

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

In the Matter of:)	
)	
Guapo’s Restaurant, Inc.)	Case Nos.: 19-AUD-00081
t/a Guapo’s Restaurant)	19-AUD-00118
)	License No.: ABRA-16332
Holder of a)	Order No.: 2021-087
Retailer’s Class CR License)	
)	
at premises)	
4515 Wisconsin Avenue, N.W.)	
Washington, D.C. 20016)	

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

ALSO PRESENT: Guapo’s Restaurant, Inc., t/a Guapo’s Restaurant, Respondent

Stephen Ortiz, 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**

The Alcoholic Beverage Control Board (Board) finds that Guapo’s Restaurant, Inc., t/a Guapo’s Restaurant, (Respondent) committed two violations of D.C. Official Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1 by failing to file timely two required quarterly reports. The Respondent shall pay a fine of \$3,000 for the offenses.

This case arises from two Notices of Status Hearing and Show Cause. The First Notice of Status Hearing and Show Cause Hearing (First Notice), which the Board executed on December 16, 2019. *ABRA Show Cause File No. 19-AUD-00081*, Notice of Status Hearing and

Show Cause Hearing, 2 (Dec. 16, 2019). The First 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 First Notice charges the Respondent with the following violation:

Charge I: You failed to file a quarterly statements, by the date and in the manner prescribed by the Board, in violation of D.C. Code § 25-113(b)(2)(A) [for the quarter ending June 30, 2019, that was due by August 1, 2019].

First Notice of Status Hearing and Show Cause Hearing, 2.

The Second Notice of Status Hearing and Show Cause Hearing (Second Notice), which the Board executed on March 17, 2020. *ABRA Show Cause File No. 19-AUD-00081*, Notice of Status Hearing and Show Cause Hearing, 2 (Mar. 17, 2020). The Second 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 Second Notice charges the Respondent with the following violation:

Charge I: You failed to file a quarterly statements, by the date and in the manner prescribed by the Board, in violation of D.C. Code § 25-113(b)(2)(A) [for the quarter ending September 30, 2019, and which was due by October 31, 2019].

Second Notice of Status Hearing and Show Cause Hearing, 2.

The parties proceeded to a Show Cause Hearing and argued their respective cases for both cases on January 13, 2021. At the hearing, ABRA Compliance Analyst Monica Clark confirmed that ABRA's records show that the Respondent failed to file the required quarterly reports for the quarters ending on June 30, 2019, and September 30, 2019, in a timely manner. *Transcript (Tr)*, January 13, 2021 at 8-10, 12, 14, 17, 19-20, 22. Moreover, the Respondent did not contest that the two quarter reports were filed late. *Id.* at 23-24. Instead, Barry Markowitz, on behalf of the Respondent, indicated that the establishment failed to file the reports in a timely manner because the person responsible for filing them retired, which led to the Respondent falling behind in its accounting duties. *Id.* at 25-26. The Board notes that the it is the responsibility of the license holder to ensure that it meets its legal obligations despite the occurrence of transitions in its labor force. As a result, based on these facts, the Board sustains the charges brought by the Government.

ORDER

Therefore, the Board, on this 24th day of February 2021, finds the Respondent guilty of two counts of violating §§ 25-113(b)(2)(A) and 23 DCMR § 1207.1. The Board imposes the following penalty:

- (1) For the violation described in Charge I in Case No. 19-AUD-00081, the Respondent shall pay a fine of \$1,000.
- (2) For the violation described in Charge I in Case No. 19-AUD-00118, the Respondent shall pay a fine of \$2,000.

IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within 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 violations found by the Board in this Order shall be deemed two secondary tier violations.

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

eSigned via SeamlessDocs.com
Donovan Anderson
Key: 4243281e998180e4b7209081a2c89

Donovan Anderson, Chairperson

James Short, Member

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Rema Wahabzadah, Member
Key: b2ca4db596b74099b19b35b738f16cf

Rema Wahabzadah, Member

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Jeni Hansen, Member
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Jeni Hansen, Member

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Edward Grandis, Member
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Edward S. Grandis, Member

We concur with the majority's determination as to liability but dissent to the majority's decision to grant the Respondent 120 days to pay the fine rather than 90 days.

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Bobby Cato
Key: 256d3fcaadfb14627f4a75df7817a2bd1

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b5f0e91b45a1f8e4016155ebc12f81cc

Rafi 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, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section II 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).