

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

In the Matter of:)		
)		
India Get Restaurant, Inc.)	Case No.:	18-CIT-00174
t/a India Gate)	License No.:	95030
)	Order No.:	2018-562
Holder of a)		
Retailer's Class CR License)		
)		
at premises)		
2020 P Street, N.W.)		
Washington, D.C. 20036)		

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member

ALSO PRESENT: India Get Restaurant, Inc., t/a India Gate, Respondent

Louise Phillips, 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 India Get Restaurant, Inc., t/a India Gate, (hereinafter "Respondent" or "India Gate") violated D.C. Official Code § 25-113(b)(2)(A). The Respondent shall pay a fine of \$1,500.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on June 13, 2018. *ABRA Show Cause File No. 18-CIT-00174*, Notice

of Status Hearing and Show Cause Hearing, 2 (Jun. 13, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 2020 P Street, N.W., Washington, D.C., on June 13, 2018. *ABRA Show Cause File No. 18-CIT-00174*, 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: [On March 1, 2018,] [y]ou failed to file an ABRA Quarterly Statement for the period of October 2017 to December 2017, in violation of D.C. Official Code § 25-113(b)(2)(A)

Notice of Status Hearing and Show Cause Hearing, 2.

Both the Government and Respondent appeared at the Show Cause Status Hearing on July 25, 2018. The parties proceeded to a Show Cause Hearing and argued their respective cases on September 12, 2018.

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. India Gate holds a Retailer's Class CR License at 2020 P Street, N.W., Washington, D.C. *ABRA License No. 95030*. The owner, Faisal Khan, does not dispute that the required quarterly report due at the end of January 2018 was not filed timely, but was instead filed on March 1, 2018. *Transcript (Tr.)*, September 12, 2018 at 9, 13-14. Mr. Khan indicated that the late filing was due to the negligence of his accountant. *Id.* at 11-12, 16.

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). In this matter, the Board shall only base its decision on the "substantial evidence" contained in the record. 23 DCMR § 1718.3 (West Supp. 2018). 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).

3. Under D.C. Official Code § 25-113(2)(A), licensees must file quarterly reports on the dates and times required by the Board. D.C. Code § 25-113(2)(A). Based on the ownership's admission, the Board finds the Respondent liable for the offense and sustains Charge I. Because

this matter constitutes the Respondent's fourth secondary tier violation within a four year period, the fine range falls between \$1,000 and \$2,000. 23 DCMR § 802.1(D) (West Supp. 2018).

ORDER

Therefore, the Board, on this 3rd day of October 2018, finds India Get Restaurant, Inc., t/a India Gate, guilty of violating § 25-113(2)(A). The Board imposes the following penalty on India Gate:

- (1) For the violation described in Charge I, India Gate shall pay a fine of \$1,500.

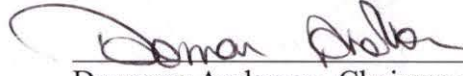
IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

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

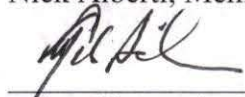
District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Bobby Cato, 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).