

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

CASE REPORT

Investigation Number 09-251-00272	Date of Occurrence 10-25-2009	License Number ABRA-76366	Application Number 61196
Trade Name Twelve Restaurant & Lounge		Owner/Licensee (List Sole Owner or Principal) Beg Investments, LLC / Bernard Gibson- Owner	
Address 1123-1125 H Street N.E., 20002		License Description CT 03	Date of Complaint 10-25-2009
Complainant Name, Phone and Address			<input type="checkbox"/> Anonymous
Investigator Name Felicia Dantzler		Type of Report <input checked="" type="checkbox"/> Investigative <input type="checkbox"/> Supplemental <input type="checkbox"/> Information	
Alleged Violation(s) and Code/Regulation Citation			Substantiated Yes/No
D.C. Official Code §25-823 Revocation or suspension of violations of this title or misuse of licensed premises.			
Manager-in-charge/Owner's name at the time of inspection and identification: Bernard Gibson- Owner			
All Licenses in Compliance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable			
List Licenses not in Compliance:			

SUMMARY:

On Monday, October 26, 2009, Alcoholic Beverage Regulation Administration (ABRA) Investigator Felicia Dantzler was able to substantiate that a gun was discharged outside the establishment t/a Twelve Restaurant & Lounge, located at 1123-1125 H Street N.E.

DETAILS:

This investigation was initiated as a result of a PD-251, police report, CCN 09153061 (Exhibit #1), initiated by the Metropolitan Police Department (MPD). The PD-251 states the following:

- C-1, C-2, C-3 and C-4 stated on the listed, date, time and location, that a verbal altercation occurred between C-1, C-2 and S-1.
- C-1, C-2, C-3 and C-4 further stated that as the verbal altercation occurred that witnessed S-1 fire a shot into the air.
- W-1 stated that he heard the shot then saw S-1 drop the pistol on the ground and pick it back up.
- The incident occurred at 3:30 a.m., along side of the establishment.
- The time of the report is 5:30 a.m.

On Monday, October 26, 2009, Investigator Dantzler telephonically interviewed Daniel Debois Jones, C-1. Mr. Jones stated that he was a patron at Twelve Restaurant & Lounge and he and friends were celebrating Gallaudet University's homecoming. Mr. Jones stated that prior to the discharging of the gun, the night was incident free. Mr. Jones stated that he attended Gallaudet University's homecoming last year held at Twelve Restaurant & Lounge. Mr. Jones added that there was a disturbance last year (fight) between members of the deaf community from Baltimore, Maryland and the District of Columbia deaf community. Mr. Jones stated that as he left Twelve Restaurant & Lounge, he saw two females fighting on a corner. Mr. Jones stated that he recalls seeing the females inside of Twelve Restaurant & Lounge. Mr. Jones stated that he does not know if there was an incident involving the females while inside of Twelve Restaurant & Lounge. Mr. Jones stated that he did not see the suspect discharge the gun, but he did hear a gun shot approximately 15 minutes after the fight ended. Mr. Jones added "we were beefing with those guys" (meaning the Baltimore deaf community). Mr. Jones stated that a security person from Twelve Restaurant & Lounge telephoned the police.

On Monday, October 26, 2009, at 5:00 p.m., Investigator Dantzler visited Twelve Restaurant & Lounge to speak with Bernard Gibson, owner of the establishment. Mr. Gibson stated that he was working on the night of the incident, but did not witness the incident. Mr. Gibson stated that the establishment hosted a homecoming event for Gallaudet University. Mr. Gibson stated that patrons had to be at least 18 years old to enter and 21 years old to drink alcoholic beverages. Mr. Gibson stated that each person under the age of 18 years old had a water proof black "X" marked on the back of their hands, to ensure that no alcoholic beverages were served to them. Mr. Gibson stated that patrons 21 years old and older were issued a brightly colored neon wrist band to easily identify them as being of legal age to consume alcoholic beverages. Mr. Gibson stated that Twelve is not a part of the MPD Reimbursement Detail, however; he has a contract with a private security company called "DNP Security Company" to provide security for the establishment. Mr. Gibson stated that on the night of the incident three people were working from DNP. One was positioned at the entrance and was responsible for requesting and checking identifications, conducting pat downs (males only), and searching females with the help of a hand held wand (used to detect metal). The second security person was assigned to the stairwell and hallway leading to the second level. This person is responsible for keeping the stairwell and hallway free of patrons, as well as ensuring patron safety. The third security person is assigned to the second level and is responsible for patron safety, roaming the floor and keeping the floor debris free. Mr. Gibson stated that each security person is identified by their black polo style shirt with the word staff embossed on the front or back. Mr. Gibson stated that the establishment is equipped with 10 functional cameras and all were working on the night of the incident. Mr. Gibson stated that he would provide a copy of the video footage for this investigation. Mr. Gibson stated that the establishment was incident free on the night of the shooting, and moreover; the establishment was closed. Mr. Gibson stated that at 2:45 a.m., patrons began exiting the establishment, and by 3:00 a.m., all patrons had left the establishment. Mr. Gibson stated that his establishment was closed at the time of the incident. Mr. Gibson added that he first became aware of the shooting when "K", a security person of DNP advised him of the incident. Mr. Gibson stated that he does not know K's true name. Investigator Dantzler conducted at Regulatory Inspection (Exhibit #2) and no ABRA violations were found. Mr. Gibson stated that the security procedures are incorporated in the Voluntary Agreement (VA) (Exhibit #3). The VA was accepted by the Board on October, 2007.

