

PETITION TO FINE, SUSPEND, OR * BEFORE THE ALCOHOLIC
REVOKE THE TEMPORARY CLASS C * BEVERAGE HEARING BOARD
LIQUOR LICENSE FOR JULIEN * FOR
SYE AND JEAN ALLE, * HOWARD COUNTY, MARYLAND
ON BEHALF OF DMV-WE *
CORPORATION * Case No. 18-23-V

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the “Liquor Board”), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the “Hearing Board”). This Proposed Decision and Order shall take effect immediately in accord with Rule 7.05(C), and shall become Final, as provided in Rule 6.13.

On February 7 and February 27, 2018, the Hearing Board heard the Petition of Howard County, Maryland and Detective Mark Baxter, the Alcoholic Beverage Inspector (collectively “Petitioners”), to Fine, Suspend, or Revoke the Temporary Class C Beer, Wine, and Liquor license of Julien Sye and Jean Elle (“Respondents”), on behalf of DMV-WE Corporation, 12300 Village Square Terrace, #302, Rockville, Maryland 20852.

The Licensees were not represented by counsel. David Moore, Esquire, represented the Petitioners. All of the documents on file were incorporated into the record by reference.

STIPULATIONS

David Moore stated that he had spoken with Mr. Sye and Mr. Alle before the hearing and that they wished to stipulate to the allegations in paragraphs 1-14 of the petition. He incorporated by reference the allegations in the petition to fine, suspend, or revoke the license of DMV-WE corporation, paragraphs 1-14 specifically:

1. Detective Mark Baxter, Petitioner, at the time of the Petition, was a sworn Howard County Police Officer, specially assigned and designated, pursuant to the applicable laws, as the Alcoholic Beverage Inspector for Howard County. In this capacity, he has the obligation, duty, and responsibility to investigate any licensed liquor establishment for any violations of the applicable liquor or other laws which may occur in the licensed establishment.

2. Howard County, Maryland, is a chartered county, organized pursuant to law, and has the authority, through the exercise of its police power, to enforce all of the laws relating to alcoholic beverages.

3. Respondents, Julien Sye and Jean Alle, applied for a temporary Class C liquor license on behalf of DMV-WE Corporation, 12300 Village Square Terrace, #302, Rockville, Maryland 20852, for the sale of alcoholic beverages to benefit the organization.

4. DMV-WE Corporation, a not-for-profit organization, was planning an event to be held on August 4, 2017 at the Friendship Center located at 9055-C Maier Road, Laurel, Maryland, which is located in Howard County and is subject to the jurisdiction of the Board of License Commissioners for Howard County.

5. At all times relevant to these proceedings, Respondents were responsible for ensuring compliance with all local and State laws concerning the distribution, sale, and transfer of alcoholic beverages to members of the public.

6. On August 3, 2017, Detective Mark Baxter was notified via email by the County Council Office of the application for the temporary alcoholic beverage license for DMV-WE Corporation. The email indicated that the Chairperson of the Liquor Board was requesting a check on this event to be sure the rules are being followed.

7. Detective Baxter, upon searching for information regarding the August 4, 2017 event, discovered an online post advertising an event to be held at the Friendship Center on August 4, 2017.

8. The online flyer indicated that the event would take place from 8PM to 3AM, which differed from the flyer in the application packet showing the event time as 8PM to 2AM.

9. Pursuant to State law, alcoholic beverages shall not be open, served, dispensed, consumed, furnished or given away by a license holder or any other patron on any part of the licensed premises during the hours prohibited by law, to wit, 2:00 a.m. The law further states that an establishment shall not remain open to anyone who is not an employee on duty for any purpose for more than 15 minutes after the legal closing time, regardless of the fact that no sales are made and no alcoholic beverages are consumed after the hours of closing.

10. On August 3, 2017, a temporary Class C liquor license was granted to DMV-WE Corporation.

11. On August 5, 2017, at approximately 0230 hours, Detective Baxter entered the Friendship Center and observed approximately 100 individuals still in attendance at the event. The individuals were dancing, sitting, and talking at tables with cups of unknown beverages in front of them, and food was still being served to guests. Detective Baxter did observe an unopened bottle of champagne on the table next to the cash box which was inside the entrance to the establishment.

