

IN THE CHANCERY COURT OF WARREN COUNTY, MISSISSIPPI

CITY OF VICKSBURG, MISSISSIPPI

PLAINTIFF

V.

CAUSE NUMBER: 2023-142 GN

**JEAN-JACQUES PARMEGIANI,
KARA PARMEGIANI, REFINED SOUTH RESTAURANT
GROUP, LLC, SANDEEP SETHI, SCOTT SLEDGE,
BELLAMARE DEVELOPMENT, LLC, AND
JOHN DOES 1-3**

DEFENDANTS

TEMPORARY RESTRAINING ORDER

THIS CAUSE came before the Court on an *Amended Petition for Ex Parte Temporary Restraining Order, Preliminary and Permanent Injunctive Relief, and to Abate a Public Nuisance*, and the Court, having considered said Petition and being advised in the premises, and having heard from counsels for Plaintiff and Co-Defendants, hereby finds the following:

This Court has jurisdiction over the parties and subject matter herein. This matter was set to be heard on August 1, 2023. However, considering that a court reporter was necessary to capture the testimony from the parties in this matter, this matter was continued *sua sponte* to Friday, August 4, 2023. Co-Defendants Jean-Jacques Parmegiani (hereinafter, "Jean-Jacques") and Kara Parmegiani (hereinafter, "Kara") also requested this continuance because their counsel could not be present at the August 1, 2023, hearing. Defendants Sandeep Sethi (hereinafter, "Sandeep"), Scott Sledge (hereinafter "Sledge"), and Bellamare Development (hereinafter "Bellamare") did not appear. However, prior to the conclusion of the court proceeding, Counsel for the City of Vicksburg (hereinafter, "the City") made an *ore tenus* motion for operations at the subject establishment (hereinafter, "Jacques Bar") to be suspended until the hearing on August 4, 2023, in light of the facts outlined in the *Amended Petition for Ex Parte Temporary Restraining Order*.

Based on the brief arguments made by the parties regarding the suspension of business operations until the hearing for temporary relief, the court granted the request. On or about August 3, 2023, the Court granted a Temporary Restraining Order, *nunc pro tunc* August 1, 2023, which ordered Jacques Bar to temporarily suspend operations until the hearing on August 4, 2023.

At the August 4, 2023, hearing, the Court heard testimony from Plaintiff's witness, Penny Jones, Chief of Police for the City of Vicksburg, and Defendant Jean-Jacques on the issue of whether the temporary restraining order should be granted, and the matter be continued until a hearing on a preliminary and permanent injunction could be heard. Sandeep, Sledge and Bellamare still did not appear. During the hearing, the City of Vicksburg presented evidence which included two Memorandums of Understanding (hereinafter "MOU") between the City and Jean-Jacques, executed on December 26, 2018, and June 8, 2020, respectively. Both MOUs established a zero-tolerance policy for any disturbances and applied certain stipulations which included Jean-Jacques providing security, enforcing an age limit for entry to the establishment, and check for identification at the entrance. Moreover, Jean-Jacques then entered into a Confidential Agreement with the City on April 29, 2022. In the April 2022 Agreement, the parties agreed to dismiss prior lawsuits without prejudice, as well as facilitate communications regarding safety measures at Jacques Bar. In addition, said April 2022 Agreement incorporated suggestions made by Chief Jones on how to safely operate Jacques Bar. Although after these agreements were made and memorialized by both parties, there were numerous incidents at Jacques Bar which included the assault of a twenty (20) year old at the bar on July 27, 2023; the discharge of weapons, including an incident where over one hundred (100) rounds were fired causing significant property damage; fights; and other alleged reported illegal conduct.

Mississippi Rules of Civil Procedure 65(b), asserts,

[A] temporary restraining order may be granted, without notice to the adverse party or his attorney if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and reasons supporting his claim that notice should not be required.

In its order granting a restraining order, the Court,

[S]hall describe in reasonable detail and not by reference to the complaint or other document the act or acts sought to be restrained; it is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

M.R.C.P. 65(d)(1).

The City of Vicksburg alleges that the activities described in its pleadings and through testimony are a public nuisance as Jacques Bar injures the health, offends the senses, and interferes with the comfortable enjoyment of the life and property of the residents and visitors to the City of Vicksburg. Moreover, the City of Vicksburg argues that it has taken all the measures to curb such activities of nuisance and thus it is powerless to stop the unlawful activities or to abate the nuisance. Jean-Jacques opines that he has abided by the Memorandums of Understanding and Contractual Agreement entered into with the City of Vicksburg and that he has a constitutional right to operate a business.

According to *Bosarge v. State ex rel. Price*, a nuisance is:

[A] wrong arising from the unreasonable, unwarrantable, or unlawful use by a person of his own property or from his own improper, indecent, or unlawful personal conduct working an obstruction or injury to a right of another or of the public producing such material annoyance, inconvenience, discomfort, or hurt that the law will presume a consequent damage.

666 So. 2d 485, 489 (Miss. 1995) (citing *Young v. Weaver*, 202 Miss. 291, 32 So.2d 202 (1947)).

A bar "is not a nuisance per se, but it may become a nuisance by reason of surrounding

circumstances. It may become a nuisance by the manner in which it is conducted, and by the conduct of the persons assembling in and around it.” *Id.* at 491. By statute, “[t]he municipal governing authorities of any municipality shall have the power...to prevent, remove, and abate nuisances...” Miss. Code Ann. § 21-19-1(1). If a criminal prosecution would afford an adequate remedy for the nuisance, then generally, an injunction will not be granted. *Paramount-Richards Theatres v. City of Hattiesburg*, 210 Miss. 271, 280, 49 So. 2d 574, 578 (1950). But, the fact that the operation of a public nuisance may violate criminal law, thus presenting an adequate remedy at law, “does not prevent the right of an equity court to enjoin, and particularly when the law expressly gives that right.” *State v. Myers*, 244 Miss. 778, 783, 146 So. 2d 334, 336 (1962).

Although Jean-Jacques has a constitutional right to operate a business and has a constitutional right to admit or refuse whom he pleases inside his business (*Donnell v. State*, 48 Miss. 661 (Miss. 1873)), if the actions of the business threatens the peace and welfare of the city in which it operates, the court is of the opinion that can enjoin the operation of the business as it constitutes a nuisance. *Paramount-Richards Theatres v. City of Hattiesburg*, 210 Miss. 271, 275 49 So. 2d 574, 576 (1950). *See State v. Marshall*, 100 Miss. 626 (1911).

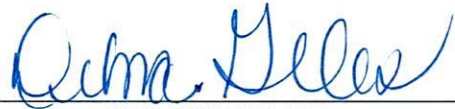
Pursuant to M.R.C.P. 65(b), there exist urgent and necessitous circumstances in which immediate and irreparable injury, loss or damage will result to the Petitioner before the adverse parties and their attorney can be heard in opposition. The surrounding circumstances of Jacques Bar’s operations, such as the excessive gunfire, underage drinking, and fights, render it a nuisance that shall be abated through judicial action by a court of equity.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Jean-Jacques Parmegiani, Kara Parmegiani, Refined South Restaurant Group, LLC, Sandeep Sethi, Scott Sledge, Bellamare Development, LLC, and John Does 1-3 are hereby enjoined from engaging in any

activities on the establishment known as Jacques Bar, located at 1320 Levee Street, Vicksburg, Mississippi, and that operations at said establishment be temporarily suspended until a hearing on a preliminary and permanent injunction can be held.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that no bond shall be set or required at this time.

SO ORDERED, ADJUDGED, AND DECREED this the 14th day of August, 2023.



CHANCELLOR