

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

In the Matter of:)	
Unlicensed Premises)	Case No.: N/A
Order to Cease and Desist)	License No.: N/A
641 Indiana Avenue, N.W.)	Order No: 2020-114
Washington, D.C. 20004)	
)	

TO: Faize Rasul and Osman Zafar
Eats United, Inc.
Washington, D.C. 20004

Dominick Cardella
Property Owner
641 Indiana Avenue, N.W.
Washington, D.C. 20004

ORDER TO CEASE AND DESIST

INTRODUCTION

The Alcoholic Beverage Control Board has reviewed compelling evidence that Faize Rasul and Osman Zafar engaged in, allowed, or permitted the illegal sale and consumption of alcohol at 641 Indiana Avenue, N.W., on or about November 24, 2019. Moreover, the Board condemns the illegal obstruction of a government investigation and destruction of evidence committed by the event facilitators. In light of this evidence, the Board is further compelled to conclude that the activity at the premises constitutes a nuisance under D.C. Official Code § 25-805 for which the District of Columbia may take action against Faize Rasul, Osman Zafar, and the landlord Dominick Cardella. Therefore, under the authority granted by D.C. Official Code § 25-791, the Board orders all parties to cease the sale, service, distribution, and consumption of alcohol at the premises and throughout the District of Columbia.

FINDINGS OF FACT

The Board bases its decision on the following factual findings:

1. On Tuesday, November 19, 2019, the Alcoholic Beverage Regulation Administration (ABRA) received a complaint regarding underage drinking at 641 Indiana Avenue, N.W. *Case Report*, November 23, 2019, at 1 (Kevin Puente) and *Supplemental Case Report*, November 23, 2019, at 1 (Kevin Puente) [*Supplemental*]. On Saturday, November 23, 2019, ABRA Investigator Kevin Puente observed social media advertising an 18 and over event with free alcohol at 641 Indiana Avenue, N.W. *Case Report*, November 23, 2019, at 2 (Kevin Puente). Investigator Puente signed up for the event and received tickets. *Id.* Specifically, he used a credit card to pay \$20 dollars for two tickets over the internet through Eventbrite.com. *Supplemental*, at 1. Social media advertising shows advertising for \$2 admission, \$10 hookah, and a special admission package for \$20. *Case Report*, at Exhibit 2. The advertisement further indicates 18 and over event, the availability of drinks, and “Free LIQ.” *Id.*

2. The tax records of the District of Columbia indicate that 641 Indiana Avenue, N.W., is owned by Dominick Cardella. *Office of Tax and Revenue, Property Detail*, SSL 0458 0818 (last visited Feb. 20, 2020). Business records maintained by the District of Columbia indicate that Faize Rasul is the registered agent of Eats United, Inc., which lists an address of 641 Indiana Avenue, N.W. *Department of Consumer and Regulatory Affairs*, Initial File No. C00006184536 (Feb. 24, 2019).

3. In the evening of November 23, 2019, going into Sunday, November 24, 2019, at around midnight, ABRA investigators Kevin Puente, Rhoda Glasgow, and Jeremy Zollarcoffer arrived at 641 Indiana Avenue, N.W. *Case Report*, at 2. Upon arrival, Investigators Glasgow and Zollarcoffer entered the premises in an undercover capacity. *Id.* The undercover investigators were met at the entrance by a male individual collecting a cover charge. *Id.* The two investigators presented their tickets. *Id.* No one at the entrance conducted an identification check. *Id.*

4. Once inside, Investigator Glasgow asked where alcohol could be purchased. *Id.* A female individual directed the undercover investigator to the basement. *Id.* The two investigators then went to the basement which appeared overcrowded. *Id.* They also noticed that many individuals in the basement appeared young. *Id.*

5. In the basement, the investigators observed patrons holding red plastic cups. *Id.* After asking an individual, they were directed to an orange Gatorade cooler that contained alcohol. *Id.* Upon approaching the cooler, they asked a male individual what was in the cooler. *Id.* The male individual indicated that the cooler contained a “bunch of alcohol mixed up together.” *Id.* The undercover investigators then poured a drink from the cooler for themselves. *Id.* Upon obtaining the drink, the investigator asked the individual if she could obtain more alcohol and the male individual indicated he did not know who made the drinks. *Id.* Inside the establishment, the investigators heard multiple individuals state that the mixture in the investigators’ cups was alcoholic. *Id.* The investigators then contacted Supervisory Investigator Jason Peru for support and saved the contents of the red plastic cup for transport back to ABRA’s headquarters. *Id.* at 3.

