

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

_____)	
In the Matter of:)	
Unlicensed Premises)	Case No.: N/A
)	License No.: N/A
)	Order No: 2020-116
Order to Cease and Desist)	
)	
3500 R Street, N.W.)	
Washington, D.C. 20007)	
_____)	

TO: Mark Anthony Williams
[REDACTED]
[REDACTED]

Clifford Jamal Tweedy
[REDACTED]
[REDACTED]

Kyle Gregory Hairston
[REDACTED]
[REDACTED]

ORDER TO CEASE AND DESIST

INTRODUCTION

The Alcoholic Beverage Control Board has reviewed compelling evidence that Mark Anthony Williams, Clifford Jamal Tweedy, and Kyle Gregory Hairston (collectively, the "Parties") engaged in, participated, or otherwise permitted the illegal sale of alcohol at the Duke Ellington School of the Arts on December 8, 2019. Moreover, the Board condemns the illegal use of another's license committed by Mr. Williams. In light of this evidence, the Board is further compelled to conclude that the activity at the premises constitutes a nuisance under D.C. Official Code § 25-805 for which the District of Columbia may take action against the Parties. Therefore, under the authority granted by D.C. Official Code § 25-791, the Board orders the Parties to cease the illegal sale, service, distribution, and consumption of alcohol at the school and throughout the District of Columbia.

FINDINGS OF FACT

The Board bases its decision on the following factual findings:

1. On December 8, 2019, Alcoholic Beverage Regulation Administration (ABRA) Investigator Kevin Puente observed an event called the Capital City Christmas Party advertised on social media. *Case Report*, December 8, 2019, at 1 (Authored by ABRA Inv. Kevin Puente). The advertisement indicated that it would occur at the Duke Ellington School of the Arts located at 3500 R Street, N.W. *Id.* Social media advertisements indicated that tickets were sold in advance or that patrons could “pay at the door.” *Id.* at Exhibit 1. ABRA’s records indicated no temporary or one day licenses were issued for that date and location. *Case Report*, at 1.
2. On December 8, 2019, Supervisory Investigator Jason Peru and ABRA Investigator Kevin Puente visited the Duke Ellington School of the Arts at around 1:45 a.m. *Id.* at 1-2. The investigators asked to speak with the manager or organizer. *Id.* at 2. Inside the school, they noticed a large crowd, a disc jockey playing music, multiple bars, and patrons consuming alcoholic beverages. *Id.*
3. Jevelle Branch, the Director of Operations and Collaborative Projects, met with the investigative team. *Id.* She indicated that the event was catered and took the investigators to meet with the caterer. *Id.* Ms. Branch directed the investigators to first speak with Kyle Hairston. *Id.* Mr. Hairston represented Urtopshelf, LLC, and indicated that he was solely providing bartenders. *Id.* Mr. Hairston indicated that he was not in charge of alcohol or the event. *Id.*
4. The investigators then spoke with Clifford Tweedy. *Id.* Mr. Tweedy indicated that he was only providing food. *Id.*
5. Finally, the investigators spoke with Mark Williams. *Id.* Mr. Williams identified himself as the event planner and coordinator. *Id.* Mr. Williams indicated that he was not a licensed caterer but displayed ABRA License No. 107322 on his cellphone. *Id.* ABRA License No. 107322 is assigned to Please Bring Chips (PBC), a licensed Caterer. *Id.* Nevertheless, upon further inquiry, no one at the event site could identify the ownership of Please Bring Chips.
6. Upon further discussion, Ms. Branch turned on the lights and ended the event at 2:45 a.m. *Id.*
7. On Monday, December 9, 2019, Investigator Puente spoke with Benjamin Gilmore, an attorney representing PBC. *Id.* Mr. Gilmore indicated that PBC had provided a copy of its license to Mr. Williams for the purposes of obtaining a contract for the event. *Id.* Mr. Gilmore provided texts to the investigator between PBC and Mr. Williams showing that PBC had requested that Mr. Williams not use the license for the event. *Id.* The texts further show that Mr. Williams told PBC that he had selected other caterers and would not use PBC’s license. *Id.* As a result, Mr. Gilmore presented ABRA with proof that PBC had no involvement in the event occurring at the school, and that the use of their license was under false pretenses.

