

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of)

Andrew Harris;)

PTC, Inc.;)

Atift Tate; and)

On the Rocks, LLC)
t/a On the Rocks)

Order to Cease and Desist)

Case No.: 17-CMP-00315

License No: 088358

Order No: 2017-395

TO: Andrew Harris; PTC, Inc.; and Atift Tate
2101 Benning Road, N.E.
Washington, D.C. 20002

Keith Lively, Counsel
Doyle, Barlow, & Mazard PLLC on behalf of
On the Rocks, LLC,
t/a On the Rocks
1110 Vermont Ave., N.W. #715
Washington, D.C. 20005

ORDER TO CEASE AND DESIST

INTRODUCTION

As authorized by D.C. Official Code § 25-829(a), the Alcoholic Beverage Control Board orders Andrew Harris; PTC, Inc.; Atift Tate, and On the Rocks, LLC, (collectively, the "Respondents") to cease and desist selling, serving, and permitting the consumption of alcohol in violation of D.C. Official Code § 25-102 and operating under a counterfeit license in violation of D.C. Official Code § 25-835.

FINDINGS OF FACT

The Board issues the following findings of fact:¹

I. Background

1. The Board revoked ABRA License No. 088358, held by Andrew Harris through PTC, Inc., t/a Roadside Café, on November 6, 2013, for various violations of the District's alcohol laws that were discovered after a shooting occurred at an event facilitated by Mr. Harris. *In re PTC, Inc., t/a Roadside Café*, Case No. 13-251-00009, Board Order No. 2013-511, 7, 15 (D.C.A.B.C.B. Nov. 6, 2013).

2. ABRA Investigator Shawn Townsend conducted an investigation at 1242 H Street, N.E., on Sunday, May 28, 2017. *Case Report No. 17-CMP-00315*, 1. Upon entering the premise, Investigator Townsend and an official with the Department of Consumer and Regulatory Affairs, Daron Manning, found a catered event in progress. *Id.* at 2. Inside, they met Joseph Crawford who allegedly purchased the business from the former business owner and Atift Tate, who indicated that he was the owner of Hillside Catering. *Id.*

3. Mr. Crawford showed the investigators what appeared to be ABRA License No. 088358, which was assigned to Roadside Cafe. *Id.* at 3. Mr. Crawford told the investigators that he obtained the license from Andrew Harris, who was not present at the event. *Id.* at 1-3.

4. Upon returning to the office on May 28, 2017, Investigator Townsend reviewed ABRA's records related to ABRA License No. 088358. *Id.* at 2. The records indicated that ABRA License No. 088358 was no longer active. *Id.* He further observed that the license possessed by Mr. Crawford contained a number of "discrepancies." *Id.*

5. Specifically, the license indicated that it was issued to Hillside Catering at 650 H Street N.E., Washington D.C. 2002 by the Alcoholic Beverage Regulation Administration located at 1250 "U" Street, N.W., 3rd Floor. *Id.* at Exhibit 2. The license further indicated that it was issued on 12/13/16, expired on 12/31/2018, and assigned license number 088358. *Id.* at 2, 3.

6. Nevertheless, there are numerous indications that the license is not genuine. First, there is no Hillside Catering in ABRA's records. *Id.* at 2. Second, all catering licenses expire on March 31, 2019 and none of the retailer licenses issued by the agency expires in December.² Third, a license covering the 2016 through 2019 period or the one before, should not indicate 1250 U Street as the agency's address, because the agency moved to the Reeves Center, located at 2000 14th Street, Washington D.C., in 2011. *Case Report*, at 2-3. Fourth, the agency logo on the license does not reflect the agency's current logo. *Id.* Fifth, the business address listed on

¹ The Board incorporates Case Report No. 17-CMP-00315 by reference.

² "ABC License Fees and Renewal Schedule," Alcoholic Beverage Regulation Administration (last visited Jul. 14, 2017), <https://abra.dc.gov/page/abc-license-fees-and-renewal-schedule>; *Case Report*, at 3.

the license does not match the business address in ABRA's records, which indicate that ABRA License No. 088358 is assigned to 2101 Benning Road, N.E. *Id.* at 3.

7. During a telephone conversation, Mr. Tate later told Investigator Townsend that he was a former employee of Roadside Café. *Id.* He also stated that he received the license from Andrew Harris. *Id.* He further indicated that he did not change the name to Hillside Catering. *Id.*

CONCLUSIONS OF LAW

8. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease "... violating any provision of ... [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public" D.C. Official Code § 25-829(a).

I. The Respondents continued use of a counterfeit ABRA License is unlawful and risks immediate harm to the public.

9. Under § 25-102,

(a) No person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title ...

(d) No person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.

D.C. Official Code § 25-102.

10. Under § 25-835,

(a) It shall be unlawful for a person to willfully or knowingly alter, forge, counterfeit, endorse, or make use of any false or misleading document reasonably calculated to deceive the public as being a genuine license issued by ABRA.

(b) It shall be unlawful for a person to willfully or knowingly furnish to a member of the Metropolitan Police Department ("MPD") or an ABRA investigator an altered, forged, counterfeited, endorsed, or false or misleading document reasonably calculated to deceive MPD or the ABRA investigator as being a genuine license issued by ABRA.

(c) A person convicted of a violation of this section shall be fined no more than the amount set forth in § 22-3571.01, or incarcerated for no more than 1 year, or both.

D.C. Official Code § 25-835.

11. Under § 25-1001,

(a) . . . no person in the District shall drink an alcoholic beverage or possess in an open container an alcoholic beverage in or upon any of the following places: . . .

(4) Any place to which the public is invited and for which a license to sell alcoholic beverages has not been issued under this title;

12. In this case, there is no question that ABRA License No. 088358 is a counterfeit license. *Supra*, at ¶¶ 4-6. Under these circumstances, the Board cannot allow the license to continue to be used to deceive the public and government officials that any alcohol activity occurring under its auspices is allowed or approved by the Board. Indeed, if permitted to continue, this would result in the illegal sale and consumption of alcohol and violation of the District's open container laws in an environment that is not properly supervised or superintended.

ORDER

Therefore, the Board, on this 19th day of July 2017, hereby orders the Respondents to **CEASE AND DESIST** violating D.C. Official Code § 25-102 and using counterfeit ABRA License No. 088358 in violation of § 25-835.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance).³

ABRA shall serve notice by certified mail or personal delivery to the parties.

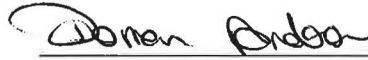
³ The nuisance provision states,

(a) Any building, ground, or premises where an alcoholic beverage is manufactured, sold, kept for sale, or permitted to be consumed in violation of this title shall be a nuisance.

(b) An action to enjoin any nuisance defined in subsection (a) of this section may be brought in the name of the District of Columbia by the Corporation Counsel in the Civil Branch of the Superior Court of the District of Columbia against any person conducting or maintaining such nuisance or knowingly permitting such nuisance to be conducted or maintained.

D.C. Official Code § 25-805.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Jake Perry, Member



Donald Isaac, Sr., Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, if this order becomes final or you do not file a request for a hearing, please note the following: pursuant to 23 DCMR § 1719.1, 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, NW, 400S, Washington, D.C. 20009. In addition, 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 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).