12. Detective Baxter immediately asked the security guard at the event to locate the licensee. Marie Salvadord Kotue appeared from a back office area and advised Detective Baxter that she was the representative for the building owner and, subsequently, retrieved the person said to be in charge of the event, Thomas Anderson Gnan. Mr. Gnan advised

Detective Baxter that the individuals listed on the license application, Jean Alle and Julien Sye, were not present, but indicated that he was a member of the Board of Directors for DMV-WE Corporation.

13. Detective Baxter advised Mr. Gnan that all guests needed to leave immediately and that they were in violation of the terms of the alcoholic beverage license and Maryland alcoholic beverage laws. Mr. Gnan advised Detective Baxter that they did not sell any alcoholic beverages after 0200 hours and that he was not aware the event had to end at 0200 hours if there was not alcohol being served.

14. Detective Baxter asked Mr. Gnan for the liquor license at which time he proceeded to his vehicle to obtain it. Detective Baxter observed the additional notification page attached to the license which read, in part, "Closure of licensed event at 2:00 a.m., including removal of all patrons." At this time, Detective Baxter notified both Mr. Gnan and Ms. Kotue that all guests needed to leave immediately.

SUMMARY OF TESTIMONY

Julien Sye, President of DMV-WE, was sworn and testified that he is the president of the corporation but was not present after 11:00 p.m. on the night of the violation. Mr. Sye testified that he was at the event from 10:00 p.m. until 11:15 p.m. He testified that he left Mr. Gnan in charge and that Mr. Gnan can explain everything. Mr. Sye testified that he held this event in Howard County even though the organization is based in Montgomery County, as Howard County is more centrally located.

Mr. Sye testified that the non-profit organization, DMW-WE, sends any money raised back to the Ivory Coast to help people impacted by war. He stated that they did not charge money at the door but asked people to donate money instead. Mr. Sye testified that it was his understanding that people were being invited to the event and that he was unaware of tickets

being sold. Mr. Sye testified that they did not raise any profit with this fundraiser and that they actually lost money. Mr. Sye testified that they received approximately \$1,500 in donations but spent between \$2,000 to \$3,000 on the event, which included the costs of alcohol and the performer. He said that he thought that last year they had sent \$3,000 to elected officials in the Ivory Coast.

Counsel to the Alcoholic Beverage Hearing Board, noted that under the Liquor Board Rules in Howard County, half of the revenue of the event (not just the profits) must go to the charitable organization. Mr. Sye testified that he was not aware of that rule and that he did not see the rules that came attached to the temporary liquor license.

David Moore, attorney for the Petitioners asked about a discrepancy in the flyers for the event - one online which stated an end time for the event of 3:00 a.m. and the one that was presented to the Liquor Board office that showed an end time of 2:00 a.m. Mr. Sye testified that he understood the Liquor Board's rules about not serving alcohol after 2:00 a.m. and gave his friend instructions to stop serving alcohol by 2:00 a.m.

Mr. Jean Alle was sworn and testified that he was the applicant on the temporary liquor license application, confirmed that he is a Howard County resident, and stated that he was aware of publication of ads for the event. Mr. Alle testified that he was aware that the party was advertised as ending at 3:00 a.m. and that they updated the flyer after being told by Liquor Board staff that the event must end at 2:00 a.m.

Mr. Alle testified that the organization contacted him to be the applicant on the application so that the event could be held in Howard County. It was clarified that Mr. Sye originally signed the application but was told he did not qualify as he is not a Howard County citizen so the organization subsequently submitted a form with Mr. Alle's name as the applicant. Mr. Alle testified that he thought it would be okay for him to sign the application,

even though the application stated that he must be a member of the organization. Mr. Alle testified that he is not an official member of DMV-WE but is from the Ivory Coast. Mr. Sye testified that there are two types of members, officers or anyone from their tribe in the Ivory Coast, so he considers Mr. Alle a member of the organization. Mr. Alle stated that he agrees with this statement.

Counsel for the Board asked for clarification that members of DMV-WE are not just from the Ivory Coast but from a certain ethnic group in the Ivory Coast. It was clarified that DMV stands for District of Columbia, Maryland, Virginia and WE is the name of the ethnic group.

Mr. Alle testified that he thought this event was a good cause to be involved in, however, noted that the flyer did not clearly state the beneficiary of the fundraiser. Mr. Alle testified that he did not personally bring the application to the Liquor Board office to be submitted. He stated that “some people” had a ticket.