6. Supervisory Investigator Peru contacted the Metropolitan Police Department (MPD) and the Fire Marshal's office with the D.C. Fire and Emergency Medical Services Department for assistance at around 12:15 a.m. *Id.* at 2.

7. Supervisory Investigator Peru, Investigator Puente, and MPD officers attempted to gain entry to the premises. *Id.* Nevertheless, three individuals ran by and tried to shut the door. *Id.* The police officers advised the individuals that the police had the right to enter based on the property's basic business license and certificate of occupancy identifying the premises as a restaurant. *Id.* at 2; *Case Report*, at Exhibit No. 5. Upon entry, Supervisory Investigator Peru, Investigator Puente, and MPD observed a disc jockey booth and young patrons holding red plastic cups. *Id.* at 2. Supervisory Investigator Peru, Investigator Puente, and MPD officers further observed that the stairs leading to the basement had been barricaded with chairs. *Id.*

8. Investigator Puente identified a male patron named Osman Zafar. *Id.* Mr. Zafar claimed that no one was drinking alcohol and that the event only served Gatorade. *Id.* He further indicated that his uncle was the owner of the premises. *Id.* Upon going downstairs, Investigator Puente observed that the cooler had been dumped out. *Id.*

9. Fire Marshal Gerald Pennington then entered the premises and performed an inspection. *Id.* Based on his observations, he shut down the event and closed the establishment for unsafe conditions. *Id.*

10. On Monday, November 25, 2019, Supervisory Investigator Peru bought a commercial alcohol testing kit. *Id.* at 3. After performing a test, the substance in the cup tested positive for alcohol. *Id.*

CONCLUSIONS OF LAW

11. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual, entity, or licensee to immediately cease “. . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public . . .” D.C. Code § 25-829(a).

12. Under § 25-102(a), “No person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title.” D.C. Code § 25-102(a). Further, under § 25-102(d), “No person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation . . . who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.” D.C. Code § 25-102(d).

13. The term “sell” or “sale” in Title 25 refers to the “offering for sale, keeping for sale, . . . delivering for value or in any way other than by purely gratuitously transferring. Every delivery of any alcoholic beverage made otherwise than purely gratuitously shall constitute a sale.” D.C. Code § 25-101(45).

14. In *Stroga*, the Board found that selling admission tickets and providing disc jockey entertainment required a liquor license to permit the consumption of alcohol on the premises under § 25-102(d). *In re AMR, LLC, t/a Stroga, Jemal's Adams Bell, LLC, Suited Lifestyle, Inc.*, Board Order No. 2014-477, ¶¶ 15 (D.C.A.B.C.B. Nov. 19, 2014) (Order to Cease and Desist and Summary Suspension of Event Site). The Board further found that the sale of admission tickets at an event with an open bar constituted the illegal sale of alcohol pursuant to D.C. Official Code § 25-102(a). *Id.* at ¶¶ 18, 19.

15. In the early morning of November 24, 2019, ABRA investigators observed the illegal sale and consumption of alcohol at 641 Indiana Avenue, N.W. *Supra*, at ¶ 2. Testing, comments by patrons, the advertisement, and inference confirm that the beverage obtained by the investigators contained alcohol. *Supra*, at ¶¶ 1, 4-5, 10. Moreover, it is confirmed that the organizers charged for admission, ABRA investigators paid for admission, and the investigators obtained alcohol inside the event. *Supra*, at ¶¶ 1, 3, 5. As a result, the investigators observed the unlawful sale of alcohol at the premises in violation of § 25-102(a).

