

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

In the Matter of:)	
)	
Jerk at Nite)	Case No.: N/A
)	License No.: N/A
Order to Cease and Desist)	Order No: 2023-358
)	
2149 Queens Chapel Rd, N.E.)	
Washington, D.C. 20018)	
)	

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

PARTIES: Denville Myrie, Jr., Respondent

Jerk at Nite, Respondent
2149 Queens Chapel Rd, N.E.
Washington, D.C. 20018

CEASE AND DESIST ORDER

INTRODUCTION

On June 28, 2023, the Alcoholic Beverage and Cannabis Board reviewed compelling evidence that the illegal sale and service of alcohol occurred at 2149 Queens Chapel Rd, N.E., on May 20, 2023. In light of this illegal activity, Denville Myrie, Jr., and Jerk at Nite are ordered to cease and desist the sale, service, and consumption of alcohol at the property, and any other location in the District until an appropriate license is obtained.

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 and all documents

comprising the Board’s official file. The Board credits all testimony and evidence identified or cited below unless otherwise stated.

1. On May 20, 2023, ABCA Investigator Rhoda Glasgow observed social media posts by patrons of Jerk at Nite, located at 2149 Queens Chapel Rd, N.E., showing that Jerk at Nite was making “rum punch” available to patrons despite not having a license to sell, serve, or permit the consumption of alcohol by ABCA. *Case Report*, Jerk at Nite, 1-2 (May 20, 2023). A team of investigators, including Investigator Glasgow, Investigator Kevin Puente, and Investigator Jeremy Zollarcoffer, visited the establishment at around 9:45 p.m. on May 20, 2023. *Id.* at 1. The investigators observed a large jug of rum punch on the shelf inside the establishment next to open bottles of rum and vodka. *Id.* at 2, Exhibit 1. The investigators further observed patrons drinking the rum punch. *Id.* at 7 (Exhibit 3-4).

CONCLUSIONS OF LAW

2. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual 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. Official Code § 25-829(a).

I. THE EVENTS VIOLATED D.C. OFFICIAL CODE § 25-102.

3. The Board finds that the service of rum punch on May 20, 2023, violated D.C. Official Code §§ 25-102(a). Under § 25-102(a), the sale of alcohol is prohibited without a license. D.C. Code § 25-102(a). Further, under (d), “No person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.” D.C. Official Code § 25-102(a), (d). Under this law, it is illegal to sell alcohol without a license and for a food service establishment to permit the consumption of alcohol on the premises without a license. Nevertheless, based on the evidence, at a minimum, it is reasonable to determine or infer that the establishment had alcohol on the premises, created a rum punch using the alcohol, and permitted customers to drink it. For this reason, the Board finds Denville Myrie, Jr., and Jerk at Nite to be operating in violation of § 25-102, which merits the issuance of a cease-and-desist order.

II. THE CONTINUED OPERATION OF THE PREMISES FOR UNLICENSED PARTIES CREATES IRREPERABLE HARM TO THE PUBLIC.

4. The Board finds that the continued operation of unlicensed business causes irreparable harm to the public by allowing the facilitators to maintain a continuing nuisance that threatens the safety and welfare of the public.

5. All violations of Title 25 are deemed nuisances pursuant to § 25-805. D.C. Official 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 proprietor to continue to illegally operate without approval would allow him or her to maintain and benefit from the operation of a continuing nuisance.

6. Finally, 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 event, such as criminals, individuals with a history of repeated violations of the District’s alcohol laws, and those without sufficient knowledge and training from obtaining a license. Therefore, the sale or consumption of alcohol cannot be allowed to occur at this location until an appropriate alcohol license is obtained.

ORDER

Therefore, the Board, on this 28th day of June 2023, hereby orders Denville Myrie, Jr., and Jerk at Nite, and their agents to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages, or otherwise allowing third parties to engage in such activities at 2149 Queens Chapel Rd, N.E., and any other location in the District until an appropriate license is obtained.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABRA shall no longer issue temporary licenses and one-day substantial change licenses for the above-mentioned address until this matter is resolved to the satisfaction of the Board.

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.

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you and all other persons involved 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

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac43c3b9cb9d5f09e4b730093d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 54f7ae373f820de6ac8c1b332d42948ec

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fcaadfb6146d7f4b75bd7917d2bd

Bobby Cato, Member

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Jeni Hansen, Member
Key: 82172091f0509447491b56f6c2a41889

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f09f0040ec14adeb525410e5

Edward S. Grandis, 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).