CONCLUSIONS OF LAW

8. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual, entity, 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).

9. 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). Further, under § 25-102(d), “No person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation . . . who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.” D.C. Code § 25-102(d).

10. The term “sell” or “sale” in Title 25 refers to the “offering for sale, keeping for sale, . . . delivering for value or in any way other than by purely gratuitously transferring. Every delivery of any alcoholic beverage made otherwise than purely gratuitously shall constitute a sale.” D.C. Code § 25-101(45).

11. In *Stroga*, the Board found that selling admission tickets and providing disc jockey entertainment required a liquor license to permit the consumption of alcohol on the premises under § 25-102(d). *In re AMR, LLC, t/a Stroga, Jemal’s Adams Bell, LLC, Suited Lifestyle, Inc.*, Board Order No. 2014-477, ¶¶ 15 (D.C.A.B.C.B. Nov. 19, 2014) (Order to Cease and Desist and Summary Suspension of Event Site). The Board further found that the sale of admission tickets at an event with an open bar constituted the illegal sale of alcohol pursuant to D.C. Official Code § 25-102(a). *Id.* at ¶¶ 18, 19.

12. On December 8, 2019, ABRA investigators observed the illegal sale and consumption of alcohol at the Duke Ellington School of the Arts. *Supra*, at ¶ 2. As a result, the investigators observed the unlawful sale of alcohol at the school in violation of § 25-102(a).

13. Additionally, the promoters of the event charged admission for the event and hosted disc jockey entertainment and the facilities were rented for the purposes of hosting an alcohol event. *Supra*, at ¶ 1. Under these circumstances, no consumption of alcohol could be permitted at the premises unless an appropriate liquor license was obtained; nevertheless, no licensed caterer supervised the event. *Supra*, at p 7. Therefore, the event further violated § 25-102(d).

14. The Board finds that the continued service and consumption 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, service, or consumption 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.

15. 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.

16. The Board would further be remiss in its duties if it did not express its disapproval of the potentially criminal behavior of Mr. Williams. Under § 22-835(b),

It shall be unlawful for a person to willfully or knowingly furnish to a member of the Metropolitan Police Department (“MPD”) or an ABRA investigator a[] . . . false or misleading document reasonably calculated to deceive MPD or the ABRA investigator as being a genuine license issued by ABRA.

This type of offense is further identified as a criminal offense. D.C. Code § 25-835(c). As a result, the display of PBC’s license by Mr. Williams likely constitutes a violation of § 25-835(b). *Supra*, at ¶ 7.

ORDER

Therefore, the Board, on this 26th day of February 2020, hereby orders Mark Anthony Williams, Clifford Jamal Tweedy, and Kyle Gregory Hairston to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages and maintaining a public nuisance at the Duke Ellington School of the Arts located at 3500 R Street, N.W. The Board further orders the Parties to cease engaging or permitting the illegal sale or consumption of alcoholic beverages within the District of Columbia.

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



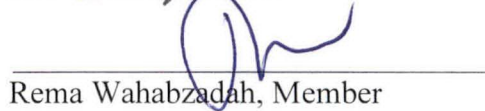
Donovan Anderson, Chairperson



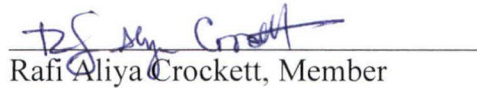
James Short, Member



Bobby Cato, Member



Rema Wahabzadah, Member



Rafi Aliya Crockett, Member



Jeni Hanson, 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).