

In the Matter of:)	
)	
Beg Investments, LLC)	License No.: 76366
t/a Twelve Restaurant & Lounge)	Case No.: 14-251-00163
)	Order No.: 2014-247
)	
Holder of a Retailer's Class CT License)	
at premises)	
1123-1125 H Street, N.E.)	
Washington, D.C. 20002)	
)	

ALSO PRESENT: Beg Investments, LLC, t/a Twelve Restaurant & Lounge, Respondent

Matthew LeFande, Counsel, on behalf of the Respondent

Amy Schmidt, Esq., Assistant Attorney General,
on behalf of the District of Columbia

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

INTRODUCTION

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Procedural Background

On May 24, 2014, in accordance with D.C. Official Code § 25-827, the Metropolitan Police Department (MPD) Chief of Police instituted a 96-hour closure of the Respondent's establishment as result of a stabbing inside the establishment, which resulted in a male patron suffering a puncture wound to the head. Letter from Cathy L. Lanier, Chief of Police, MPD, to Bernard Gibson (May 24, 2014).

The Alcoholic Beverage Control Board (Board) reviewed the closure issued by the Chief of Police on May 21, 2014, and voted 6-0-0 to summarily suspend the Respondent's license under D.C. Official Code § 25-826(a). *Investigative Agenda*, May 28, 2014. The Office of the Attorney General for the District of Columbia (OAG) subsequently filed a Notice of Summary Suspension (Notice), which alleged that the establishment posed an imminent danger to the health and safety of the public. *Notice of Summary Suspension*, Case No. 14-251-00163, 1 (May 28, 2014).

A summary of the allegations contained in the notice are as follows:

An altercation occurred inside the establishment in early morning hours of May 24, 2014. *Id.* at 2. Police officers working on the MPD Reimbursable Detail observed a patron emerge from the establishment with multiple stab wounds. *Id.* at 2. The police entered the establishment and observed an unconscious patron sitting in a chair with a deep laceration on his head. *Id.* at 2. An officer also observed a strong odor of marijuana inside the establishment.

Officers learned that security carried the man downstairs, but did not notify police of the incident. *Id.* In addition, the establishment made the investigation difficult by failing to turn off the music and turn on the house lights in a timely manner, as well as failing to manage the exit of patrons. *Id.* at 2-3. Police officers also noted that the establishment's security personnel were uncooperative during the beginning of the investigation, and one security member walked away during an interview. *Id.* at 2. Eventually, one security member pointed out the suspect, who then entered a vehicle and had to be chased down by MPD. *Id.* at 2-3.

An officer then went to the area where the stabbing occurred and observed that it was not cordoned off. *Id.* at 3. Despite heavy bleeding by the victim, there were no traces of blood present. *Id.* Furthermore, the officer found a bottle of bleach in the trash. *Id.*

Both MPD and ABRA reported difficulties obtaining video footage from the establishment. Upon reviewing the footage, it also appears that the establishment did not thoroughly check patrons for weapons, and only used metal detecting wands on an intermittent and sporadic basis. *Id.* at 3.

In response to the Notice, the Respondent requested a hearing on May 30, 2014. The summary suspension hearing was subsequently held on June 2, 2014. The question before the Board is whether “. . . the operations of a licensee present an imminent danger to the health and safety of the public.” D.C. Official Code § 25-826(a).

FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, the arguments of the parties, and the documents comprising the Board's official file, makes the following findings:¹

I. THE ESTABLISHMENT'S PRIOR HISTORY

1. Beg Investments, LLC, t/a Twelve Restaurant & Lounge holds a Retailer's Class CT License, ABRA License No. 76366, at 1123-1125 H Street, N.E. *ABRA Licensing File No. 76366*. During the course of its operations, the establishment has been the subject of a number of actions before this Board.

A. Prior Protest Orders

2. Previously, in 2011, Advisory Neighborhood Commission (ANC) 6A filed a protest against the renewal of the Respondent's license. Based on the presentation of the parties, the Board was concerned that "... a number of violent incidents have occurred at the establishment," including an incident where a patron assaulted a police officer. In re BEG Investments, LLC, t/a Twelve Restaurant & Lounge Case No. 10-PRO-00138, Board Order No. 2011-289, ¶¶ 4, 16 (D.C.A.B.C.B. Jun. 22, 2011). In response, the Board conditioned the renewal of the Respondent's license on hiring "... the MPD Reimbursable Detail whenever the establishment provides any DJs or live music at the establishment. The MPD Reimbursable Detail shall be hired for a minimum of four hours and shall end no sooner than one hour after closing." In re BEG Investments, LLC, t/a Twelve Restaurant & Lounge, Case No. 10-PRO-00138, Board Order No. 2011-368, 3 (D.C.A.B.C.B. Aug. 10, 2011) (Board Order Modifying Board Order No. 2011-289).²

B. Prior Show Cause and Summary Suspension Orders

3. In addition, the Respondent has also been subject to the following show cause and summary suspension orders.

i. Board Order No. 2012-308

4. On July 11, 2012, the Board found the Respondent in violation of two counts of § 25-823(6) for violating two conditions on the Respondent's license. In re BEG Investments, LLC, t/a Twelve Restaurant & Lounge, Case Nos. 11-251-00241, 11-CMP-00352, 11-CMP-0458,

¹ The full transcript in this matter was not available at the time this Order was written; however, the Board is sufficiently versed in the evidence and testimony after holding the summary suspension hearing to make the findings of fact and conclusions of law contained in this Order. This action was necessary on the part of the Board because § 25-826(c) requires the Board to issue an Order within 72 hours of the Summary Suspension Hearing. D.C. Official Code § 25-826(c).