Thomas Anderson Gnan was sworn and testified that he is a senior member of DMV-WE and was the person in charge of organizing the event. Mr. Gnan testified that he was at the event until 2:00 a.m. and was in charge of the alcohol. Mr. Gnan testified that Detective Baxter came to the event at 2:20 a.m., spoke to him briefly and requested that he clear the premises. He stated that he announced last call at 1:45 a.m. and closed the bar and put the alcohol in his car. Mr. Gnan testified that he has a letter from the owner of the venue stating that the bar was closed by 2:00 a.m. But stated that that guests were allowed to keep their drinks. Mr. Gnan testified that he was trying to clear the premises and leave in a timely manner and was aware of the 2:00 a.m. deadline, however, it was difficult getting people to vacate the premises. Mr. Gnan testified that 20 or 30 people were still present even though he was urging them to leave. Mr. Gnan thought the alcohol was the main issue concerning the

2:00 a.m. deadline, and apologized for staying twenty minutes later than 2:00 a.m. He admits he should have started closing up earlier and that he had a similar event in Prince George's County and had no problems. He testified that he originally thought people could stay until 3:00 a.m. but was told by staff that 2:00 a.m. was the deadline, so the flyers were amended to reflect the end time as 2:00 a.m.

Mr. Gnan stated that they were initially going to sell tickets to the event, but due to the time issues, they decided to invite people and ask for donations instead. He testified that everything at the event was provided at no cost and they were hoping to raise money through donations. Mr. Gnan testified that he brought in the alcohol and directed the food set up. He stated that he believes less than 100 people showed up, even though they were expecting 300 people. Mr. Gnan testified that they made an announcement at the event asking for donations and they had two people walking around collecting money. He stated that tickets were originally going to sell for \$20 or \$30. Mr. Gnan testified that he returned some of the liquor to Total Wine for a refund and that they raised \$500 but costs exceeded the money that was raised. He stated that they actually ended up owing money and this event was a loss for the organization. Mr. Gnan testified that the organization has a bank account in its name but he is not familiar with it.

Mr. Gnan asked the Board to be lenient and that they intended to follow the rules and close the bar by the required time.

Mr. Sye stated that they have learned from their mistake and that this is their first time doing an event in Howard County and they will do better in the future.

BOARD DELIBERATIONS

The Alcoholic Beverage Hearing Board determined during deliberations that it required additional information to assess the appropriate penalty in this case and requested

that DMV-WE provide a list of documents related to the event. A letter from the Board dated February 9, 2018 was mailed to DMV-WE Corporation requesting the following:

1. The last six months of statements for any bank account used by DMV-WE.
2. Any documents, including receipts, invoices, and contracts related to expenses to produce the Event, including purchases and returns of alcohol to Total Wine.
3. Any documents related to donations to DMV-WE related to the Event.
4. Any documents related to revenue generated by the Event.
5. A financial report that addresses the cost of the Event, the revenue generated by the event and the disposition of any funds generated by the Event.
6. Copies of any invitations or tickets issues for the Event.
7. Contact information for individuals in the Ivory Coast who have received donations from DMV-WE.

These documents were required to be submitted to the Board by February 22, 2018 and deliberations were rescheduled for February 27, 2018. On February 26, 2018, DMV-WE submitted to the Board a packet of documents which included banks statements, donation receipt of money raised by the event, an amended flyer issued for the Event, and contact information for individuals in the Ivory Coast who have received donations from DMV-WE.

Based on the evidence presented at the hearing and in response to their letter dated February 9, 2018, requesting additional information, the Hearing Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Hearing Board finds that Respondents Julien Sye and Jean Alle applied for a temporary Class C liquor license on behalf of DMV-WE Corporation, 12300 Village Square Terrace, #302, Rockville, Maryland 20852, for the sale of alcoholic beverages to benefit non-profit causes.

2. The Hearing Board finds that the Respondents have stipulated to the violations alleged in the Petition.

3. The Hearing Board finds that the factual allegations of the Petition are true and

correct.

4. The Hearing Board finds that approximately 100 persons were on the licensed premises during hours prohibited by State law and Liquor Board Rule 5.07.

5. The Hearing Board finds that alcoholic beverages were allowed to be possessed and consumed by patrons during hours prohibited by State law and Liquor Board Rule 5.07.

