

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)
)
)
Taquito De Ojo, LLC)
t/a MAIZ64)
)
)
Holder of a)
Retailer’s Class CR License)
)
)
at premises)
1324 14th Street, NW)
Washington, D.C. 20005)
)
_____)

Case No.: 23-CIT-00100
License No.: ABRA-118648
Order No.: 2023-483

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Jeni Hansen, Member
Edward S. Grandis, Member

ALSO PRESENT: Taquito De Ojo, LLC, t/a MAIZ64, Respondent

Christopher Southcott, Assistant Attorney General
Office of the Attorney General

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

The Alcoholic Beverage and Cannabis Board (Board) finds that on April 8, 2023, Taquito De Ojo, LLC, t/a MAIZ64 (Respondent) violated D.C. Official Code § 25–701 and 23 DCMR § 707.1 by failing to have an owner or Board-approved ABC manager present during hours of sale, service, and consumption of alcohol. The Respondent shall pay a \$500 fine for the violation.

PROCEDURAL BACKGROUND

This case arises from the Notice of Status and Show Cause Hearing (Notice) for Case No. 23–CIT–00100, which the Board executed on June 9, 2023. *Show Cause File No. 23–CIT–00100*, Notice of Status and Show Cause Hearing, 2–3. On July 21, 2023, the Alcoholic Beverage and Cannabis Administration (ABCA) served the Notice on Respondent at 1324 14th Street, N.W., Washington, D.C. 20009. The Notice charges the following violation:

Charge I: [On April 8, 2023] [the establishment] operated without a Board-approved manager or owner on duty during hours of sale, service, and consumption of alcohol, in violation of D.C. Code § 25–701 and 23 DCMR § 707.1, for which the Board may take the proposed action under D.C. Code § 25–823(a)(1).

Notice at 2.

The District of Columbia appeared for a Status Hearing on July 19, 2023. The Respondent did not appear for the Status Hearing. On August 16, 2023, the Government appeared for a Show Cause Hearing, and again, the Respondent failed to appear. The Board, finding no good or sufficient cause to extend the Show Cause hearing, proceeded *ex parte* pursuant to D.C. Code § 25–447(e).

FINDINGS OF FACT

The following statements represent the Board’s findings of fact based on the evidentiary record. In reaching its determination, the Board considered the evidence, the testimony of the witnesses, the argument of the Government, and all documents comprising the Board’s official file. The Board credits all testimony and evidence identified or cited below.

1. The Respondent holds a Retailer’s Class CR license, located at 1324 14th Street, N.W., Washington, D.C. Respondent’s license number is ABRA-118648. On Saturday, April 8, 2023, at 1:47 p.m., ABCA Investigator Jeremy Zollarcoffer visited the establishment to conduct a regulatory inspection. *Transcript (Tr.)*, August 16, 2023, at 6. The establishment’s hours of sales on Saturdays are 8:00 a.m. to 2:00 a.m. *Id.* at 8.
2. Investigator Zollarcoffer entered the establishment and spoke to the manager who identified himself as Cezar Sanchez. *Id.* at 7. Mr. Sanchez informed Investigator Zollarcoffer that neither the owner nor the ABC Manager were present at that time. *Id.* at 7. Investigator Zollarcoffer noted that alcoholic beverages were available for sale during the period of his inspection. *Id.* at 8. He completed his regulatory inspection and noted no other ABCA violations.
3. Investigator Zollarcoffer checked Mr. Sanchez’ driver’s license against ABCA’s licensing database and confirmed that Mr. Sanchez was not a licensed ABC Manager. *Id.* at 7.

CONCLUSIONS OF LAW

The Board may fine, suspend, or revoke the license of a licensee who violates any of the provisions of Title 25 of the D.C. Code, the regulations promulgated under that Title, or any other laws of the District under D.C. Code § 25–823(a)(1). The District has the burden to prove, by substantial evidence, that Respondent committed the charged violations. 23 DCMR § 1711.6. The substantial evidence standard requires the Board to rely on “relevant evidence which a reasonable trier of fact would find adequate to support a conclusion.” *Citizens for Responsible Options v. D.C. Bd. of Zoning Adjustment*, 211 A.3d 169, 180 (D.C. 2019) (citing *Dorchester Assocs., LLC v. D.C. Bd. of Zoning Adjustment*, 976 A.2d 200, 216 (D.C. 2009)). The Board shall base its decision on the “substantial evidence” in the record. 23 DCMR § 1718.3 (West Supp. 2023). Furthermore, “[H]earsay evidence is admissible in administrative proceedings” and may constitute “substantial evidence.” *Compton v. Dist. of Columbia Bd. of Psychology*, 858 A.2d 470, 476 (D.C. 2004). In that vein, “The weight to be given to any piece of hearsay evidence is a function of its truthfulness, reasonableness, and credibility.” *Id.* at 477.

I. The Board Sustains Charge I

4. Under D.C. Code § 25–701, Respondent must have “an . . . owner or Board-approved manager . . . on the premises at all times during the establishment’s hours of sale, service, and consumption of alcoholic beverages.” Under 23 DCMR § 707.1, “[a]n owner or the Board-approved manager shall be present at the licensed establishment during the hours in which alcoholic beverages may be sold, served, or consumed on the licensed premises.”

5. The Board credits the testimony of Investigator Zollarcoffer that on April 8, 2022 at approximately 1:47 p.m., he entered MAIZ64 for a regulatory inspection and observed alcoholic beverages available for sale. *Supra*, at 1. The Board further credits the evidence that when Investigator Zollarcoffer entered MAIZ64 during the establishment’s Board-approved hours of sale, service, and consumption of alcohol, he found no owner or Board-approved manager present.

6. Respondent failed to appear at the hearing and no testimony or evidence was submitted to rebut the District’s evidence. Thus, the facts in the record, the testimony of Investigator Miller, and the documents comprising the Board’s official file constitute substantial evidence to support Charge I against Respondent.

II. Penalty

7. Respondent’s Investigative History shows that Charge I constitute the Respondent’s second secondary tier violation within two years. *Case Report*, 22–CMP–00082, at 16. Thus, the Board has authority to fine Respondent no less than \$500. D.C. Code § 25–830(d)(1)(B).

ORDER

Therefore, the Board, on this 20th day of September 2023, finds the Respondent guilty of violating D.C. Code § 25–701 and 23 DCMR § 707.1. The Board imposes the following penalty:

For the violation described in Charge I, the Respondent shall pay a fine of \$500; and

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 (West Supp. 20 23), the violation found by the Board in this Order shall be deemed one 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 omission of any testimony or evidence in the Board's Order indicates that such testimony or evidence was contravened by the evidence or testimony credited by the Board, had no or minimal weight on the Board's findings and conclusions, was irrelevant, was not credible, was not truthful, was repetitious, was too speculative, or was otherwise inappropriate for consideration.

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

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac43cb9b26e5f0e4b730093d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 5470c373f920d6e6a8d1b3332dd2040ec

James Short, Member

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Bobby Cato, Member

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Edward Grandis, Member
Key: 5027bda7ff9f0040ec14adeb52541ce5

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 and Cannabis 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).