² The Board affirmed the legality of this condition in Board Order No. 2014-087. In re Beg Investments, LLC, t/a Twelve Restaurant & Lounge, Case No. 12-CMP-00431, Board Order No. 2014-087, ¶¶ 19-21 (D.C.A.B.C.B. Apr. 23, 2014).

Board Order No. 2012-308, 1, 8 (D.C.A.B.C.B. Jul. 11, 2012). Specifically, the Respondent failed to comply with the prohibition on distributing fliers and hire the MPD Reimbursable Detail in conjunction with a DJ event in accordance with Board Order No. 2011-289. Id. at ¶ 12.

ii. Summary Suspension OIC (March 8, 2014)

5. On March 8, 2014, the Chief of Police summarily suspended the Respondent's license for 96 hours. Letter from Cathy L. Lanier, Chief of Police, MPD, to Bernard Gibson, Beg Investment, LLC, 1-2 (Mar. 8, 2014). The OAG issued a notice of summary suspension charging the Respondent with operating in a manner that posed an imminent danger to the public. *Notice of Summary Suspension*, 1 (May 12, 2014). The notice alleged that a patron involved in a prior altercation inside the establishment engaged in a second altercation near the establishment's door that resulted in the patron getting stabbed. Id. at 2. The establishment did not attempt to obtain medical assistance for the patron. Id. Finally, one of the establishment's employees wiped off the knife used during the attack, which impeded MPD's investigation. Id. at 3.

6. On March 28, 2014, the Board resolved the summary suspension action by accepting an offer-in-compromise (OIC) that placed restrictions on the operations of the Respondent's establishment. In re BEG Investments, LLC, t/a Twelve Restaurant & Lounge, Case No. 14-251-00087, Board Order No. 2014-106, 1 (D.C.A.B.C.B. Mar. 28, 2014) (Order Approving the Offer-in-Compromise). According to the OIC:

- (1) BEG Investments, LLC, t/a Twelve ("Licensee") agrees to train its employees on preserving a crime scene. Licensee agrees to document the training of employees and to document their employment status. Licensee also agrees to document the subject matter of any training other employees receive.
- (2) Licensee agrees to incorporate revised training on how to aid an injured or ill patron inside the establishment, including calling for outside medical services. Licensee will provide training on situations where it is necessary to contact MPD immediately, such as a violent incident inside the establishment or when a patron needs or requests medical attention. The training will include instruction on appropriate times to call 911.
- (3) Licensee agrees to train security personnel on how to handle violent altercations in and near the establishment, including appropriate methods for detaining and controlling aggressive patrons.
- (4) Licensee agrees to use "wands" at the entrance to the establishment for the purpose of detecting metal objects, including weapons, carried by patrons when the establishment has entertainment including but not limited to a disc jockey or a live band. The wands will be used in conjunction with physical "pat down" searches to be specified in the Licensee's Security Plan . . .
- (6) Licensee agrees to escort violent aggressors to the MPD Reimbursable Detail officer or officers customarily posted in front of the establishment when such Detail is in place.

- (7) Licensee agrees to implement a security plan. The security plan shall be submitted and reviewed by the Board prior to the establishment opening. The security plan shall cover and meet the requirements set forth in D.C. Official Code Section 25-402(d)(3). The security plan shall incorporate detailed procedures in its Security Plan on how security personnel are to handle violent altercations in the establishment, including appropriate methods for detaining and controlling aggressive patrons.
- (8) The security plan shall address the establishment's procedure for preserving a crime scene.
- (11) Licensee agrees to document the date on which any weapons are recovered from patrons and to consult MPD on the disposition of the weapons. Licensee shall document the date and time of the consultation and include the name and badge number of the officer consulted . . .
- (14) Cameras utilized by the licensee shall be operational. Any footage of a crime of violence or a crime involving a gun shall be maintained by the establishment for 30 days. Security footage shall be made available within 48 hours or upon request from ABRA or MPD.

