

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

In the Matter of:)	
)	
)	
Hope Lounge)	Case No.: 22-CMP-00048
t/a Medusa Lounge)	License No.: ABRA-118698
)	Order No.: 2023-031
Holder of a)	
Retailer's Class CT License)	
)	
at premises)	
2632 Georgia Avenue, N.W.)	
Washington, D.C. 20001)	

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

ALSO PRESENT: Hope Lounge, t/a Medusa Lounge, Respondent

Douglas Crocker, Designated Representative on behalf of the Respondent

Kevin Lutes, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

INTRODUCTION

The Alcoholic Beverage Control Board (Board) finds that Hope Lounge, LLC t/a Medusa Lounge (Respondent) violated ABRA Board Order No. 2021-020 on June 3, 2022, by exceeding its Board approved hours of entertainment.

Procedural Background

This case arises from the Notice of Status and Show Cause Hearing (Notice) for Case No. 2022-CMP-00048, which the Board executed on December 15, 2021. *ABRA Show Cause File No. 22-CMP-00048*, Notice of Status and Show Cause Hearing, 2-3 (Aug. 26, 2022). On August 31, 2022, the Alcoholic Beverage Regulation Administration (ABRA) personally served the Notice on Respondent at 2632 Georgia Avenue, N.W., Washington, D.C. 20001. The Notice charges Respondent with exceeding its Board approved hours of entertainment by entertaining guests with a disc jockey (DJ) after its Board approved hours concluded at 12:30 a.m., which if proven true, justifies a fine, suspension, or revocation of Respondent's ABC License. Specifically, the Notice charges the following violation:

Charge I: [On June 3, 2022,] [t]he establishment exceeded the approved hours of entertainment in violation of Board Order 2021-020, for which the Board may take the proposed action under D.C. Code § 25-823(a)(6).

Notice of Status Hearing and Show Cause Hearing, at 2.

The District and Respondent appeared for the Show Cause Status Hearing on October 26, 2022. The parties proceeded to a Show Cause Hearing and presented their cases on November 30, 2022. The Board also received proposed findings of fact and conclusions of law from the Government after the hearing.

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 parties, 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. Medusa Lounge holds a Retailer's Class CT License at 2632 Georgia Avenue, N.W., Washington, D.C. *ABRA License No. ABRA-118698*. On Friday, June 3, 2022, at 1:00 a.m., ABRA Investigator Mark Ruiz heard loud bass emanating from Medusa Lounge from his vehicle on Georgia Avenue, N.W. *Show Cause Hr'g Tr.* at 17:7-18:2; 26:15-17; 27:22-25 (November 30, 2022).

2. Investigator Ruiz exited his vehicle and approached the establishment. *Id.* Upon entering the establishment, he observed a disc jockey (DJ) in a raised DJ booth with a laptop. *Id.* at 18:12-25; 152:19-21. He further saw a DJ wearing headphones and making announcements. *Id.* at 18:12-21 and 44:4-15. Based on modern technology, a laptop is sufficient equipment to play music and operate as a DJ. *Id.* at 94:4-12. A photograph shows the booth is raised above the establishment's seating area and contained a person in front of a laptop. *Government's Exhibit No. 1.*

3. Board Order No. 2021-020, which was in effect on June 3, 2022, contained a condition limiting “Medusa Lounge’s entertainment hours . . . to 12:30 a.m. Sunday through Thursday.” *Show Cause Hr’g Tr.* at 59:5-12. The condition set by the Board contains no language limiting it to live entertainment.

4. After observing the violation, Investigator Ruiz conversed with ABC Manager Dewit Sermolo, advising him that the establishment had to end its entertainment by 12:30 a.m., and noted that it was 1:00 a.m. *Id.* at 19:1–22. Mr. Sermolo said the Board Order limiting hours of entertainment only applied to live bands. *Id.* Investigator Ruiz corrected Mr. Sermolo that DJs qualify as entertainment. *Id.* Betty Etana, the owner, indicated that she did not have a contract for a DJ on the night of the incident. *Id.* at 145:8-12. She also did not have a mixer or microphone in the establishment. *Id.* at 143:12-16, 17-21. Ms. Etana admitted that the person seen by the investigator in the DJ booth was selecting songs based on patron requests. *Id.* at 147:2-7, 15-19; 153:11-14; 155:1-4. She finally admitted that the person in the booth was an employee of the establishment. *Id.* at 158:2-5.

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. 2023). 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 Respondent Violated a Board Order by Allowing a Disc Jockey to Perform After its Board Approved Hours.

7. Under D.C. Code § 25-823(a)(6), Respondent must “follow its settlement agreement, security plan, or Board Order...” D.C. Code § 25-823(a)(6). In this case, the Respondent was subject to Board Order No. 2021-020, which limits the [Medusa Lounge’s] entertainment hours to 12:30 a.m., Sunday through Thursday. *Supra*, at ¶ 3.

8. Under D.C. Code § 25-101(21A), “Entertainment means live music or any other live performance by an actual person, including . . . disc jockeys . . .” D.C. Code § 25-101(21A). Furthermore, § 25-101(19A) defines a DJ as anyone that . . . (B) Take[s] song requests; . . . [or] (F) Play[s] music from a disc-jockey booth . . .” D.C. Code § 25-101(19A).

9. On Friday, June 3, 2022, the Board credits Investigator Ruiz’s testimony that he observed a DJ entertaining patrons at around 1:00 a.m., which was after hours set by the condition of the

Board in Board Order No. 2021-020, which required entertainment to end at 12:30 a.m. *Supra*, at ¶¶ 1-4. The Board notes that merely playing or controlling recorded music from a disc jockey booth or taking song requests qualifies someone as a disc jockey under the law regardless of any other activity they may be engaged in. § 25-101(19A). Therefore, testimony and photographs showing a person in a raised booth playing music for the establishment in this case and the admission of the owner are sufficient evidence to prove the presence of a DJ in a DJ booth engaging in entertainment under the law. *Supra*, at ¶¶ 2-4. Therefore, the Board sustains Charge I.

10. The Board further considered the Respondent's argument that the investigator unlawfully targeted the establishment, but notes that the Respondent presented no proof of its claims or cited any specific law supporting its argument. *Id.* at 173: 22-24. The Board notes that an investigator is entitled to access the licensed premises at any time and for any reason under the law. D.C. Code § 25-802(a). Furthermore, even if probable cause were a requirement, such cause existed where the investigator heard noise coming from the establishment after its Board approved hours for entertainment. Consequently, the Respondent's argument on this ground is unpersuasive and without merit.

III. Penalty

11. The present violation constitutes a first level primary tier offense. The Board imposes a penalty of \$1500.

ORDER

Therefore, the Board, on this 25th day of January 2023, finds Hope Lounge, t/a Medusa Lounge, guilty of violating § 25-823(a)(6). The Board imposes the following penalty on Medusa Lounge:

(1) For the violation described in Charge I, Medusa Lounge shall pay a fine of \$1500.

IT IS FURTHER ORDERED that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

IT IS FURTHER ORDERED, in accordance with 23 DCMR § 800 (West Supp. 2023), the violations found by the Board in this Order shall be deemed a primary tier offense.

IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision. The omission of any testimony or evidence in the Board's Order indicates that such testimony or evidence was contravened by the evidence or testimony credited by the Board, had no or minimal weight on the Board's findings and conclusions, was irrelevant, was not credible, was not truthful, was repetitious, was too speculative, or was otherwise inappropriate for consideration.

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

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson

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Donovan Anderson, Chairperson

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James Short

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James Short, Member

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Bobby Cato

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Edward S. Grandis, 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 Regulation 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).