

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

**In the Matter of:**

PTC, Inc.  
t/a Roadside Café

Holder of a Retailer's  
Class Caterer's License

at premises  
2101 Benning Road N.E.  
Washington, D.C. 20002

Case No.: 13-251-00009  
License No.: 088358  
Order No.: 2013-511

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Mike Silverstein, Member

**ALSO PRESENT:** PTC, Inc., t/a Roadside Café, Respondent

Andrew Harris, on behalf of the Respondent

Walter Adams, Assistant Attorney General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) revokes the Caterer's License held by PTC, Inc., t/a Roadside Café (Respondent) and owned by Andrew Harris. The Board revokes the Respondent's license based on the serious violations of the statutes and regulations governing the operations of licensed caterers in the District of Columbia committed by Mr. Harris. The

Board concludes that these violations of the law demonstrate that Mr. Harris is unfit for licensure.

### ***Background***

The Board noted the following in its prior Summary Suspension Order involving the Respondent:

On January 26, 2013, an assailant used a firearm to shoot five patrons inside D.C. Soundstage. Letter from Metropolitan Police Department, Chief of Police, Cathy L. Lanier to Regina Ruckman, D.C. Soundstage, 1 (Jan. 26, 2013). In response, Metropolitan Police Department (MPD) Chief of Police, Cathy L. Lanier, suspended all catering and other liquor license related activity at D.C. Soundstage, which is located at 2403 Benning Road, N.E., under the authority granted to her under District of Columbia Official Code § 25-827. *Id.* at 1-2. In Chief Lanier's letter, she noted that the assailant shot two victims in the back, another victim in the chest, another victim in the buttocks, and another victim in the ankle, which led the police to classify the incident as an "Assault with Intent to Kill." *Id.* at 1. She further noted that D.C. Soundstage had no security present on the night of the shooting. *Id.* Based on these facts, Chief Lanier concluded that alcoholic beverage activity at D.C. Soundstage posed an immediate danger to both residents and visitors of the District of Columbia, and thus, she summarily suspended all licensed alcoholic beverage activity at D.C. Soundstage for 96 hours. *Id.* at 1-2.

The Alcoholic Beverage Control Board (Board) reviewed the closure issued by the Chief of Police on January 30, 2013. Subsequently, the Board served a Notice of Summary Suspension (Notice), dated January 30, 2013, on PTC, Inc., t/a Roadside Café (Respondent), a Retailer's Class Caterer's License. Pursuant to the Notice, the Alcoholic Beverage Control Board (Board) ordered the suspension of the Respondent's license in accordance with D.C. Official Code § 25-826. The suspension was based upon Case Report Number 13-251-0009 authored by Alcoholic Beverage Regulation Administration (ABRA) Investigator Tyrone Lawson. Specifically, the report presented the Board with credible evidence that the Respondent catered the event where the shooting had occurred, and that the Respondent did not comply with the terms and conditions of its Caterer's License. On February 1, 2013, the Respondent requested a Summary Suspension Hearing pursuant to D.C. Official Code § 25-826(c), which was held on February 5, 2013. See ABRA Summary Suspension File No. 13-251-00009.

In response to the Respondent's request, the Board also served a second Notice of Summary Suspension Hearing (Second Notice) on D.C. Soundstage. Notice of Summary Suspension Hearing, 1 (D.C. Soundstage) (Jan 30, 2013). The Second Notice informed D.C. Soundstage that the Respondent had requested a hearing on its summary suspension. *Id.* The Second Notice then informed D.C. Soundstage that under 23 DCMR § 2009.3, "If the Board determines that disruptive activity or unlawful conduct has occurred at the event site, the Board may place restrictions upon the number, nature or size of events permitted at the site." *Id.* The Second Notice then stated that ". . . your failure to appear at the time and place set for the hearing, either in person or through counsel, or both, will

not preclude the Board's proceeding in this matter." *Id.* at 2. We note that counsel for the D.C. Soundstage, Risa Hirao[,] appeared at the hearing, but indicated that her client was not formally appearing before the Board, and that she only intended to observe the hearing.

