

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL DOCKET NO. 01-153

* SECTION "T" (1)

BARBECUE OF NEW ORLEANS, INC. *

d/b/a State Palace Theater or Theater

FACTUAL BASIS

If called upon to try this case, the Government would prove among other things at trial:

During the conspiratorial period charged, the defendant BARBECUE NEW ORLEANS, INC., d/b/a State Palace Theater or Theater (hereinafter referred to as BBQ OF NEW ORLEANS, INC.) was the lessee of the State Palace Theater located at 1108 Canal Street, New Orleans, Louisiana 70112. Robert J. Brunet was the manager of the State Palace Theater and was an officer of BBQ of New Orleans, Inc. Brian J. Brunet was an officer of BBQ OF NEW ORLEANS, INC. and an employee and brother of Robert J. Brunet. James D. Estopinal, a/k/a Donnie was a "Rave" event (rave promoter) at the State Palace Theater and an employee of BBQ of New Orleans, Inc.

BBQ OF NEW ORLEANS, INC. sponsored or conducted "Raves" participated in by the non-indicted co-conspirators Robert J. Brunet and Brian J. Brunet. A "Rave" is an all night dance event, generally operating from approximately 10:00 p.m. until 7:00 a.m. the following morning, that are characterized by loud, rapid, tempo ("techno music"), 140 to 200 beats per minute, light and laser light shows, smoke or fog, and psychedelic screen images. These large "Rave" shows were usually held at the State Palace Theater once a month. It cost anywhere from \$20.00 to \$40.00 to go to these shows. The average age of a patron at the State Palace Theater was approximately eighteen years old. The attendance was usually between 3,000 and 5,000 persons.

There were a number of overdoses at those "Rave" events and this along with other things caused Special Agents of the Drug Enforcement Administration to initiate an undercover investigation beginning in approximately January 2000. The defendant BBQ OF NEW ORLEANS, INC. hired its own security at these "Rave" concerts. On at least eight occasions, undercover agents actually went into the theater posing as "Rave" patrons and secretly video recorded the activities inside the theater, while other agents while other agents were making video tapes of the activities inside and outside of the theater. The undercover agents discovered at these "Raves" items of paraphernalia, which are commonly used to enhance and support the physiological "high" caused by the ingestion of "club drugs", particularly 3-4 methylenedioxymethamphetamine (MDMA)(ECSTASY). These items of paraphernalia were sold by the defendant at considerable profit. They include pacifiers, chemical light sticks, and flashing light rings. Ingestion of ECSTASY also causes the users to become dehydrated and suffer hypothermia. Knowing this, the defendants sold bottled water, which was sold at inflated prices and also provided a "chill room" where the "Rave" patrons could be cooled down. The investigation also determined the defendant was instrumental in bringing people associated with "DanceSafe," a group which advocates the illegal use of "club drugs", to set up tables and distribute literature to the "rave" patrons in the theater. This literature purports to describe the "safe" use of ECSTASY and other Club Drugs. Undercover DEA agents also purchased illegal drugs in excess of 50 times from "Rave" patrons. They purchased a total of approximately 13.03 grams of 3-4 methylenedioxymethamphetamine (MDMA)(ECSTASY). There is no evidence that the defendant or the named unindicted co-conspirator distributed controlled substances.

In addition, undercover agents observed numerous patrons at these "Raves" under the influence of controlled substances, particularly ECSTASY. The defendant also allowed "Rave" patrons to bring into the theater Vicks, which is used by people on ECSTASY for its cooling effect. The investigation also disclosed the defendant began having emergency medical personnel with an ambulance outside of the theater to transport overdose victims and possibly other medical emergencies to the hospital in approximately September 1998.

All of the evidence indicates that the defendant was in a conspiracy with named unindicted co-conspirators and others to knowingly and intentionally make available for use the State Palace Theater located at 1108 Canal Street, New Orleans, Louisiana knowing that "Rave" patrons unlawfully distributed and used controlled substances, more particularly ECSTASY.

The above evidence comes from an undercover investigation conducted by Special Agents of the Drug Enforcement Administration, consensual audio recordings, statements of people hired as security guards, statements of an individual who was associated with DanceSafe, records subpoenaed before a federal grand jury and records of paraphernalia described above seized, as a result of court authorized search warrants issued on the State Palace Theater and the business office of the defendant on August 26 2000. In addition, the above facts come from the admissions, for the purpose of the plea, from the defendant. Finally, these charges would be proven from a video tape taken by DEA agents posing in an undercover capacity as the "Rave" concerts which are incorporated as part of the Factual Basis and introduced into evidence as Government's Exhibit G1.

Approved:

BARBECUE OF NEW ORLEANS, INC.

d//b/a State Palace Theater

Defendant

Frank De Salvo, Attorney for Defendant