


**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
628 W Street, N.E.	)	Order No: 2018-738
Washington, D.C. 20002	)	
	)	

**TO:** Patrick J. Keogh and Thomas M. Sherman  
Property Owners  


Jason Berto  
Building Manager  
Unknown Address

Evan Hayes  
Bartender  
Unknown Address

---

**CEASE AND DESIST**

---

**INTRODUCTION**

The Alcoholic Beverage Control Board has found compelling evidence that Jason Berto and Evan Hayes allowed, engaged in, or permitted the illegal sale and service of alcohol at 628 W Street, N.E., on December 7, 2018 in violation of D.C. Official Code § 25-102. In addition, the Board has been presented with compelling evidence that this activity at 628 W Street, N.E., constitutes a nuisance under D.C. Official Code § 25-805. Therefore, under the authority granted by D.C. Official Code § 25-791, the Board orders Jason Berto, Evan Hayes, and the ownership of 628 W Street, N.E., Patrick J. Keogh and Thomas M. Sherman, and their agents to cease selling, serving, distributing, and permitting the consumption of alcoholic beverages on the premises.

## FINDINGS OF FACT

The Board bases its decision on the following factual findings:

1. The owners of 628 W Street, N.E., are listed as Patrick J. Keogh and Thomas M. Sherman in the District of Columbia's property tax records.<sup>1</sup>
2. ABRA's records show that on December 7, 2018, no license or permit authorized the sale, service, or consumption of alcoholic beverages at 628 W Street, N.E. *Case Report*, at 2 (Dec. 7, 2018) (Prepared by Investigator Kevin Puente).
3. On December 7, 2018, Alcoholic Beverage Regulation Administration (ABRA) Investigator Kevin Puente found social media advertisements promoting a party at 628 W Street, N.E., on December 7, 2018. *Id.* In response, ABRA Investigators Kevin Puente, Jason Peru, Vanessa Pleitez met with Metropolitan Police Department (MPD) officers Kyle Gatewood and Robert Marsh to plan an investigation of the event around 10:30 p.m. *Id.*
4. At approximately 10:45 p.m., Investigators Puente and Pleitez approached the entrance of 628 W Street, N.E., in an undercover capacity. *Id.* At the entrance, the investigators paid a \$10.00 cover charge to two male security guards. *Id.* After paying the fee, the guards put wrist bands on the wrists of the investigators and the investigators were permitted to enter. *Id.*
5. Inside, Investigator Puente observed a bar with various spirit products, Modelo Beer, ice, and water. *Id.* He also observed a cash register with money inside. *Id.* At the bar, Investigator Puente ordered a beer and paid \$5.00 for it. *Id.*
6. After walking away from the bar, Investigator Puente notified the team that the illegal sale of alcohol had occurred. *Id.* A few minutes later, Investigator Puente noticed security run into the establishment and notify everyone that MPD was outside. *Id.* Inside, he observed security guards hide a money box and wrist bands under the table. *Id.*
7. When the officers entered the establishment, Investigator Puente shared his observations with them. *Id.* In response, the officers placed Evan Hayes under arrest for selling alcohol without an alcohol license and operating without a business license. *Id.* MPD further arrested Jason Berto, the building manager, for the same offenses. *Id.*
8. On December 8, 2018, MPD notified Investigator Puente that Evan Hayes was found to be in possession of amphetamines, while Jason Berto was found to be in possession of cocaine. *Id.* Both were charged with possessing a controlled substance. *Id.*
9. On December 10, 2018, the Department of Consumer and Regulatory Affairs (DCRA) notified Investigator Puente that 628 W Street, N.E., lacked a proper Certificate of Occupancy.

---

<sup>1</sup> District of Columbia Office of Tax and Revenue, "Property Detail" (last visited Dec. 11, 2018) (See 628 W Street, N.E.), [https://www.taxpayerservicecenter.com/RP\\_Detail.jsp?ssl=PAR%2001310146](https://www.taxpayerservicecenter.com/RP_Detail.jsp?ssl=PAR%2001310146).

## CONCLUSIONS OF LAW

10. 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. Code § 25-829(a).

11. 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). Furthermore, under § 25-805(a), “Any building, ground, or premises where an alcoholic beverage is manufactured, sold, kept for sale, or permitted to be consumed in violation of this title shall be a nuisance.” D.C. Code § 25-805(a).

12. On December 7, 2018, an unlicensed event was held at 628 W Street, N.E. *Supra*, at ¶¶ 3-5. At the event, Investigator Puente paid a cover charge and bought beer, even though the organizers did not have a permit or license to sell alcohol. *Supra*, at ¶¶ 2, 5. Under these circumstances, the record shows that a violation of § 25-102(a) occurred at the event.

13. The Board finds that the continued sale and service 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 and service 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.

14. 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.

## ORDER

Therefore, the Board on this 12th day of December 2018, hereby orders all of the above mentioned parties to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages and maintaining a public nuisance at 628 W Street, N.E.

**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.

**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 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



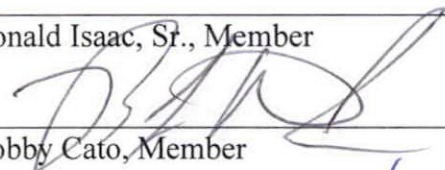
Nick Alberti, Member



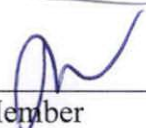
Mike Silverstein, Member

James Short, Member

Donald Isaac, Sr., Member



Bobby Cato, Member



Rema Wahabzadah, 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).