6. The Hearing Board finds that no alcoholic beverage license was on display at the premises.

7. The Hearing Board finds that the licensees were notified of the legal requirements for the sale and service of alcohol but failed to take steps to ensure compliance

8. The Hearing Board finds that the Respondents have violated the following provisions of the Liquor Board's Rules and Regulations:

- a) Liquor Board Rule 4.04 - Compliance with Laws and Regulations
- b) Liquor Board Rule 4.06 - Display of Licenses;
- c) Liquor Board Rule 5.07(D) - Consumption, Open Container or Sale During Prohibited Hours; and
- d) Liquor Board Rule 5.08 - Acts Contrary to Law.

9. The Hearing Board finds that in order to ensure compliance with the law and Rules and Regulations, and protect public health and safety, it is necessary to impose a fine in the amount of One Thousand Dollars (\$1,000.00), and a fee of Two Hundred Sixty Dollars (\$260.00) for the cost of the hearing as provided by Rule 7.05(B), and to impose a two-year suspension on DMV-WE, Julien Sye, and Jean Alle, prohibiting them from obtaining an alcoholic beverage license in Howard County.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Respondents Julien Sye and Jean Alle applied for a temporary Class C liquor license on behalf of DMV-WE Corporation, 12300 Village Square

Terrace, #302, Rockville, Maryland 20852, for the sale of alcoholic beverages to benefit non-profit causes.

2. The Hearing Board concludes that the Respondents have admitted to violations of Liquor Board Rules 4.04, 4.06, 5.07(D) and 5.08.

3. For the reasons stated herein, the Hearing Board concludes that the Respondents have violated the following provisions of the Rules and Regulations of the Liquor Board:

- a) Liquor Board Rule 4.04 - Compliance with Laws and Regulations
- b) Liquor Board Rule 4.06 - Display of Licenses;
- c) Liquor Board Rule 5.07(D) - Consumption, Open Container or Sale During Prohibited Hours; and
- d) Liquor Board Rule 5.08 - Acts Contrary to Law.

4. The Hearing Board concludes that in order to ensure compliance with the law and Rules and Regulations, and protect public health and safety, it is necessary to impose a fine in the amount of One Thousand Dollars (\$1,000.00), and a fee of Two Hundred Sixty Dollars (\$260.00) for the cost of the hearing as provided by Rule 7.05(B), and to impose a two-year suspension on DMV-WE, Julien Sye, and Jean Alle, prohibiting them from obtaining an alcoholic beverage license in Howard County.

ORDER

For the foregoing reasons, and upon finding a violation of Rules 4.04, 4.06, 5.07(D) and 5.08 of the Liquor Board's Rules and Regulations, it is this 13th day of August, 2018, by the Alcoholic Beverage Hearing Board for Howard County, Maryland, **ORDERED:**

1. That a **FINE** in the amount of **One Thousand Dollars, (\$1,000.00)**, for violation of Rules 4.04, 4.06, 5.07(D) and 5.08 of the Liquor Board's Rules and Regulations, is **HEREBY IMPOSED** upon Julien Sye and Jean Alle, Respondents, on behalf of DMV-WE Corporation; and
2. That a **FEE** of **Two Hundred and Sixty Dollars (\$260.00)** for the cost of the hearing is **HEREBY IMPOSED** upon Julien Sye and Jean Alle, Respondents, on behalf of DMV-WE Corporation; and
3. That the **Fine and Fee totaling Twelve Hundred and Sixty Dollars (\$1,260.00) SHALL BE PAID NO LATER THAN SEPTEMBER 16, 2018; and**
4. That DMV-WE, Julien Sye, and Jean Alle, are **HEREBY PROHIBITED** from obtaining an alcoholic beverage license in Howard County for two years, from February 27, 2018 through February 27, 2020.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



Robin Regner
Board Administrator



Heather Gaetano, Chairperson



Mary Bird, Vice-Chairperson

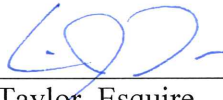
REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR



Charles C. Feaga, Member



Gene Ryan, Member



Lewis Taylor, Esquire
Senior Assistant County Solicitor

ABSENT AT TIME OF SIGNING

Charley C. Sung, Member

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY APPEAL THE
DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS OF THE DATE OF THE
DECISION, IN ACCORD WITH RULE 6.14 OF THE RULES AND REGULATIONS OF
THE LIQUOR BOARD.