

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

**In the Matter of:**

CP, Inc.

t/a Café Paradiso

Holder of a

Retailer's Class CR License

at premises

2649 Connecticut Avenue, N.W.

Washington, D.C. 20008

Case No. 13-CMP-00276

License No. ABRA-013111

Order No. 2014-215

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Mike Silverstein, Member  
Hector Rodriguez, Member  
James Short, Member

**ALSO PRESENT:** Walid Zeytoun, on behalf of CP, Inc., t/a Café Paradiso, Respondent

Louise Phillips, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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

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The Alcoholic Beverage Control Board (Board) finds that CP, Inc., t/a Café Paradiso (Respondent), violated District of Columbia (D.C.) Official Code §§ 25-712 and 25-711(a). As a result, the Respondent must pay a \$400.00 fine.

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 23, 2013. The Alcoholic Beverage Regulation

Administration (ABRA) served the Notice on the Respondent, located at 2649 Connecticut Avenue, N.W., Washington, D.C., on September 5, 2013.

The Notice charged the Respondent with the following violations:

Charge I: The Respondent failed to post in a conspicuous place a sign warning of the dangers of alcohol consumption during pregnancy, in violation of D.C. Official Code § 25-712 (2001), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

Charge II: The Respondent failed to post the alcoholic beverage license conspicuously in the licensed establishment, in violation of D.C. Official Code § 25-711(a) (2001), for which the Board may take proposed action pursuant to D.C. Official Code § 25-823(1) (2001).

On June 21, 2013, Citation #7525 was issued to the Respondent in the amount of \$350.00 for violating D.C. Official Code §§ 25-712 and 25-711.

On July 11, 2013, the Respondent refused to pay the citation and instead, requested a hearing. The Show Cause Status Hearing occurred on October 17, 2013. There was no settlement of the matter and a Show Cause Hearing was scheduled for December 11, 2013. On December 11, 2013, the Show Cause Hearing was rescheduled for April 9, 2014.

The Government and the Respondent appeared at the Show Cause Hearing for this matter on April 9, 2014.

The Board having considered the evidence, the testimony of the witnesses, the arguments of parties, and the documents comprising the Board's official file, makes the following:

#### **FINDINGS OF FACT**

1. The Board issued a Notice of Status Hearing and Show Cause Hearing to the Respondent, dated August 23, 2013. *See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File No. 13-CMP-00276. The Respondent holds a Retailer's Class CR license and is located at 2649 Connecticut Avenue, N.W., Washington, D.C. *See* ABRA Licensing File No. ABRA-013111.

2. The Show Cause Hearing was held on April 9, 2014. *See* ABRA Show Cause File No. 13-CMP-00276. The Notice charges the Respondent with the two violations enumerated above. *See* ABRA Show Cause File No. 13-CMP-00276.

3. The Government presented its case through the testimony of one witness, ABRA Investigator Earl Jones. *Transcript (Tr.)*, 4/9/14 at 10-11.