16. Additionally, the promoters of the event charged admission for the event and hosted disc jockey entertainment, and the premises are used as a restaurant. *Supra*, at ¶ 7. Under these circumstances, no consumption of alcohol could be permitted at the premises unless an appropriate liquor license was obtained. Therefore, the event further violated § 25-102(d).

17. The Board finds that the continued service and consumption of alcohol at the premises causes irreparable harm to the public by allowing the establishment to maintain a continuing nuisance and threatens the safety and welfare of the public. All violations of Title 25 are deemed nuisances pursuant to § 25-805. D.C. Code § 25-805; *see also Com. ex rel. Preate v. Danny's New Adam & Eve Bookstore*, 625 A.2d 119, 122 (1993) (It is well-settled that even a lawful business may be enjoined from operation if it is shown that, under the particular circumstance, its operation constitutes a public nuisance); *Camp v. Warrington*, 227 Ga. 674, 674, (1971) (“where it is made to appear with reasonable certainty that irreparable harm and damage will occur from the operation of an otherwise lawful business amounting to a continuing nuisance, equity will restrain the construction, maintenance or operation of such lawful business.”). In this case, permitting the illegal sale, service, or consumption of alcohol allows the violator to maintain a public nuisance and benefit from the operation of a continuing nuisance at the expense of the public.

18. Furthermore, the Board is convinced that the circumvention of the licensing process threatens the health, safety, and welfare of the public. The misuse of alcohol encourages crime, disorder, and other antisocial behavior. The licensing process keeps those who cannot be trusted to superintend a licensed establishment, such as criminals and individuals with a history of repeated violations of the District's alcohol laws, from obtaining a license. Therefore, the above mentioned parties cannot be permitted to allow the sale, service, or consumption of alcohol on the premises until a license is properly applied for, vetted, and approved by the Board.

19. The Board would further be remiss in its duties if it did not express its disapproval of the potentially criminal behavior of facilitators of the event. Under the District’s criminal laws, it is an offense under § 22-723(a) when

A person . . . tamper[s] with physical evidence if, knowing or having reason to believe an official proceeding has begun or knowing that an official proceeding is likely to be instituted, that person . . . destroys, mutilates, conceals, or removes a record, document, or other object, with intent to impair its integrity or its availability for use in the official proceeding. D.C. Code § 22-723(a).

It is further an offense under § 22-851(b) for “A person who corruptly . . . impedes, interferes with, . . . or attempts to . . . impede, interfere with, . . . any official or employee, while the official or employee is engaged in the performance of his or her duties or on account of the performance of those duties D.C. Code § 22-851(b). As a result, in addition to the illegal sale and consumption of alcohol, which may be charged as criminal offense, the facilitators of the event also likely illegally obstructed the investigation by barricading the stairs with chairs and illegally destroying the evidence contained in the Gatorade cooler. *Supra*, at ¶¶ 7-8.

ORDER


Therefore, the Board, on this 26th day of February 2020, hereby orders the parties to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages and maintaining a public nuisance at 641 Indiana Avenue, N.W. The Board further orders the parties to cease engaging or permitting the illegal sale or consumption of alcoholic beverages within the District of Columbia.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance) should it be deemed necessary.

Be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that the establishment is continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, all of the persons engaging in such activity may be subject to both civil and criminal penalties.

ABRA shall serve notice by certified mail or personal delivery on the parties.

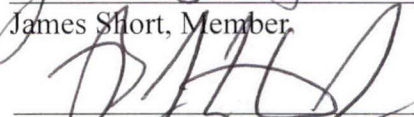
District of Columbia
Alcoholic Beverage Control Board



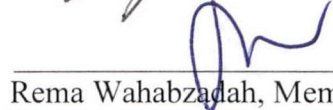
Donovan Anderson, Chairperson



James Short, Member



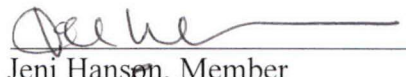
Bobby Cato, Member



Rema Wahabzadah, Member



Rafi Aliya Crockett, Member



Jeni Hanson, Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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 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).