

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

In the Matter of:	)	
Dos Ventures, LLC	)	Case No.: 18-CMP-00144
t/a Saint Yves	)	License No.: ABRA-099876
Holder of a	)	Order No.: 2019-169
Retailer's Class CT License	)	
at premises	)	
1229 Connecticut Avenue, N.W.	)	
Washington, D.C. 20036	)	

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member  
Bobby Cato, Member  
Rema Wahabzadah, Member

**ALSO PRESENT:** Dos Ventures, LLC, t/a Saint Yves, Respondent  
  
Kijun Sung, Counsel, on behalf of the Respondent  
  
Rebecca Barnes, 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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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds that Dos Ventures, LLC, t/a Saint Yves, (hereinafter "Respondent" or "Saint Yves") illegally permitted the after-hours consumption of alcohol in violation of 23 DCMR § 705.9 on May 23, 2018. Saint Yves shall pay a fine of \$1,500 for the offense.

### ***Procedural Background***

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on October 16, 2018. *ABRA Show Cause File No. 18-CMP-00144*, Notice of Status Hearing and Show Cause Hearing, 2 (Oct. 16, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1229 Connecticut Avenue, N.W., Washington, D.C., on October 26, 2018. *ABRA Show Cause File No. 18-CMP-00144*, Service Form. The Notice charges the Respondent with one violation, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent's license.

Specifically, the Notice charges the Respondent with the following violation:

**Charge I: [On May 23, 2018,] [y]ou allowed sales, service, and consumption of alcoholic beverages beyond the establishment's Board-approved hours in violation of D.C. Official Code § 25-723 and 23 DCMR § 705.9 . . . .**

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

The Respondent failed to appear at the Show Cause Status Hearing on December 12, 2018. The parties proceeded to a Show Cause Hearing and argued their respective cases on January 16, 2019. The Board further considered the Proposed Findings of Fact and Conclusions of Law filed by the parties after the hearing.

### **FINDINGS OF FACT**

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

1. Saint Yves holds a Retailer's Class CT License at 1229 Connecticut Avenue, N.W., Washington, D.C. *ABRA License No. 099876*. According to the establishment's license, its hours of operations and hours of sale, service, and consumption of alcoholic beverages end at 2:00 a.m. between Sunday and Thursday. *Id.*
2. ABRA Investigator Countee Gilliam visited Saint Yves on Wednesday, May 23, 2018 at around 2:10 a.m. *Transcript (Tr.)*, January 16, 2019 at 11. While outside the establishment after 2:00 a.m., the investigator observed patrons exiting the establishment. *Id.* In order to determine whether the establishment was still operating, the investigator proceeded to enter the establishment. *Id.*
3. Once inside, he observed approximately 50 to 70 patrons inside the establishment. *Id.* at 11-12, 46. The lights were on and no music was playing. *Id.* at 28. He observed multiple patrons with alcohol in their possession and observed other patrons consuming alcoholic beverages. *Id.* at 11, 14-15, 20. He further observed that many patrons were watching a video

on a television and other patrons were conversing. *Id.* at 11-13. He did not observe any employees attempting to clear the establishment of patrons. *Id.* at 13.

4. After observing the establishment's operations for several minutes, the investigator requested to speak with a manager. *Id.* at 18. He was approached by Egie Diomi, the establishment's licensed manager. *Id.* at 18, 41, 48. Mr. Diomi told the investigator that it was his first night at the establishment and that the establishment did not serve or sell any alcohol after 2:00 a.m. *Id.* at 18-19, 49. Mr. Diomi did not dispute that patrons were consuming alcohol inside the establishment. *Id.* at 19. After he spoke to the manager, security began encouraging patrons to leave. *Id.* at 34.

5. The investigator left the establishment at around 2:31 a.m. *Id.* at 21. He observed that patrons were still leaving the establishment at this time. *Id.* at 22-23.

6. Mr. Diomi indicated that the establishment typically institutes "last call" around 15 minutes before close. *Id.* at 50. During this time, the establishment turns on the lights, bartenders begin cleaning, and bussers remove drinks from tables. *Id.* He also noted that the establishment's disc jockey will announce closing time and staff will tell patrons to finish up. *Id.* He indicated that it typically takes 10 to 15 minutes to clear the establishment. *Id.*

## CONCLUSIONS OF LAW

7. 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

8. In this matter, the Board shall only base its decision on the "substantial evidence" contained in the record. 23 DCMR § 1718.3 (West Supp. 2019). 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. Saint Yves Permitted the Consumption of Alcohol in Violation of 23 DCMR § 705.9.

