

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

In the Matter of:)		
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)		
N/A)	Case No.:	24-ULC-00030
t/a Legacy DC)	License No.:	N/A
)	Order No.:	2024-663
Cease and Desist)		
)		
at premises)		
1937 14th Street, N.W.)		
Washington, D.C. 20009)		

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

PARTIES: Christopher Smoot, Marvin Mancina/ZMM Partners, Respondent
N/A, t/a Legacy DC
1937 14th Street, N.W.,
Washington, D.C. 20009

14th and U Street, LLC, Respondent
7910 Woodmont Avenue,
Suite 1405
Bethesda, M.D., 20814

ORDER TO CEASE AND DESIST

On September 18, 2024, the Alcoholic Beverage and Cannabis Board (Board) reviewed compelling evidence that N/A, t/a Legacy DC, Christopher Smoot, Marvin Mancina/ZMM Partners (Owners), and 14th and U Street, LLC (Landlord), engaged in a violation of Chapter 16B of Title 7 of the D.C. Official Code or permitted such illegal activity to occur. These persons and entities are hereby ordered to cease the illegal purchase, sale, exchange, delivery, or any other form of commercial transaction involving cannabis immediately.

FINDINGS OF FACT

The following statements represent the Board’s findings of fact based on the evidentiary record.

1. The Board incorporates by reference the facts and evidence presented in Case Report No. 24-ULC-00030.

2. On August 9, 2024, Alcoholic Beverage and Cannabis Administration (ABCA) Supervisory Investigator (SI) Jason Peru and along with other District agencies inspected 1937 14th Street, N.W., Washington, D.C., 20009 related to illegal cannabis activities. *Case Report No. 24-ULC-00030*, at 1. The premises were being occupied and run by a business identifying itself as Legacy DC, owned by Christopher Smooth and Marvin Mancía. *Id.* The landlord of the premises is 14th and U Street, LLC. *Id.* at 1. During the inspection, the establishment was found to have engaged in illegal cannabis activity. *Id.* In response, a warning letter was issued advising of violations regarding the illegal sale and distribution of cannabis. *Id.* at *Exhibit No. 2*.

3. On September 18, 2024, SI Peru returned to the premises with Metropolitan Police Department (MPD) Officers, and a Department of Licensing and Consumer Protection (DLCP) investigator for a follow up inspection. *Id.* at 2. The DLCP investigator served in an undercover capacity. *Id.* The DLCP investigator entered the premises and observed the establishment continuing to sell cannabis products containing tetrahydrocannabinol (THC). *Id.* The investigator then purchased a product labelled “Blu Glu” containing THC, weighing 3.5 grams, and priced over \$40. *Id.* at *Exhibit No. 4*. A male employee offered the investigator a complimentary pre-roll cannabis cigarette as he exited the establishment. *Id.* at *Exhibit No. 5*. The investigator then reunited with SI Peru and the MPD Officers waiting outside the establishment. *Id.* at 2. The MPD Officers conducted a presumptive drug field test on the items purchased and the items tested positive for THC and amphetamine. *Id.* Photos further show various similar products displayed on the store’s website in a manner consistent with retail operations. *Id.* at *Exhibit No. 3*.

4. There is no indication that the products being displayed for sale conform with Chapter 16B and the associated regulations’ manufacturing, testing, labeling, and packaging requirements.

5. There is no indication in ABCA’s records that 1937 14th Street, N.W., Washington, D.C., 20009, has been issued any license, permit, endorsement, or other authorization from the Board that would authorize commercial cannabis operations. ABCA’s records reflect that the establishment was issued a one-year conditional license to identify a proposed location for its business but not for the sale of cannabis products. *Id.* at 1. There is also no indication that the landlord of the premises has taken any steps to address the illegal cannabis activity occurring on the premises.

CONCLUSIONS OF LAW

6. Under § 7-1671.12a(a) of Chapter 16B of Title 7 of the D.C. Official Code,

If the ABC Board, after investigation but before a hearing, has cause to believe that a person is violating a provision of this chapter and the violation has caused or may cause, immediate and irreparable harm to the public, the ABC Board may issue an order requiring the alleged violator to cease and desist immediately from the violation.

D.C. Official Code § 7-1671.12a(a).

7. The Board may issue a cease-and-desist order when there is sufficient evidence for the Board to have cause to believe that a person is violating Chapter 16B to such extent that it has caused or may cause immediate and irreparable harm to the public. § 7-1671.12a(a). Similar to a preliminary injunction, § 7-1671.12a(a) commits the decision to grant or deny a cease-and-desist order to the sound discretion of the Board. *See Zirkle v. Dist. of Columbia*, 830 A.2d 1250, 1255 (D.C. 2003). Moreover, like a preliminary injunction, in order to uphold the cease-and-desist order, the Board must find that there is a “substantial likelihood” that a violation has occurred and that it has or will cause immediate and irreparable harm to the public. *Id.* (emphasis added). The “substantial likelihood” or “substantial evidence” standard is a “less stringent standard[]” of proof than “the reasonable doubt standard” since the case is not a criminal proceeding. *See Rivas v. United States*, 783 A.2d 125, 133 (D.C. 2001); *In re R.G.*, 917 A.2d 643, 648 (D.C. 2007); 22-C DCMR § 9719.2. 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” or “more than a mere scintilla [of evidence].” *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); *Rodriguez v. Filene’s Basement Inc.*, 905 A.2d 177, 181 (D.C. 2006). It should be further noted that “. . . hearsay 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 May Issue a Cease-And-Desist Order to an Unlicensed Establishment for Violation of the Terms of a Conditional License.