Id. at 2-3.³

iii. Prior Violations

7. The Respondent has committed a number of violations of Title 25 of the D.C. Official Code (Title 25) during the course of its operations. The Respondent's investigative history shows that since 2009, the Respondent has committed three secondary tier violations related to compliance with its settlement agreement and the District of Columbia's noise laws. *Investigative History*, Twelve Restaurant & Lounge, ABRA License No. 76366 (May 14, 2014) (See Case Nos. 09-CMP-00530, 09-CMP-00613). The Respondent also committed two unlisted violations in 2011 related to the violation of the Board's conditions imposed in Board Order No. 2011-289. Id. (See Case No. 11-CMP-00458); In re BEG Investments, LLC, Board Order No. 2012-308, at ¶ 12. The Respondent also entered into an OIC agreeing that it unlawfully sold alcohol to a minor, which is a primary tier violation. *Investigative History* (See Case No. 13-CC-00011). Finally, show cause actions related to the March 8, 2014 summary suspension and a cover charge violation are still awaiting adjudication. Id. (See Case Nos. 14-CMP-00107, 14-251-00087).

II. FACTS PROVIDED BY THE RESPONDENT'S SECURITY PLAN

8. Board Order No. 2014-106 required the Respondent to implement a security plan. In re BEG Investments, LLC, Board Order No. 2014-106, at ¶ 7. The Respondent's security plan requires the following:

³ As of the date of the summary suspension hearing, ABRA's records indicate that a show cause status hearing related to this matter is scheduled for June 18, 2014. *Investigative History*, Twelve Restaurant & Lounge, ABRA License No. 76366 (May 14, 2014).

CAMERAS AND COVERAGE AREAS . . . All videos will be available within twenty-four hours (24) of request by MPD or the Alcoholic Beverage Regulation Administration (ABR). MPD or [ABRA] . . . will be allowed to view video footage immediately upon request.

Security Plan, Twelve Restaurant & Lounge, 2 (Mar. 19, 2014).

INSIDE/OUTSIDE DEPLOYMENT . . . On Friday's and Saturday's on all special events with live music, there will be one security personnel checking ID's, [and] one wandering individuals . . . All bags and purses of patrons will be inspected prior to entry.

Incident Protocol/Incident Log . . . All violent incidents and medical emergencies must be reported to "911" . . .

Id. at 4.

Communication Equipment/Security Equipment Procedures . . . Wands are to be used on Friday, Saturdays, and during special events with live music. If a wand is used and the wand alert button goes off, you must ask that patron to remove whatever item from their purse or pocket which may be causing the alert. If the customer fails to do so, they are not allowed entry into the establishment . . . Pat downs will only be conducted if wands are not functioning or the alert does not subside.

Id. at 6.

Conflict Resolution/Aggressive Customers[:] If you observe an altercation inside or outside the establishment, you are to attempt to diffuse the situation in a non-aggressive manner and radio for assistance.

If an altercation occurs between two parties, they are not to be escorted to the same area to address their concerns. Those parties are to be separated and if possible escorted out through different exits at different times. All incidents are to be immediately reported to the Head of Security and recorded in the incident log. Violent aggressors are to be escorted and[/]or identified to MPD whenever possible . . .

Id. at 8.

Crime Scene Preservation[:] Should a crime, as determined by MPD, ABRA or Management occur within the establishment, the following shall take place in the area in which the occurred:

Ensure that all persons in the area are safe[:]; [e]nsure that medical attention is provided to any persons who needs or appears to need medical assistance[:]; . . .[and] [c]ordon off the area in question and prevent any disturbance (including staff) of that area until MPD or ABRA arrive and are taken to that area and informed of what transpired there[.]

Id. at 9.

III. FACTS PROVIDED BY THE RESPONDENT'S SETTLEMENT AGREEMENT

9. The Respondent's settlement agreement states, "The licensee will prohibit illegal drug activity/use on the premise." In re BEG Investments, LLC, t/a Twelve, Case No. 61245-07/040P, Board Order No. 2007-140, *Settlement Agreement*, 1.0(e) (D.C.A.B.C.B. Oct. 31, 2007).

IV. FACTS RELATED TO THE RESPONDENT'S ENTRY PROCEDURES

10. The establishment's front door camera shows the establishment's staff conducting wandings and pat downs. *Camera Front Door* (labeled "3. Front door:"), at 1:03:27. The Board's finds the screening inconsistent and lax.

11. For the purposes of this order, the Board identified seven instances of security failing to screen patrons before entering the establishment during the time period before the altercation occurred on the second floor:

- a. A male patron in a white baseball cap is patted down, but not wanded. Id. at 1:03:08-1:03:27.
- b. A female patron with black hair is patted down, but not wanded. Id. at 1:04:59-1:05:12.
- c. A female patron with curly hair is patted down, but not wanded. Id. at 1:05:01-1:05:24.
- d. A male patron hugs the female security member, walks to the doorman and hands him some money, and then enters the establishment without being wanded. Id. at 1:09:05-1:10:40.
- e. A male patron with a hooded grey sweatshirt and a beard (P1) receives a pat down, but is not wanded. Id. at 1:13:13-1:13:50.
- f. A large male patron with a baseball cap and t-shirt with colored sleeves is patted down, but not wanded. Id. at 01:16:56-1:17:13.
- g. A male patron with a white t-shirt, long necklace, and shorts is patted down, but not wanded. Id. at 1:28:03

12. The Board further identified other individuals that were not wanded during this period; however, the Board does not describe them in the order, because doing so would be unduly repetitious and unneeded for the purposes of this decision. See e.g., id. at 1:41:09 (male patron with long hair); 1:42:00 (male patron with white shirt and jacket); 1:42:19 (patron with camouflage hat); 1:43:09 (female patron).