9. Saint Yves violated § 705.9 on May 23, 2018. Under the version of § 25-723(b) in effect at the time of the violation, the law provided that "the licensee . . . may sell or serve alcoholic beverages on any day and at any time except between the following hours . . . 2:00 a.m. and 8:00 a.m., Monday through Friday, excluding District and federal holidays." D.C. Code § 25-723(b), (b)(1) (West Supp. 2001) (in effect until October 29, 2018). Under § 705.9, "The holder of a Retailer's license Class C . . . may sell, serve, or permit the consumption of alcoholic beverages on the licensed premises at any time except between the hours of . . . 2:00 a.m. and 8:00 a.m., Monday through Friday." 23 DCMR § 705.9, (a) (West Supp. 2019).

10. The Board credits the investigator's observations that on May 23, 2018, he witnessed patrons inside the establishment consuming alcoholic beverages after 2:00 a.m. *Supra*, at ¶¶ 2-3.

11. The Board considered Saint Yves' argument that it cannot be shown that the observed beverages were alcoholic. *Respondent's Proposed Findings of Fact and Conclusions of Law*, at 5. The Board is satisfied that the average person can identify alcohol by sight based on the common appearance of alcoholic beverages, personal experience, the behavior of patrons, the use of typical glassware, and other common identifiers. Moreover, there is no evidence in the record that contradicts the investigator's observations. *See e.g., Tr.*, 1/16/19 at 45 (see lines 12-14) (the manager did not know what patrons were drinking). As a result, the Board is not persuaded that crediting the investigator's observations regarding the nature of the drinks is unreasonable.

12. The Board further considered Saint Yves' argument that it cannot be shown that it permitted the after-hours consumption of alcoholic beverages. *Respondent's Proposed Findings of Fact and Conclusions of Law*, at 4. It can be inferred that the establishment permitted the consumption of alcohol in the premises by not collecting all drinks before 2:00 a.m., allowing patrons to watch television, and failing to direct patrons standing in plain sight to leave. *Supra*, at ¶¶ 3-4. The Board further notes that nothing stopped the establishment from instituting an earlier last call, having the disc jockey make repeated announcements over the speaker system after 2:00 a.m., or starting a graduated close before 2:00 a.m. These simple and responsible steps could have relieved any supposed pressure to allow patrons to remain on the premises.

13. The remaining arguments and objections raised by Saint Yves have been addressed and rejected previously by the Board in *In re Jasper Ventures, LLC, t/a Capitale*, Case No. 15-CMP-00697, Board Order No. 2017-434, ¶¶ 10, 22-23, 40 (D.C.A.B.C.B. Aug. 16, 2017). *Tr.*, 1/16/19 at 54. Saint Yves has presented no argument that persuades the Board that departing from its prior precedent is warranted or that *Capitale* was decided incorrectly. Therefore, based on the above, the Board sustains Charge I.

### III. Penalty

14. The present violation constitutes a first level primary tier violation. 23 DCMR § 800 (West Supp. 2019); *Investigative History*, ABRA License No. 099876. The fine range for the offense falls between \$1,000 and \$2,000. 23 DCMR § 801.1(a) (West Supp. 2019).

### ORDER

Therefore, the Board, on this 3rd day of April 2019, finds Dos Ventures, LLC, t/a Saint Yves, guilty of violating 23 DCMR § 705.9. The Board imposes the following penalty on Saint Yves:

- (1) For the violation described in Charge I, Saint Yves shall pay a fine of \$1,500.

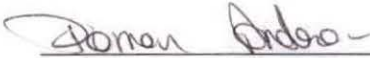
**IT IS FURTHER ORDERED** that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.

**IT IS FURTHER ORDERED**, in accordance with 23 DCMR § 800.1, the violation found by the Board in this Order shall be deemed a primary tier violation.

**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.

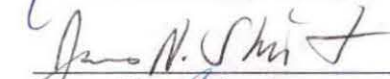
The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia  
Alcoholic Beverage Control Board

  
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Donovan Anderson, Chairperson

  
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Nick Alberti, Member

  
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Mike Silverstein, Member

  
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James Short, Member

  
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Bobby Cato, Member

  
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Rema Wahabzadah, 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).