establishment hired a disc jockey because there was low attendance on New Years Eve. *Id.* at 22. Mr. Giron admitted that he previously applied for the entertainment endorsement but the local Advisory Neighborhood Commission (ANC) opposed the endorsement. *Id.* at 25. Mr. Giron further admitted that he was aware of the requirement to obtain an entertainment endorsement at the time of the incident. *Id.* at 27.

CONCLUSIONS OF LAW

4. 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).

I. Standard of Proof

5. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2021). 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).

II. The Respondent Offered Live Entertainment Without the Appropriate Endorsement on January 1, 2020.

6. An on-premise retail license holder, such as a restaurant, must obtain an entertainment endorsement from the Board if he or she seeks to offer entertainment, a cover charge, or dancing facilities in accordance with § 25-113a(b)(1). A disc jockey is defined as a person that plays recorded music and “[m]anipulate[s] or mix[es] music.” D.C. Code § 25-101(19A). In this case, the Respondent knew it was not permitted to offer live entertainment or disc jockeys; yet, chose to do so anyway on January 1, 2020. *Supra*, at ¶ 1, 3. It is completely irrelevant that the investigative team initially believed that the Respondent had engaged in an hours violation when the team entered the premises. *Supra*, at ¶ 2. Indeed, the investigative team’s entrance into the establishment was completely justified because music was emanating into the street from the establishment. *Supra*, at ¶ 1. As such, the Board sustains Charge I.

III. Penalty

7. The Board rejects the Respondent’s request for a warning because the violation in this case was made knowingly and intentionally. *Supra*, at ¶ 3. The Respondent shall pay a \$4,000 fine for the offense, as the present offense constitutes a third level primary tier violation.

ORDER

Therefore, the Board, on this 26th day of May 2021, finds MST Enterprises, Inc., t/a Churreria Madrid, guilty of violating § 25-113a(b)(1). The Board imposes the following penalty on Churreria Madrid:

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

IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within one-hundred and twenty (120) 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 primary tier offense.

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 Respondent is further **ADVISED** to seek guidance from ABRA on its compliance obligations when providing live entertainment at the establishment and to obtain an entertainment endorsement before offering live entertainment in the future.

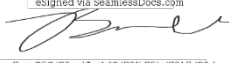
The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac43c3b9eb9d5f09e4b730093d1dccc8

Donovan Anderson, Chairperson

James Short, Member

eSigned via SeamlessDocs.com

Key: 256d3fcaadfb6146d7f4b75bd7917d2bd

Bobby Cato, Member

Rema Wahabzadah, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b560e01b45e1f0e4016155e5c12f81cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 82172891f509447491b5f69c2a41889

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda77f9f0040ec14adeb52541ce5

Edward S. Grandis, 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).