V. FACTS RELATED TO THE ALTERCATION ON THE SECOND FLOOR

13. As P1 is paying the doorman, a patron wearing a blue jacket with a light blue stripe (P2) enters the establishment and is wanded. Id. at 1:14:11. A male in a puffy jacket with a fur rimmed hood (P3) enters the establishment after P2. Id. at 1:14:10. P3 is followed by a short male in a grey hooded sweatshirt (P4). Id. at 1:14:15. P3 and P4 are wanded by security. Id. at 1:14:20-1:15:09.

14. After obtaining admission, P1, P2, P3, and P4 stand near the entrance. Id. at 1:15:19. They soon get into a verbal altercation with a man wearing a dark baseball cap with a white brim. Id. at 1:15:45. The group is broken up by a man with a piece of paper in his hand. Id. at 1:15:49-1:15:58. Because they appeared to be on the same side during the verbal dispute, the Board presumes P1, P2, P3, and P4 know each other. Id. The group then enters the establishment. Id. at 1:15:58-1:16:14.

15. Around 2:21 a.m., a patron wearing a white t-shirt and backwards baseball cap (V2) is observed dancing on the second floor near the establishment's stairway.⁴ *Camera VIP Windows* (labeled "6. VIP windows") at 2:21:26 a.m. P2 emerges from the crowd on the left side of the screen with P1. Id. at 2:21:57-2:22:04. V2 gets P2's attention and the two begin to converse. Id. at 2:22:08-2:22:14. The camera then shows P1 joining the conversation. Id. at 2:22:27. P3 joins the group near P1, and P1 and P3 converse separately. Id. at 2:22:31-2:22:40. P4 comes into view from behind P2. Id. at 2:23:02.

16. V2, P2, and P1 then huddle in conversation. Id. at 2:23:44-2:23:53. Soon after, a girl wearing a hat and P1 exchange hugs. Id. at 2:24:16. V2 and P1 then engage in a conversation, and P1 suddenly appears angry in the video. Id. at 2:24:21-2:24:25. P1 then appears to either tug on his pants or stick his hand in his pocket. Id. at 2:24:32-2:24:33.

17. V2 attempts to walk past P1, but as he passes P1 lunges towards V2 from the side. Id. at 2:24:36. He appears to either stab or punch V2 in the back. Id. at 2:24:37. V2 immediately falls to the ground off-camera. Id. at 2:24:37.

18. P1, P2, P3, and P4 converse briefly as they stare at the floor and begin walking towards the stairs. Id. at 2:24:37-2:24:51. The crowd looks down at the ground where V2 fell. Id.

VI. FACTS RELATED TO P1, P2, P3, AND P4'S ESCAPE

19. The camera facing the top of the stairway shows P3 walk down the steps and then walk back towards the second floor entrance. *Camera Top Stairs* (labeled "2. Main steps upper.") at 2:25:10-2:25:17. At the door, he joins P2. Id. at 2:25:17.

20. P1 then bursts from the door and runs down the stairs with P3. Id. at 2:25:17-2:25:18. P2 briefly exchanges punches with a patron in a white shirt and white pants (W1). Id. at 2:25:18-

⁴ The Board identifies this victim as V2, because officers testifying identified him as the second victim.

2:25:19. P2 then runs down the stairs as W1 chases him. Id. at 2:25:19. Other patrons run down after the group. Id. at 2:25:29.

21. A second camera shows the bottom of the stairway. *Camera Lower Steps* (labeled “1. Main steps lower”) at 2:25:23. P1 can be observed running down the steps and is quickly followed by P3. Id. at 2:25:24-2:25:25. At the same time, W1 comes into view by falling down the steps near P3’s feet. Id. W1 immediately grabs P3’s hand, and he is dragged down the steps by P3. Id. at 2:25:25-2:25:26.

22. Behind W1, P2 comes into view and falls. Id. at 2:25:26. P2 is carrying an object consistent with the shape of a knife. Id. at 2:25:26. As P2 moves down the steps, the object in his hand shines dimly in the view of the camera. Id. at 2:25:26-2:25:28. Based on these facts, the Board determines that the object in P2’s hand is a knife.⁵

23. As the group reaches the first floor, a security member comes into view holding P4 and physically restraining him at the top of the steps. *Camera Top Stairs*, at 2:25:37. P4 stops resisting and security allows him to go down the steps. Id. at 2:25:48-2:25:57. Security motions towards P4 and then returns to the door as patrons pass. Id. at 2:26:01. Security then follows P4 down the steps. Id. at 2:26:01-2:26:11. As P4 walks down the steps, P4 takes off his shirt. Id. at 2:26:26.

