

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

In the Matter of:)	
)	
Caribbean Vibes, Inc.)	License No.: 77730
t/a Club Timehri)	Case No.: 12-251-00103
)	Order No.: 2012-379
)	
)	
Holder of a Retailer's Class CT License)	
at premises)	
2439 18th Street, N.W.)	
Washington, D.C. 20009)	
)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Michael Stern, Esq., Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, Esq., General Counsel
Alcoholic Beverage Regulation Administration

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

INTRODUCTION

We find that Caribbean Vibes, Inc., t/a Club Timehri, (Respondent) violated §§ 25-823(2) and 25-823(6) of Title 25 of the District of Columbia (D.C.) Official Code, by failing to comply with its security plan and allowing the establishment to be used for an unlawful and disorderly purpose on March 10, 2012. The Respondent shall pay a fine of \$4,000 within thirty days from the date of this Order. We also suspend the Respondent's license for a total of twenty days. The Respondent shall serve ten suspension days. The remaining ten days shall be stayed so long as the Respondent does not commit any additional violations within one year from the date of this Order.

Procedural Background

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), dated May 2, 2012, served on the Respondent, located at premises 2439 18th Street, N.W. Washington, D.C., on May 12, 2012. The Notice charged the Respondent with the following violations, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license:

Charge I: You violated the Security Plan in violation of D.C. Official Code § 25-823(6) . . . ;

Charge II: You allowed the establishment to be used for an unlawful or disorderly purpose in violation of D.C. Official Code § 25-823(2) . . . ;

ABRA Show Cause File No., 12-251-00103, Notice of Status Hearing and Show Cause Hearing (May 2, 2012).

The Respondent did not attend the Show Cause Status Hearing on June 13, 2012, or the Show Cause Hearing on July 25, 2012, even though ABRA served the Respondent a Notice containing the dates and times of the hearings on May 12, 2012. In the absence of the Respondent, the Board proceeded ex parte with only the Government present, pursuant to D.C. Official Code § 25-447(e).

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, and the documents comprising the Board's official file, makes the following findings:

1. The Respondent holds a Retailer's Class CT License, ABRA License Number 77730. See ABRA Licensing File No. 77730. The establishment's premises are located at 2439 18th Street, N.W., Washington, D.C. See ABRA Licensing File No. 77730.
2. On Saturday, March 10, 2012, at approximately 2:09 a.m., the Metropolitan Police Department (MPD) informed the Alcoholic Beverage Regulation Administration (ABRA) that a stabbing had occurred at the Respondent's establishment. *Transcript (Tr.)*, July 25, 2012, at 9. ABRA Investigator Vincent Parker immediately began to investigate the incident reported by MPD. *Tr.*, 7/25/12 at 8.
3. Najier Frazier observed the stabbing and told Investigator Parker that the victim was O'dale Lewis, his cousin. *Case Report 12-151-00103*, at 2. According to Mr. Frazier, his cousin stepped on an unidentified male patron's shoe on the dance floor. Id. The male patron then punched his cousin and a fight ensued. Id. During the fight, Mr. Frazier observed the male patron stab his cousin with an unknown object. Id. Mr. Frazier then escorted his cousin out of the establishment and got the attention of an MPD officer. Id.

4. In an interview with ABRA Investigator Earl Jones at Medstar, O'dale Lewis confirmed Mr. Frazier's statements. Id. Mr. Lewis added that that the male patron punched him several times, he pushed the patron against the wall, and the fight continued. Id. He further noted that the Respondent's security did not intervene or offer any assistance. Id. As a result of the fight, Mr. Lewis received a deep slash across his tricep, which resulted in severe bleeding. Id.

5. Khalil Lindsey, one of the Respondent's security guards, reported that he escorted Mr. Lewis out of the establishment. Id. at 4. Mr. Lindsey noticed that Mr. Lewis was bleeding and notified McKinley Walker, the establishment's ABC Manager. Id. Mr. Lindsey then later reported to MPD that he was told to clean up a large puddle of blood in the middle of the dance floor with a broken beer bottle in it. Id. There is no indication that any of the Respondent's employees contacted MPD or requested emergency services. Id. at 1-4; *Tr.*, 7/25/12 at 24.

6. Investigator Parker also observed evidence of a fight inside the establishment. *Tr.*, 7/25/12 at 14. First, he found a bloody shirt in a trash can located inside the establishment. *Tr.*, 7/25/12 at 14. Second, he observed blood spatter inside the establishment, near the establishment's door, and on the steps leading into the establishment. *Tr.*, 7/25/12 at 14.