8. The Board may issue a cease-and-desist order to an unlicensed establishment that holds a conditional license if the establishment “. . . engage[s] in purchasing, possessing, cultivating, manufacturing, or selling of medical cannabis or cannabis products,” which are prohibited under the terms of the license. D.C. Official Code § 7-1671.06(k)(3). The purpose of the conditional license is to identify a proposed location for the establishment therefore, the establishment is required to provide: (1) a lease or similar documentation, (2) A security plan, (3) a certificate of occupancy for the proposed location, (4) a permanent medical cannabis facility license application, (5) any remaining or additional licensing or endorsement fees owed to ABCA, and (6) any other documentation requested by the ABC Board” within one year. D.C. Official Code § 7-1671.06(k)(2). The conditional license does not grant the unlicensed establishment the license to continue operation. D.C. Official Code § 7-1671.06(k)(3). The law defines an “Unlicensed establishment” as a sole proprietorship, partnership, or other business entity that:

- (A) Sells, exchanges as part of a commercial transaction, or delivers cannabis and cannabis products;
- (B) Operates at or delivers from a specific location in the District; and
- (C) Is not licensed by ABCA as a cultivation center, retailer, internet retailer, manufacturer, courier, or testing laboratory.

D.C. Code § 7-1671.01(22).

II. Legacy DC engaged in illegal commercial cannabis activities on its premises by violating the terms of its conditional license.

9. The Board is persuaded that that N/A, t/a Legacy DC, Christopher Smoot, Marvin Mancía/ZMM Partners (Owners), and 14th and U Street, LLC (Landlord) and their agents operate an unlicensed establishment and engage in the illegal sale and distribution of cannabis. *Supra*, at ¶¶ 2-3. In this case, a DLCP investigator purchasing cannabis from the establishment in an undercover capacity demonstrate that the business engages in the commercial distribution of cannabis at 1937 14th Street, N.W., Washington, D.C., 20009, without a license issued by ABCA. *Supra*, at ¶ 3. Furthermore, the establishment was engaging in “possessing . . . [and] selling of medical cannabis or cannabis products” in its premises, which violates the terms of its conditional license. Therefore, the Board is satisfied that the operations observed by SI Peru on August 9, 2024 and September 18, 2024, constitute a violation of §§ 7-1671.06(k)(3) and 7-1671.08(f).

10. Lastly, the Board notes that the sale and distribution of illegal cannabis immediately threatens the health and safety of the public because unregulated product may contain inappropriate and harmful substances (e.g., pesticides, other narcotics). In addition, unlicensed businesses are at risk of selling cannabis to persons that should not have access to cannabis, such as minors. Finally, such activity constitutes a nuisance under D.C. Official Code § 7-1671.13e. *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.”). Therefore, the immediate cessation of all cannabis activity at the premises is appropriate under § 7-1671.12a(a).

ORDER

Therefore, the Board, on this 25th day of September 2024, hereby **ORDERS** N/A, t/a Legacy DC, Christopher Smoot, Marvin Mancía/ZMM Partners (Owners), and 14th and U Street, LLC (Landlord) and their agents to immediately **CEASE AND DESIST** the illegal purchase, sale, exchange, delivery, or any other form of commercial transaction involving cannabis or allowing or permitting such activity to occur.

The parties are also **ADVISED** that information obtained as part of ABCA’s investigation or hearings related to these proceedings may be shared with other law enforcement agencies or used in future administrative, civil, and criminal proceedings.

The ABCA shall deliver a copy of this order to the Parties by hand delivery or certified mail in accordance with D.C. Official Code § 7-1671.12a(a).

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamalessDocs.com
Donovan Anderson
Key: ac430b9b59d5f0e4b730060d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamalessDocs.com
James Short
Key: 547ac373f820de0ac8d1b3326d2049ec

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 7-1671.12a(b)(1), “[t]he alleged violator [or violators] may, within 15 days after the service of the order, submit a written request to the ABC Board to hold a hearing on the alleged violation.” D.C. Code § 7-1671.12a(b)(1). Upon receipt of the request, the Board will provide the requestor with a “a hearing in accordance with the procedures set forth in Chapter 5 of Title 2” to challenge the cease and desist and the Board shall “issue a decision within 90 days after the hearing.” D.C. Code § 7-1671.12a(b)(2).

The requestor may also request an expedited hearing if they submit a written request “within 10 days after the service of an order” and “request [that] the ABC Board [hold] an expedited hearing on the alleged violation.” D.C. Code § 7-1671.12a(c)(1). If a timely request for an expedited hearing is made, the “Board shall conduct a hearing within 10 days after the date of receiving the request and shall deliver to the alleged violator at their last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.” D.C. Code § 7-1671.12a(c)(2). After the expedited hearing, the Board shall issue a decision within 30 days. D.C. Code § 7-1671.12a(c)(3).

Please note that the failure to request a hearing shall result in the order being deemed final. Please further note that if you fail to comply with the order of the Board, the Board may file a petition against you with the Superior Court of the District of Columbia and seek compliance by judicial order in addition to other enforcement actions permitted by law. D.C. Code § 7-1671.12a(f)(3).

If you request a hearing, you may appear at the virtual hearing unless other instructions to appear are provided, 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.

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, D.C. 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. However, the timely filing of a Motion for Reconsideration 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).