24. The camera on the first floor bar shows P1 emerge from the steps. *Camera Bar* (labeled “4. 1st floor bar”), at 2:25:16. He begins backing up as P3, P2, and W1 tumble down the steps. Id. at 2:25:16-2:26:18. P3, P2, and W1 knock a female patron into a table. Id. at 2:26:18-2:25:19.

25. P1 pulls P3 away towards the front door. Id. at 2:25:19. At the same time, W1 tumbles into a chair at the bar and a patron wearing a bucket hat that is sitting in another chair. Id. at 2:25:30-2:25:21. P2 pushes W1 and then runs off screen towards the door, followed by W1 after he recovers his balance. Id. at 2:25:21-2:25:22. Other patrons and the owner follow the group. Id. at 2:25:23.

26. The front door camera shows P1, P2, and P3 run through the crowd near the front door. *Camera Front Door*, at 2:25:22. They run outside and then up the sidewalk. Id. at 2:25:25. W2 is pushed out by a door person and walks up the street, while another patron in white runs out. Id. at 2:25:27-2:25:29.

27. As the group leaves, the security member continues to escort P4 down the stairs. Id. at 2:26:18. Security escorts P4 to the edge of the bar, P4 puts on his grey hooded sweatshirt, and then security guides P4 to the bathroom. Id. at 2:26:18-2:26:38. P4 is guided into the bathroom and security walks upstairs. Id. at 2:26:47-2:26:59. P4 then walks out of the bathroom with his

⁵ The Board can also infer that the object is a knife based on (1) Officer Vogel’s observation of a second person bleeding as he emerged from the establishment; (2) the gap in the footage from where P1, P2, P3, P4 leave the scene of the assault to where they appear again near the top of the stairs, which created an opportunity for a second stabbing to occur; and (3) the sudden appearance of W1 and others chasing the group—all signs that the altercation continued off-camera. Based on the facts in this case, and the lack of other altercations, a knife in P2’s hand is the only reasonable explanation for the observations made by Officer Vogel.

hood up and walks out of the establishment without being detained or pointed out to MPD. Id. at 2:27:44-2:27:52; *Camera Front Door*, at 2:27:56-2:28:09.

VII. FACTS DETERMINED BY PARTY ADMISSION

28. The Respondent's Security Manager, Allen Whittaker, admitted that a band was playing on Saturday, May 24, 2014. *Case Report 14-251-163* at 7

29. The Respondent's Security Member, Derrick Williams, told Investigator Mathieson that he was on the second floor during the incident near the VIP Section when the incident began. Id. At the time of the incident, he observed the crowd move and saw the fight. Id. Mr. Williams further stated he saw a smaller patron hitting a larger man in the head.⁶ Id. He then separated the parties and brought the smaller man downstairs because he was bleeding from the nose. Id. Mr. Williams brought the smaller man downstairs and directed the patron to clean himself up before he left. Id. He then went back upstairs, but saw that the patron had put on his hooded sweatshirt when he emerged from the bathroom. Id.

30. The Respondent's Security Member, Alton Jones, told Investigator Mathieson that he was working near the stage during the incident. Id. at 8. Mr. Jones observed the altercation from the back of the dance floor. Id. Mr. Jones then observed that one member of security removed the "aggressor." Id.

VIII. FACTS RELATED TO THE CARE OF THE VICTIM.

31. After V2 is knocked to the ground, the crowd looks at the place where V2 fell. *Camera VIP Window*, at 2:25:00. Two security members can be observed walking through the VIP section and then making their way into the crowd toward the scene of the altercation. Id. at 2:25:28. Security then talks to nearby patrons, and pulls other patrons away. Id. at 2:25:28-2:26:00. Security and a group of patrons then lift the unconscious V2 and carry him towards the stairs. Id. at 2:26:55. The band continues playing as the group attempts to lift the patron. Id. at 2:26:45. The Board notes that after the altercation the lights appeared to be turned on, but after a brief moment, the lights were turned off again and the music began again. After V2 is carried downstairs, patrons continue going up the stairs to the second floor.

32. After P1, P2, and P3 leave, the front door camera shows the establishment's security member carrying V2, who is still unconscious and has blood on his shirt. Id. at 2:27:36. A person directs security to place V2 in a chair, which he does. Id. at 2:27:36-2:27:49. The chair is approximately five to seven feet from the front door. Id. The Board notes that patrons are allowed to pass the chair without any security present to separate V2 from the crowd.

33. A member of the MPD Reimbursable Detail arrives at the entrance at 2:28:04 a.m. Id. at 2:28:04. Three officers eventually surround V2. Id. at 2:28:56. The video shows that patrons continue entering and exiting the establishment at this time without being screened. Id. at

⁶ The smaller man was likely not hitting V2, but a person chasing the group as they fled, because V2 is never seen arising from the place where he fell.

2:28:57-2:29:03; 2:29:39-2:29:40; 2:30:29. As paramedics and police place V2 on a stretcher, the crowd is bunched around the first responders. Id. at 2:33:32-2:33:34.