Investigator Dantzler reviewed with Mr. Gibson section by section of the (VA) associated with Twelve Restaurant & Lounge. Mr. Gibson initialed each section of the VA. The VA states in part the following:

1.3 Sound Management

- a) Commercial sound proofing of the interior walls is required. The Protestants will accept the plans of the licensee to sound proof walls and insulate windows as presented to the Protestants in meetings. The use of planters and fencing on the roof deck of the establishment to absorb sound seems feasible provided that the types of plants and other materials are large enough and density sufficient.**

Mr. Gibson stated that his establishment is sound proof and added that he has added additional sound proofing (Exhibit #4).

On Thursday, October 29, 2009, Investigator Dantzler telephonically interviewed Nicole Sherese Venetta Rich, C-2. Ms. Rich is hearing impaired and the interview was conducted through an interpreter provided by Ms. Rich, Sorenson Video Relay. Interpreter # 8600 assisted with the interview conducted with Ms. Rich.

Ms. Rich stated that on Saturday, October 24, 2009, between 9:00-10:00 p.m., she and her friend Remecka Audrey Jefferson (C-3) arrived at Twelve Restaurant & Lounge to participate in the Gallaudet University homecoming function which was held at the establishment. Ms. Rich stated that the establishment was incident free during her visit at Twelve Restaurant & Lounge. Ms. Rich stated that at approximately 2:30 a.m. the establishment started to close and she and Ms. Jefferson left the establishment. Ms. Rich stated that she was intoxicated when she left the establishment. Ms. Rich stated that once outside she was approached by a male who began to harass her and the male was not the shooter. Ms. Rich stated that she did not witness a fight outside. Ms. Rich stated that she can hear a little and she heard two shoots fired from a gun. Ms. Rich stated that he looked and saw the suspect sitting in a car, with the door open and holding a gun. Ms. Rich stated that she knows the suspect by "Taylor", but does not know his first name. Ms. Rich stated that the suspect is from Baltimore, Maryland. Ms. Rich stated that she does not know why the suspect fired the gun. Ms. Rich stated that she did not contact the police and she does not know who did.

On Thursday, October 29, 2009, Investigator Dantzler telephonically interviewed Ms. Jefferson (C-3). Ms. Jefferson is also hearing impaired. The interview was conducted by through an interpreter provided by Ms. Jefferson, Sorenson Video Relay. Interpreter #8600 assisted with the interview conducted with Ms. Jefferson.

Ms. Jefferson agreed that she arrived with Ms. Rich at Twelve Restaurant & Lounge on Saturday, October 24, 2009; between 9:00-10:00 p.m. Ms. Jefferson stated that her visit inside the establishment was incident free. Ms. Jefferson stated that at the end of the evening when the establishment closed, she observed someone in a verbal dispute, outside of Twelve Restaurant & Lounge. Ms. Jefferson stated that someone approached them and ordered them to "chill out". Ms. Jefferson stated that the individuals in the dispute were not associated with the suspect who discharged the gun. Ms. Jefferson stated that a MPD officer was on the sidewalk instructing everyone to clear the area. Ms. Jefferson stated approximately 20 minutes passed when she heard the sound of two gunshots. Ms. Jefferson stated that she looked in the direction of the sound and observed a male sitting in a vehicle and another male standing outside the vehicle. Ms. Jefferson stated that the person standing outside the vehicle discharged the gun while pointed up in the air. Ms. Jefferson stated that she did not see the suspect inside Twelve Restaurant & Lounge. Ms. Jefferson stated that there were five males with the shooter.