7. As part of his investigation, Investigator Parker also explored whether the establishment used a metal detector on March 10, 2012. *Tr.*, 7/25/12 at 19. Page 7 of the Respondent's Security Plan states, "The search position requires two Doormen equipped with hand held metal detectors To ensure all safety precautions, while the metal detectors are fully utilized in [sic] addition, all guests both men and women are subject to a body search [or] pat down." *Security Plan*, at 7. Nevertheless, Tracy Lall, one of the establishment's security guards, admitted that the establishment did not use a metal detecting wand on the night of the stabbing. *Case Report 12-151-00103*, at 3. In addition, when Mr. Walker, the establishment's ABC Manager attempted to demonstrate that the metal detector functioned, the device's power light did not turn on and the device failed to detect a key ring and screwdriver in Investigator Parker's pocket. Id.; *Tr.*, 7/25/12 at 19.

CONCLUSIONS OF LAW

8. 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 Official Code pursuant to District of Columbia Official Code § 25-823(1). D.C. Code § 25-830; 23 DCMR § 800, *et seq.* (West Supp. 2012). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if we determine "that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed." D.C. Code § 25-447 (West Supp. 2012).

9. We determine that the Respondent violated its security plan and permitted its premises to be used for an unlawful and disorderly purpose on March 10, 2012.

I. Charge I

10. On March 10, 2012, the Respondent failed to use metal detectors in violation of its Security Plan. It is a violation for a licensee to fail to follow its security plan. § 25-823(6). Here, the Respondent's Security Plan mandates that its door staff be equipped with metal detectors so that they can use them to check all of the patrons entering the establishment. Supra ¶ 7. Yet, on March 10, 2012, the Respondent's security did not use metal detectors to screen patrons. Id. Indeed, the Respondent could not even demonstrate that its metal detectors function at all. Id. Therefore, we find that the Respondent violated its security plan on March 10, 2012.

II. Charge II

11. We further find that the Respondent violated D.C. Official Code §25-823(2) by failing to contact police or emergency services once its security observed that Mr. Lewis had been stabbed.

12. Section 25-823(2) states that a licensee may not "allow[] the licensed establishment to be used for any unlawful or disorderly purpose." D.C. Code § 25-823(2) (West Supp. 2012). A licensee's "failure to properly communicate with police about incidents" is grounds for finding a violation under § 25-823(2). Levelle, Inc. v. District of Columbia Alcoholic Beverage Control Board, 924 A.2d 1030, 1037 (D.C. 2007).

13. Here, the Respondent failed to contact emergency services when it was obvious that a violent incident that resulted in severe injury occurred inside the establishment. Reports of the fight indicate that it lasted long enough for a male patron to punch Mr. Lewis several times, have Mr. Lewis throw the aggressor into a wall, and have the aggressor stab Mr. Lewis with a sharp object. Supra ¶¶ 3-4. Furthermore, even though Mr. Lindsey observed Mr. Lewis bleeding and reported it to the Respondent's manager, the establishment took no action to assist Mr. Lewis or contact the police. Supra ¶ 5. Indeed, rather than contact MPD or an ambulance, the Respondent's employees began cleaning up the blood and other evidence related to the fight. Id. Based on these facts, we conclude that the Respondent failed to properly communicate with police about the incident, and thus, violated § 25-823(2).

14. The Government has recommended that we fine the Respondent \$2,000 for each violation and that we impose a ten-day suspension on the Respondent. We agree with this recommendation; however, we find that the violent nature of the March 10, 2012 incident warrants additional stayed suspension days to ensure that the Respondent meets its obligation to provide a safe environment for its customers.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 24th day of October 2012, finds that the Respondent, Caribbean Vibes, Inc., t/a Club Timehri, violated D.C. Official Code §§ 25-823(2) and 25-823(6). The Board hereby **ORDERS** that, in total, the Respondent shall pay a fine of \$4,000 within thirty (30) days from the date of this Order. The Respondent's liquor license shall be suspended for a total of twenty (20) days. The Respondent shall serve ten (10) suspension days. The remaining ten (10) days shall be

stayed provided that the Respondent does not commit any additional violations within one (1) year from the date of this Order. Our determination regarding each charge is as follows:

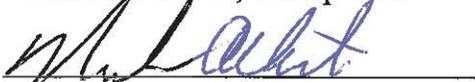
- (1) The Respondent shall pay a fine of \$2,000 for the violation described in Charge I no later than thirty (30) days from the date of this Order. The Respondent shall serve five (5) suspension days and receive five (5) stayed suspension days for this violation;
- (2) The Respondent shall pay a fine of \$2,000 for the violation described in Charge II no later than thirty (30) days from the date of this Order. The Respondent shall serve five (5) suspension days and receive five (5) stayed suspension days for this violation; and
- (3) The Respondent's suspension shall begin the morning of December 7, 2012, at midnight, and end on the morning of December 17, 2012, at midnight.

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

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member



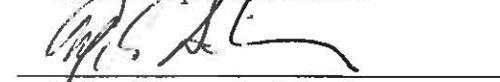
Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, N.W., 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, 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 (April 2004) 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).