IX. FACTS PROVIDED BY SERGEANT POPE

34. On May 24, 2014, near the time of the incident, Sergeant Alexander Pope was canvassing the neighborhood near the Respondent's establishment for a suspect in an unrelated stabbing. While in his vehicle, Sgt. Pope saw an MPD Reimbursable Detail member enter the Respondent's establishment, which only occurs when there is an incident at an establishment. Sgt. Pope left his vehicle and responded to the scene. He entered the club and noted the odor of marijuana inside upon entering.

35. He approached the door and saw two employees. He attempted to speak to one employee, but that employee walked away without responding to his questions. He then approached a second employee. After two attempts to get the employee to answer questions about the incident, the employee finally gave Sgt. Pope a description of a suspect and nodded in his direction.

36. When Sergeant Pope eventually saw the suspect, the suspect attempted to flee and Sgt. Pope pursued him. The suspect got into a vehicle and Sgt. Pope was able to grab the door, but had to let go when the car pulled away. In response, MPD engaged in a pursuit and eventually forced the fleeing vehicle to stop.

X. FACTS PROVIDED BY OFFICER VOGEL

37. On May 24, 2014, MPD Officer Alexander Vogel served on the Respondent's MPD Reimbursable detail. His shift at the establishment began at midnight.

38. Around 2:14 a.m., he observed people running out of the door. A victim with a white t-shirt (V1) emerged from the establishment with blood stains around his abdomen and back area. Officer Vogel did not observe any security following V1 when he emerged.

39. Officer Vogel approached V1 and asked him to wait. V1 initially refused medical treatment, but Officer Vogel convinced him to wait after he told V1 that he could "bleed out." Officer Vogel then called for a medical response. Eventually, another officer came to deal with V1. Officer Vogel then entered the establishment.

40. Upon entering, Officer Vogel observed V2 in a chair. V2 had a deep laceration on the left side of his head. Officer Vogel requested medical assistance on his radio. Officer Vogel then ordered the club to shut down. The medical team eventually arrived and took V2 to the hospital.

41. Officer Vogel noted that a female security member attempted to control patrons. Nevertheless, he believed the establishment did not fully control patrons inside and outside the establishment.

42. Officer Vogel noted that supporting officers arrived and they went to view the video of the evening. Officer Vogel was eventually told by a detective that the assault occurred on the

second floor. He then went upstairs and saw the band packing up. Officer Vogel did not observe any areas cordoned off on the second floor. He performed a search for weapons and noted a bottle of bleach in the trash. He found no blood on the second floor.

XI. FACTS RELATED TO THE PRESERVATION OF THE CRIME SCENE

43. At no time after the altercation, did the establishment cordon off the area of the assault. The establishment's security footage further shows that the Respondent did not prevent patrons from trampling the area where the assault occurred. See e.g., *Camera VIP Windows*, at 2:37:55. Finally, the video shows that the Respondent's staff used a broom to clean the area where the assault occurred. *Camera Dance Floor* (labeled "7. Dance floor"), at 2:51:56.

CONCLUSIONS OF LAW

44. "If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, fine, or restrict, without a hearing, the license to sell alcoholic beverages in the District." D.C. Official Code § 25-826(a).

I. THE RESPONDENT'S FAILURE TO COMPLY WITH A BOARD ORDER AND A SECURITY PLAN ATTACHED TO THE RESPONDENT'S LICENSE CREATES AN IMMINENT DANGER TO THE PUBLIC

45. The Respondent failed to comply with the requirements of a Board Order and security plan related to screening for weapons with a wand and escorting violent aggressors to MPD Reimbursable Detail officers.

A. The Respondent failed to properly wand patrons before permitting patrons to enter.

46. The Board determines that the Respondent's failed to comply with the terms of a Board Order and the provisions of its security plan related to searching patrons with a metal detecting wand. Based on the establishment's failure to comply with conditions agreed upon by the Respondent as a condition of reopening during the last summary suspension action, the Board concludes that the only appropriate action is to continue the present summary suspension.

47. Under the law, the Respondent is obligated to comply with the terms of any Board Orders or security plans attached to the license. D.C. Official Code § 25-823(6). Board Order No. 2014-106, requires the

Licensee . . . to use "wands" at the entrance to the establishment for the purpose of detecting metal objects, including weapons, carried by patrons when the establishment has entertainment including but not limited to a disc jockey or a live band. The wands

will be used in conjunction with physical “pat down” searches to be specified in the Licensee’s Security Plan . . .

Supra, at ¶ 6(4). The establishment’s security plan separately requires that the establishment, “[o]n Friday’s and Saturday’s on all special events with live music, [have] one security personnel . . . wandering individuals . . .” Supra, at ¶ 8 (see “INSIDE/OUTSIDE DEPLOYMENT”). The agreement further adds,

Wands are to be used on Friday, Saturdays, and during special events with live music. If a wand is used and the wand alert button goes off, you must ask that patron to remove whatever item from their purse or pocket which may be causing the alert. If the customer fails to do so, they are not allowed entry into the establishment . . . Pat downs will only be conducted if wands are not functioning or the alert does not subside.

Supra, at ¶ 8 (see “Communication Equipment/Security Equipment Procedures”).

