

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD



NOTICE OF SUMMARY SUSPENSION

IN THE MATTER OF:

WASHINGTON 009, LLC t/a
MCFADDENS

Respondent

Case No. 14-251-00347
License No. 060591
Retailer's Class CR

To: John Sullivan, President
Washington 009, LLC t/a
McFaddens
2401 Pennsylvania Avenue, N.W.
Washington, D.C. 20005

Pursuant to D.C. Official Code § 25-826 (a) (2012 Repl.), the District of Columbia Alcoholic Beverage Control Board ("Board") hereby **summarily suspends** the above-captioned alcoholic beverage control license effective **immediately** upon your receipt of this notice.

The licensee has the right to request a hearing before the Board, and such request shall be filed with the Board within seventy-two (72) hours after receipt of this notice. Should a request for hearing be filed in a timely manner, a summary suspension hearing will be held within forty-eight (48) hours of such request, and a decision will be rendered by the Board within seventy two (72) hours after the close of the hearing.

The District of Columbia is represented by the Office of the Attorney General in these proceedings. A copy of your hearing request and any pleading or other written communication addressed to the Board should also be delivered to Amy Schmidt, Assistant Attorney General, Office of the Attorney General, Civil Enforcement Section, Suite 630 South, 441 4th Street, N.W., Washington, D.C. 20001. **You, or your legal counsel if represented, should contact this attorney at (202) 727-6278 upon receipt of this notice to discuss any potential offer in compromise to be considered by the Board at the Summary Suspension Hearing.**

You may appear personally at the summary suspension hearing, and you as well as 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 before the Board 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.

The grounds for the summary suspension are outlined below.

On December 27, 2014, the Chief of Police for the Metropolitan Police Department of the District of Columbia requested in writing, pursuant to D.C. Official Code § 25-827 (2012 Repl.), that the Board revoke the alcoholic beverage license of the licensed establishment. The request is based upon the conclusion that the continued operation of the licensed establishment presents an **imminent danger** to the health and safety of the public. In further support of the request, the Chief of Police concluded that "there would be an additional imminent danger to the health and welfare of the public if the establishment was not closed, and that there is no other immediately available measure that would ameliorate the threat to public safety."

The imminent danger presented is because of an incident which occurred at your establishment in the early morning of December 27, 2014, before 1:05 a.m. when members of the Metropolitan Police Department were summoned to your establishment due to reports of a multiple stabbing which occurred in the downstairs area. MPD Detective Kimberly Metivier conducted the investigation for MPD. Five victims were transported to area hospitals. While the police were there, due to the lack of sufficient security for your establishment, uniformed officers had aggressive confrontations with several patrons who were being removed from the establishment. While one patron was being placed under arrest, the patron violently resisted arrest and struck the officer on the back of the head causing an injury that required medical treatment. In another confrontation, a patron repeatedly attempted to strike a uniformed officer with a closed fist before finally being restrained and placed under arrest. MPD notified the ABRA hotline of this incident and ABRA Investigators Dorshae Demby and Kofi Apraku responded to the establishment.

According to interviews with your staff and patrons who were at your establishment that evening, the alleged assailant got into a verbal altercation between the photo booth and back bar with some patrons who were there to celebrate a birthday. At that point the assailant had a knife and during the course of the altercation stabbed five victims. One of the victims was under 21 years old. None of the injuries was fatal. None of the victims was cooperative in the subsequent police investigation. The victims were a 23 year old who was stabbed in the back, a 27 year old who was stabbed in the upper back, a 20 year old who was stabbed three times in the lower body, a 25 year old who was stabbed three times and a 23 year old who was stabbed in the chest and back puncturing his kidney and with cuts on his left arm.

Your ABC manager on duty that evening stated that he was in the DJ booth when this altercation began. He then told the ABRA investigator that once the altercation began, he told the DJ to yell Elvis over the sound system as a code word for emergency assistance needed. Once the DJ broadcast "Elvis", the bartender on duty that night jumped over the bar in an effort in an effort to break up the fight and he was poked by a weapon. However, he wasn't injured by the poke. The bartender did admit to seeing a knife; however it was not recovered that night. The bartender then saw two males in red shirts grab the individual with the knife and escort him out of the bar.

Detective Metivier and Investigator Demby viewed a videotape that was filmed from the apartment building next door. Your ABC manager assisted in the identification of two of the persons who were in the videotape. That tape showed one of your security personnel who was working that night wearing a red shirt with an off duty bouncer for your establishment opening the roll up garage door at the apartment building and allowing an unknown individual who could have been the assailant to exit. That individual appeared to have blood on his hands. Although you have sixteen security cameras in your establishment, according to the ABRA Investigators, the quality is so poor that they were not very helpful in the investigation of the events that evening.

The manager stated that he attempted to call 911 that evening, but was put on hold. The manager also stated that there were about 215 patrons in the establishment and three security officers. One Officer was stationed at the front door, one was a rover while the third security officer was stationed near the bar area. One of the security officers told the MPD detective that this was only his first week working at McFaddens. The security officers were wearing red polo shirts with a McFaddens insignia on their chests. The security officers had no radios to communicate with each other, only flashlights although the use of radios is referenced in the security plan. The manager said that he was unsure as to the amount of patrons in the establishment, since the counting clickers were not used. It should be noted that your security plan states that clickers are to be used to count the patrons and that the counts are to be logged every thirty minutes. These procedures were not followed on December 27th. Also your certificate of occupancy states that the maximum for your establishment is 136 people.

The men who were working security that evening were initially not cooperative in the investigation. Even though they escorted a patron who may have been the alleged assailant outside, they did not offer any details about his identity to the investigators. One security person tried to leave when being interviewed. In fact they had to be threatened with criminal charges to cooperate. There appeared to have been no attempt by the security personnel to retrieve the weapon.

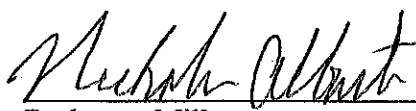
ABRA Investigator Demby interviewed a female witness who was at the club that night. She stated that she did not pay a cover charge to enter the establishment that evening and was not checked by security that night. She also stated that after the fight she saw a male wearing a red polo shirt mopping up blood off the floor. Another female witness also saw the mopping up of the blood. Your manager confirmed that a bar back was mopping up blood from the floor, thereby not preserving the crime scene.

Consequently, your establishment presents an imminent danger since there were insufficient security personnel for the amount of people in the club, your security personnel did not handle the situation with a person with a knife properly in that they failed to look for the weapon

and may have escorted the assailant out of the bar without detaining him for the police, they were uncooperative with MPD, the club was over its occupancy and no measures such as clickers were used to ensure the proper occupancy, your employee failed to preserve a crime scene by mopping up blood and you have not paid for a reimbursable detail since June in violation of the settlement agreement, and thereby diverting police resources from other locations. By not paying for the reimbursable detail, you caused approximately 15 units and 20 officers to respond to your establishment diverting resources from other areas of the Police District.

Please note that under 23 DCMR § 1502.3, your failure to appear at the time and place set for the hearing, either in person or through counsel, or both, will not preclude the Board's proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at (202) 442-4418.

12/30/14
DATE



Ruthanne Miller
Chairperson
Alcoholic Beverage Control Board