4. On May 23, 2013, Investigator Jones conducted a regulatory inspection at the licensed establishment. *Tr.*, 4/9/14 at 12.
5. Investigator Jones identified himself and asked to speak to an ABC-licensed manager or the owner. *Tr.*, 4/9/14 at 14. Salim Zeytoun identified himself as the owner of the establishment. *Tr.*, 4/9/14 at 14.
6. During Investigator Jones' regulatory inspection, he observed that the Respondent did not have a sign posted that warned the public of the dangers of alcohol consumption during pregnancy. *Tr.*, 4/9/14 at 14. He also found that the Respondent did not have the ABC License posted. *Tr.*, 4/9/14 at 14.
7. Investigator Jones inquired about the ABC license and Mr. Zeytoun indicated he had the license. *Tr.*, 4/9/14 at 15. Mr. Zeytoun looked behind the bar area and retrieved the frame containing the ABC license and other Government licenses and permits. *Tr.*, 4/9/14 at 15. The frame had fallen behind the bar and was not visible to the public. *Tr.*, 4/9/14 at 15, 28. Investigator Jones could not see the license at all. *Tr.*, 4/9/14 at 15.
8. Investigator Jones advised Mr. Zeytoun that failure to post a pregnancy warning sign and the ABC License, in a in a conspicuous place, was a violation of the law. *Tr.*, 4/9/14 at 16.
9. On June 21, 2013, Investigator Jones made a second visit to the Respondent's establishment. *Tr.*, 4/9/14 at 17. During this visit, Investigator Jones issued Citation #7525 to the Respondent in the amount of \$350.00 for the two violations; failure to post the Warning Sign and failure to post the ABC License in a conspicuous place. *Tr.*, 4/9/14 at 17. *See* ABRA Show Cause File No. 13-CMP-00276.
10. Additionally, during this second visit, Investigator Jones provided Mr. Zeytoun with the required pregnancy warning sign and he observed that the ABC License was posted. *Tr.*, 4/9/14 at 17, 27.
11. Walid Zeytoun, the owner's brother and the ABC Manager of the licensed establishment, testified on behalf of the Respondent at the Show Cause Hearing. *Tr.*, 4/9/14 at 30. He stated that the Respondent had two pregnancy warning signs posted. *Tr.*, 4/9/14 at 30-31. One sign was posted on the wall at the establishment's entrance, *Tr.*, 4/9/14 at 31. This sign was removed when the wall was painted. *Tr.*, 4/9/14 at 31 and 43. *See* Respondent's Exhibit B.
12. Walid Zeytoun testified that the second pregnancy warning sign was posted on the glass located behind the bar. *Tr.*, 4/9/14 at 31. The second sign fell down onto the shelf, between the bottles and the glass. *Tr.*, 4/9/14 at 31 and 44-45. *See* Respondent's Exhibit A.
13. Walid Zeytoun admitted that the ABC License was also sitting on the shelf between the bottles and the glass located behind the bar. *Tr.*, 4/9/14 at 31. He testified that the pregnancy warning sign and the ABC License were not completely blocked to the public view. *Tr.*, 4/9/14 at 31. The day after Investigator Jones' visit, he purchased frames and emptied the shelf, where

he displayed all the licenses, including the ABC License. *Tr.*, 4/9/14 at 31-32. *See* Respondent's Exhibit A.

14. Walid Zeytoun stated that on June 21, 2013, Investigator Jones issued a citation to the Respondent in the amount of \$500.00. *Tr.*, 4/9/14 at 32. Then, Investigator Jones came back to the establishment and changed the amount of the citation to \$350.00. *Tr.*, 4/9/14 at 32. *See* ABRA Show Cause File No. 13-CMP-00276. Walid Zeytoun did not know why Investigator Jones' changed the fine amount on the citation. *Tr.*, 4/9/14 at 32.

15. The Respondent has been in business for twenty-five years and they ensure that the operations are in compliance with the laws and regulations. *Tr.*, 4/9/14 at 33. Walid Zeytoun believes that they are entitled to a warning instead of a fine. *Tr.*, 4/9/14 at 33.

### CONCLUSIONS OF LAW

16. 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 Official Code pursuant to District of Columbia Official Code § 25-823(1), D.C. Code § 25-830 (West Supp. 2013); 23 DCMR § 800, *et seq.* (West Supp. 2013).

17. In order to hold a Licensee liable for a violation of the ABC laws, the Government must show that there is substantial evidence to support the charge. Substantial evidence is defined as evidence that a "reasonable mind might accept as adequate to support the conclusion" and there must be a "rational connection between facts found and the choice made." 2461 Corp. v. D.C. Alcoholic Bev. Control Bd., 950 A.2d 50, 52-53 (D.C. 2008).

18. The Board finds that the Respondent is guilty on the two charges enumerated in the Notice; specifically that the Respondent failed to have posted, in a conspicuous place, the required warning sign regarding the dangers of alcohol consumption during pregnancy, and failed to post the ABC License conspicuously in the licensed establishment, in violation of D.C. Official Code §§ 25-712 and 25-711(a).