48. The record shows that the establishment failed to comply with the wandering provisions of Board Order No. 2014-106. On Saturday, May 24, 2014, a live band was playing inside the establishment. Supra, at ¶ 27. The video footage of the establishment shows at least seven instances of the establishment’s security failing to wand patrons as they entered, which the Board finds sufficient to demonstrate a continuous pattern of failures to properly screen patrons. Supra, at ¶ 11. The Board further notes that one of the individuals that the establishment failed to wand was P1, the person that viciously assaulted V2. Supra, at ¶¶ 11, 16. Consequently, the record shows that the Respondent failed to comply with the terms of a Board Order and its security plan on the night of the incident.

49. The Board determines that these violations rise to the level of an imminent danger for two reasons.

50. First, the Respondent has been on notice for years that violence at the establishment is an ongoing problem. In 2011, the Board issued an order finding that multiple acts of violence occurred at the establishment, including an assault on a police officer. Supra, at ¶ 2. Additionally, approximately two months prior to the present matter, the Respondent’s license was summarily suspended due to an alleged stabbing. Supra, at ¶ 5. Based on the Respondent’s knowledge of ongoing violence inside the establishment, the Respondent’s failure to employ proper wandering procedures amounts to gross negligence, which calls into question the ability of the Respondent to properly superintend a licensed establishment.

51. Second, the failure to properly wand patrons created an environment conducive to the violence that occurred on May 24, 2014. P1, the aggressor, was able to pass through security without being wanded. Supra, at ¶ 8. Later in the evening, P2, one of the people who arrived with P1, appears on camera with a knife in his hand. Supra, at ¶ 21. Based on these facts, it is not surprising that a patron was observed bleeding as he left the establishment. Supra, at ¶ 37.

52. In light of the violations described above, the Board determines that the appropriate action is to suspend the license pending the resolution of a show cause action related to the

incident on May 24, 2014. During the prior summary suspension hearing, the Respondent agreed as a condition of reopening that it would enact a wandering program to ensure the safety of patrons. By not complying with the terms of the agreement, the Respondent cannot be trusted to comply with any lesser action the Board could devise. Therefore, the Board finds that in the interest of public safety the establishment must remain closed.

B. The Respondent failed to properly escort a violent aggressor to the MPD Reimbursable Detail.

53. Separate and apart from the Board's determination in Section I(A), the Board finds that the Respondent's failure to properly escort P4 to the police merits the continuation of the suspension.

54. Under the law, the Respondent is obligated to comply with the terms of any Board Orders or security plans attached to the license. D.C. Official Code § 25-823(6). Board Order No. 2014-106 requires the Respondent ". . . to escort violent aggressors to the MPD Reimbursable Detail officer or officers customarily posted in front of the establishment when such Detail is in place. Supra, at ¶ 6(6). Further, the Respondent's security plan states, "[v]iolent aggressors are to be escorted and[/]or identified to MPD whenever possible . . ." Supra, at ¶ 8 (see "Conflict Resolution").

55. In this case, two security members were aware that V2 was involved in a fight before they arrived at the site of the altercation. Supra, ¶¶ 28-29. Security Member Derrick Williams further stated that he observed a smaller man hitting a larger man in the head and separated the combatants. Supra, at ¶ 28. Security footage further shows that after responding to the site of the altercation, one security member felt it necessary to physically restrain P4. Supra, at ¶ 22. Nevertheless, despite knowing P4 was engaged in a fight, security permitted P4 to go to the bathroom and left P4 alone to walk out of the establishment without any supervision or taking the patron to the MPD Reimbursable Detail. Supra, at ¶ 26.⁷ Based on these facts, the Respondent violated its obligation to escort P4 to the MPD Reimbursable Detail outside the establishment.

56. Similar to the Board's reasoning in Section I, the Board finds that the violation merits a continuation of its suspension, because the Respondent violated a condition of reopening in Board Order No. 2014-106.

II. THE RESPONDENT'S CONTINUED OPERATION POSES AN IMMINENT DANGER TO THE PUBLIC.

57. The Board further finds that a continuation of the suspension is merited for the following reasons:

⁷ When an establishment feels the need to restrain a patron, there is no justification for allowing that patron to roam free through the establishment. Permitting a patron involved in a prior altercation to roam throughout the establishment without supervision permits the patron to engage in additional fighting and violence. Consequently, on May 24, 2014, the establishment endangered patrons by failing to immediately eject P4 and by allowing him to roam through the establishment without supervision, even after security identified him as an aggressor.

A. The establishment's failure to protect the crime scene shows that the establishment lacks appropriate internal communication mechanisms.

58. It is clear that the establishment lacks appropriate security procedures when confronted with violence inside the establishment. The Respondent's security plan requires, "All incidents . . . to be immediately reported to the Head of Security." Supra, at ¶ 8 (see "Conflict Resolution"). Further, the establishment has an obligation to "[c]ordon off the area in question and prevent any disturbance (including staff) of that area until MPD or ABRA arrive and are taken to that area and informed of what transpired there[.]" Supra, at ¶ 8 (see "Crime Scene Preservation").

