

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

| | | |
|------------------------------------|---|--------------------------|
| In the Matter of: |) | |
| |) | |
| Partners at 723 8th Street SE, LLC |) | Case No.: 23-CIT-00635 |
| t/a The Ugly Mug Dining Saloon |) | License No.: ABRA-071793 |
| and Valor Brew Pub |) | Order No.: 2024-178 |
| |) | |
| Holder of a |) | |
| Retailer’s Class CR License |) | |
| |) | |
| at premises |) | |
| 723 8th Street, S.E. |) | |
| Washington, D.C. 20003 |) | |

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: Partners at 723 8th Street SE, LLC, t/a The Ugly Mug Dining Saloon,
Respondent

Gaynor Jablonski, on behalf of the Respondent

Shani Brown, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

INTRODUCTION

The Alcoholic Beverage and Cannabis (Board) finds that Partners at 723 8th Street SE, LLC, t/a The Ugly Mug Dining Saloon, (hereinafter “Respondent” or “The Ugly Mug”) violated D.C. Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1 where the Respondent failed to file its required quarterly statement for the period of April 2023 to June 2023.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on December 11, 2023. *ABCA Show Cause File No. 23-CIT-00635*, Notice of Status Hearing and Show Cause Hearing, 2 (Dec. 11, 2023). 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 August 1, 2023,] [y]ou failed to file a quarterly statement to the Board for the period of April 2023-June 2023, on the date and in the manner prescribed by the Board, in violation of D.C. Code § 25-113(b)(2)(A) and 23 DCMR § 1207.1, for which the Board may take the proposed action under D.C. Code § 25-823(a)(1).

Both the Government and Respondent appeared at the Show Cause Status Hearing on February 28, 2024. Only the Government appeared at the Show Cause hearing to argue its case. The Board notes the Respondent's absence despite personal service on February 29, 2024. Therefore, the Board conducted the hearing *ex parte* in accordance with D.C. Official 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 arguments of the Government, and all documents comprising the Board's official file. The Board credits all testimony and evidence identified or cited below unless otherwise stated.

I. Background

1. Partners at 723 8th Street SE, LLC, t/a The Ugly Mug Dining Saloon, holds a Retailer's Class CR (Restaurant) License at 723 8th Street, S.E., Washington, D.C. *ABCA License No. 071793*. Restaurants are required to file quarterly statements with the Board, reporting for the preceding quarter, gross receipts and expenses for the sale of food and alcoholic beverages. D.C. Code § 25-113(b)(2)(A).
2. The Alcoholic Beverage and Cannabis Administration's (ABCA) Compliance Analyst notified the Enforcement Division that the Respondent was one of several ABC-licensed establishments who failed to file their quarterly statement for the second quarter ending on June 30, 2023. *Transcript (Tr.)*, March 27, 2024, at 10.
3. On August 7, 2023, former Investigator Shanell Murray visited the Respondent's establishment to conduct a regulatory inspection and to serve Citation No. 7635 for the Respondent's failure to file a quarterly statement for the period of April 2023-June 2023. *Notice*

at 2. ABCA did not receive the Respondent’s quarterly statement until August 7, 2023, which is after the August 1, 2023, filing deadline. *Tr.*, 3/27/24 at 11. As of March 27, 2024, the date of the Show Cause hearing, the Respondent has not paid the citation and the fine remains due. *Id.*

CONCLUSIONS OF LAW

5. 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

6. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2024). 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 Board Sustains Charge I.

7. 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. Code § 25-113(b)(2)(a). Under § 1207.1, each restaurant licensee’s quarterly report is due within 30 days “after the end of each quarter” 23 DCMR § 1207.1 (West Supp. 2021). Nevertheless, the quarterly report for the second quarter of 2023, was not received until August 7, 2023, which was after the deadline. *Supra*, at ¶ 4. Therefore, the Board sustains Charge I.

III. Penalty

8. Based on the violation identified above, the Respondent shall pay a fine of \$1,000 for Charge I, which constitutes a third secondary tier violation within three years based on the Respondent’s history of prior violations. 23 DCMR § 800 (West Supp. 2021).

ORDER

Therefore, the Board, on this 11th day of April 2024, finds Partners at 723 8th Street SE, LLC, t/a The Ugly Mug Dining Saloon, liable for Charge I. The Board imposes the following penalty on the Respondent:

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

IT IS FURTHER ORDERED that all fines shall be paid within thirty (30) days of receipt of this Order or the license shall be immediately suspended until all fines 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.

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

District of Columbia
Alcoholic Beverage and Cannabis Board

esigned via SeamblesDocs.com
Donovan Anderson
Key: ac43cb0b69d5f09e4b730663d1dccc8

Donovan Anderson, Chairperson

esigned via SeamblesDocs.com
James Short
Key: 547ea373f920de6ac8c1b332642948ec

James Short, Member



Silas Grant, Jr., 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).