On Thursday, October 29, 2009, Investigator Dantzler telephonically interviewed Kaelend Garnett (aka K), Head of Security for DNP. Mr. Garnett stated that he was working on the night of the incident. Mr. Garnett stated that the establishment was closed at the time of the incident. Mr. Garnett stated that as patrons were leaving, many started to gather in front of the establishment. Mr. Garnett stated that he was responsible for clearing the sidewalk of patrons and he was doing just that when he encountered some individuals engaged in a verbal disagreement. Mr. Garnett stated that he instructed the individuals to move on. Mr. Garnett stated that at the same time he noticed a vehicle illegally parked on the corner of 12th & H Street N.E. Mr. Garnett stated that he advised the operator of the vehicle to move on. Mr. Garnett stated that he returned to the establishment. Mr. Garnett stated that shortly after returning to the establishment he heard a pop. Mr. Garnett stated that he returned outside and did not see any confusion or anyone in a state of panic, because many of the bystanders are hearing impaired. Mr. Garnett stated that the illegally parked vehicle was still on the corner. Mr. Garnett stated that he approached the rear driver's side of the vehicle and encountered a male standing outside the vehicle. Mr. Garnett stated that something the male had fell and struck the ground. Mr. Garnett stated that once the item made contact with the ground it made a metal sound. Mr. Garnett stated that instinctively he reached down to pick up the item, and that's when he discovered that the item was a gun. Mr. Garnett added that before he could touch it, the male picked up the gun. Mr. Garnett stated that he backed away from the male and he [Garnett] made his way back inside of Twelve Restaurant & Lounge. Mr. Garnett stated that he did not contact the police, but he advised Mr. Gibson. Mr. Garnett stated that approximately 10-15 minutes later he left the establishment and saw MPD on the scene. Mr. Garnett stated that inside the establishment was incident free.

On Thursday, October 29, 2009, Investigator Dantzler telephonically interviewed Tyler Mensing, the reporting

officer on the PD-251 #09153061. Besides Officer Mensing's official report, Officer Mensing stated that the suspect never entered Twelve Restaurant & Lounge. Officer Mensing stated that the incident erupted after two groups were engaged in a verbal dispute outside of Twelve Restaurant & Lounge. Officer Mensing stated that he can not say for certain if anyone he interviewed was intoxicated. Officer Mensing stated that one person was arrested. Officer Mensing added that the United States Attorney's Office has decided to go forward with prosecution of this matter.

Twelve Restaurant & Lounge is licensed as a tavern. D.C Official Code §25-113(c)(1) On- premises retailer's licenses states in part the following:

- **A tavern license (T) shall be issued only for a tavern.**
(2) The size of the dance floor in a tavern that does not possess an entertainment endorsement shall not exceed 140 square feet; provided, that the licensee whose establishment on September 30, 1986 contained a regularly used dance floor in excess of 140 square feet and who is occupying the same establishment shall not be disqualified under this limitation.

Twelve Restaurant & Lounge is not acting as a night club as it relates to the size of the dance floor and the establishment has a valid ABC license that has an Entertainment Endorsement. On January 16, 2007, Mr. Gibson applied for a new ABC license for 1123-1125 H Street N.E., Washington, D.C., 2002. The original requested hours of entertainment are consistent with the entertainment hours that have been approved by the Board and are reflected on the current ABC license.

On Friday, October 30, 2009, Mr. Gibson telephoned Investigator Dantzler and advised that he was unable to obtain a copy of the video footage.

EXHIBITS ATTACHED

- Exhibit #1: PD-251
- Exhibit #2: Regulatory Inspection
- Exhibit #3: Voluntary Agreement
- Exhibit #4: Contract Agreement Installing Soundproofing

INVESTIGATIVE HISTORY

1. 8/1/09: Case #09-CMP-00613, Noise from license premises, Citation #3466
2. 6/12/09: Case #09-CMP-00530, Violation of VA. 7/15/09: the Board requested a Show Cause Hearing. 10/5/09: The Board has scheduled a Status Hearing for 11/4/09 and a Show Cause Hearing 12/9/09.
3. 1/22/09: Case #09-251-00040, Violation of VA. 7/15/09: the Board requested a Show Cause Hearing. 9/9/09: This case was previously addressed and is closed.
4. 1/19/09: Case #09-251-00042, Violation of VA. 7/15/09: the Board requested a Show Cause Hearing. 9/9/09: This case was previously addressed and is closed.
5. 5/13/08: Case #13139, Violation of VA. 6/18/08: the Board requested a Show Cause hearing. On July 2, 2008, the Board requested that Supplemental Report #13139(a) be forwarded to the OAG 8/25/08: Forward to the OAG. 9/2/08: #13139(a) was forwarded to the OAG. 9/24/08: the Board requested a Show Cause Hearing. 3/11/09: the Show Cause Hearing is scheduled for April 8, 2009. 4/29/09: the Board took the matter under advisement. Fined for Charge I and Charge II. Fine Paid.

Abbreviations:

VA = Voluntary Agreement

OAG = Office of the Attorney General