***Charge I: Failure to post in a conspicuous place a sign warning of the dangers of alcohol consumption during pregnancy.***

19. With regard to Charge I, the Board finds that the Respondent did not have posted, in a conspicuous place, a warning sign regarding the dangers of alcohol consumption during pregnancy as required by D.C. Official Code § 25-712. The absence of the pregnancy sign was observed by Investigator Jones when he conducted his regulatory inspection. Notwithstanding Walid Zeytoun's testimony that the Respondent had not one, but two posted pregnancy warning signs, neither sign was observed by Investigator Jones. Upon further examination, Mr. Zeytoun admitted that one of the signs was removed when the wall was painted, and the other sign fell from the glass where it was posted to the shelf below, obscured by the bottles where it rested. Lastly, the Board notes Investigator Jones' due diligence by returning to the establishment to deliver a pregnancy warning sign to the Respondent.

***Charge II: Failure to post the alcoholic beverage license conspicuously in the licensed establishment.***

20. Similarly, with regard to Charge II, the Board finds that the Respondent failed to post the ABC License conspicuously in the licensed establishment as required by D.C. Official Code § 25-711(a). Here again, the Board finds Investigator Jones to be more credible than the Respondent. Investigator Jones did not observe the ABC license posted in a conspicuous place as required by law. When Investigator Jones inquired about its existence, the Respondent reached behind the bar and located the framed government licenses on a shelf sitting between the bottles and glass. The ABC license was not conspicuous to the public nor to Investigator Jones. Yet, upon Investigator Jones' follow-up visit to the establishment, the Respondent was in compliance with the requirement to post the license in a conspicuous place.

21. Therefore, based upon the above, the Board finds that the Respondent's violation of D.C. Official Code § 25-712, as set forth in Charge I, and § 25-711(a), as set forth in Charge II, of the Notice to Show Cause, dated August 23, 2013, warrants the imposition of a fine set forth below.

22. The Board takes administrative notice that Charge I and Charge II are the first secondary tier violations within two years for the Respondent.

### **ORDER**

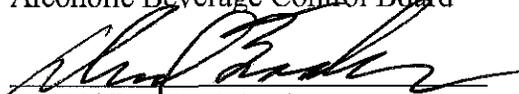
Based on the foregoing findings of fact and conclusions of law, the Board, on this 4th day of June, 2014, finds that the Respondent, CP, Inc., t/a Café Paradiso, located at 2649 Connecticut Avenue, N.W., Washington, D.C., holder of a Retailer's Class CR license, violated D.C. Official Code §§ 25-712 and 25-711(a).

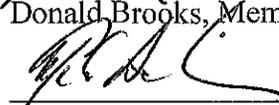
The Board hereby **ORDERS** that:

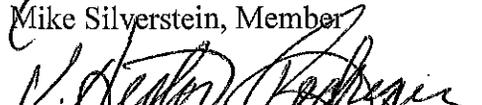
- 1) Charge I: Respondent must pay a fine in the amount of \$100.00.
- 2) Charge II: Respondent must pay a fine in the amount of \$300.00.
- 3) In total, the Respondent must pay a fine in the amount of \$400.00 by no later than thirty (30) days from the date of this Order or its license shall be suspended until all outstanding fines are paid.

Copies of this Order shall be sent to the Respondent and the Government.

District of Columbia  
Alcoholic Beverage Control Board

  
Donald Brooks, Member

  
Mike Silverstein, Member

  
Hector Rodriguez, Member

  
James Short, Member

I concur with the majority's decision as to its finding of the Respondent's liability, but I disagree with the penalty selected by the majority of the Board. I believe the evidence supports a finding of a warning for Charge I and a \$250.00 fine for Charge II.

  
Ruthanne Miller, Chairperson

I concur with the majority's decision as to its finding of the Respondent's liability, but I disagree with the penalty selected by the majority of the Board. I believe the evidence supports a finding of a \$100.00 fine for Charge I and a \$500.00 fine for Charge II.

  
Nick Alberti, Member

Pursuant to D.C. Official Code § 25-433, 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 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to D.C. Official Code § 25-433, 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).