59. As noted above, security was well-aware that a violent altercation (e.g., a crime) occurred on the second floor. Supra, at ¶¶ 22, 26, 28-29. Yet, it appears that only the members involved in the incident knew what occurred and that other staff members were totally unaware of what occurred. Under these circumstances, it is no surprise that a staff member began cleaning the area where the altercation occurred in violation of the security plan.⁸

60. The Board finds that this violation of the security plan rises to the level of an imminent danger, because it demonstrates that the establishment does not communicate internally regarding violent incidents, which creates a significant risk that the establishment will violate the terms of its security plan in the future.

B. The establishment does not have sufficient procedures to manage the establishment's crowd.

61. This case further demonstrates that the Respondent does not have enough security to manage the establishment's crowd. First, the footage of the initial altercation between V2 and P1 shows that security was not near the scene of the altercation. This permitted P1, P2, and P3 to run down the steps, permitted P2 to exchange punches with W1 on the stairs, and allowed the group to knock patrons over as they fled the establishment. Supra, at ¶¶ 16, 19-21, 24-25. Had security been nearby, their presence may have deterred the altercation and prevented the wild flight out of the establishment. As a result, the record shows that the establishment's security has a significant blind spot in the area surrounding the second floor stairs that poses a danger to patrons inside the establishment.

62. Second, while police were attending to V2, patrons were coming in and out of the establishment without being screened, allowed to crowd around V2, and were allowed to swarm around first responders at will. Supra, at ¶¶ 31, 32. As a result, the record further shows that the

⁸ The question was raised on cross as to whether an establishment should clean broken glass on the floor as a matter of safety. Nevertheless, it is not uncommon for stabbing to involve broken glass and broken bottles; as a result, when an establishment cleans up glass in an area where assault occurred, there is a strong possibility that this may interfere with the investigation and prevent MPD from discerning the weapon used during an assault. Consequently, when an assault occurs, the best course of action is cordoning off the area until the police have an opportunity to investigate.

establishment does not have sufficient procedures or security to control the establishment's crowd during an emergency.

63. The Board finds this demonstrates a continuing danger to the public, because it further demonstrates deficiencies in the Respondent's security procedures.

C. The Respondent endangered V2 by carrying him to the front door.

64. The Board is further concerned that the Respondent's staff believed it was appropriate to carry someone with a head wound down the establishment's stairs. Supra, at ¶¶ 30-31. In the case of a head or neck injury, moving an injured person may result in further injury, including paralyzation or death. Consequently, the Board is further concerned that the establishment's security members do not have sufficient training to deal with injured patrons.

ORDER

Therefore, the Board, under § 25-826, on this 6th day of June 2014, hereby **SUMMARILY SUSPENDS** the Retailer's Class CT License held by Beg Investments, LLC, t/a Twelve Restaurant & Lounge, based on the Board's finding that the operations of the establishment create an imminent danger to the health and safety of the public. The suspension shall continue until the Board issues its final order in a future show cause proceeding related to the incident on May 24, 2014.

IT IS FURTHER ORDERED that if the Office of Attorney General declines to prosecute the matter, the Respondent may request that the Board lift the suspension, which the Board may grant subject to the imposition of conditions.

IT IS FURTHER ORDERED, based on the findings contained in the above order, that caterers in the District of Columbia are prohibited from selling, serving, or permitting the consumption of alcohol at 1123-1125 H Street, N.E., Washington, D.C., pursuant to § 2009.3 of Title 23 of the DCMR.⁹

IT IS FURTHER ORDERED that ABRA's Licensing Division shall deny all temporary or one-day substantial change applications filed for 1123-1125 H Street, N.E.

IT IS FURTHER ORDERED that this matter shall be forwarded to the District of Columbia Department of Health based on the evidence in the record that demonstrates the Respondent may be permitting the use of tobacco on the premise in violation of District law.

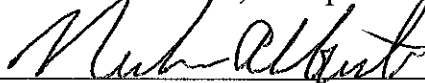
A copy of this Order shall be sent to the Respondent, the Government, and the Department of Health.

⁹ In accordance with § 25-826 and §§ 2009.1 and 2009.3 of the District of Columbia Municipal Regulations, "[i]f the Board determines that disruptive activity or unlawful conduct has occurred at the event site, the Board may place restrictions upon the number, nature, or size of events permitted at a site." § 25-826, 23 DCMR §§ 2009.1, 2009.3. see also D.C. Code § 25-211(f) (explaining that the Board has the authority to restrict events at an event site when it determines that "... events at the site have violated District of Columbia law and created parking, trash, noise, congestion or other alcohol related problems which have been substantially injurious to neighborhood residents.")

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



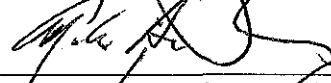
Nick Alberti, Member



Donald Brooks, Member



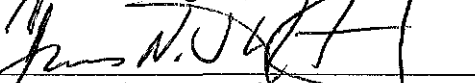
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, 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).