At the conclusion of the Summary Suspension Hearing, the Board voted to continue the suspension of the Respondent's license . . . .

In re PTC, Inc., t/a Roadside Café, Case No. 13-251-00009, Board Order No. 2013-040, 1-2 (D.C.A.B.C.B. Feb. 7, 2013) [Roadside Café Summary Suspension Order].

As part of the Board's written Order resolving the Summary Suspension Hearing, the Board took the following actions: (1) the Board suspended the Respondent's license until the present Show Cause matter is resolved; (2) the Board forwarded the summary suspension matter to the Office of the Attorney General (OAG) for review; (3) the Board ordered the Respondent to surrender its license to the Board; (4) the Board prohibited caterers from hosting events at 2403 Benning Road, N.E.; and (5) the Board ordered ABRA's Licensing Division to reject all temporary license and one-day substantial change applications related to 2403 Benning Road, N.E. *Id.* at 9-10.

Subsequent to this action on the part of the Board, the OAG initiated the present Show Cause action against the Respondent by issuing the Notice of Status Hearing and Show Cause Hearing (Notice). The Board executed the Notice on May 29, 2013. *ABRA Show Cause File No.*, 13-251-00009, Notice of Status Hearing and Show Cause Hearing, 1-7 (May 29, 2013). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent electronically after numerous attempts to serve him personally failed. *See ABRA Show Cause File No.*, 13-251-00009. The Notice charges the Respondent with the following violations, which if proven true, would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license.

Specifically, the Notice charges the Respondent with the following violations:

- Charge I: [On January 26, 2013,] [y]ou sold, delivered, or served alcoholic beverages for consumption at a catered event in an unauthorized manner in violation of D.C. Official Code § 25-113(i) . . . and 23 DCMR § 2000.1 . . . .
- Charge II: [On January 26, 2013,] [y]ou failed to superintend in person or keep a licensed ABC Manager on the premises of a catered event for the period during which alcoholic beverages [were] sold, serve[d], or consumed in violation of D.C. Official Code § 25-701 and 23 DCMR §§ 707.1, 2000.2 and 2005.1 . . . .
- Charge III: [On January 26, 2013,] [y]ou failed to take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or

serves an alcoholic beverages is of [the] legal drinking age in violation of D.C. Official Code § 25-783(b) . . . .

Charge IV: You stored alcoholic beverages in the District of Columbia without the Board's approval in violation of 23 DCMR § 2003.1 . . . .

Charge V: You failed to file with the Board the required semiannual caterer's report for the preceding period in violation of D.C. Official Code § 25-113(i)(4) . . . and 23 DCMR §§ 2006.1 [and] 2006.3 . . . .

Charge VI: You failed to obtain approval from the Board before making a substantial change in operations in violation of D.C. Official Code § 25-762 . . . . [Specifically, the Respondent changed the location of the establishment without the permission of the Board.]

Charge VII: You failed to keep and maintain distinct records or to make such records available for inspection for events of one hundred (100) persons or less in violation of 23 DCMR § 2002.2 . . . .

Charge VIII: You removed unsealed containers of alcoholic beverages from the premises in violation of 23 DCMR § 2004.2 . . . .

Notice of Status Hearing and Show Cause Hearing, 2-6.

Both the Government and Respondent appeared at the Show Cause Status Hearing for this matter on July 24, 2013. The parties proceeded to a Show Cause Hearing where they argued their respective cases on August 14, 2013. At the beginning of the Show Cause Hearing, the Board rejected the Offer-in-Compromise, because the Board did not deem it in the public interest. *Transcript (Tr.)*, August 14, 2013 at 13-15. At the request of the Government, the Board entered the record from the prior summary suspension matter involving the Respondent and the Government. *Id.* at 17-18. The Board then heard the present matter on its merits.

At the conclusion of the Show Cause Hearing, the Respondent requested an opportunity to file Proposed Findings of Fact and Conclusions of Law; however, none were submitted within the time allotted by the Board's regulations.

### FINDINGS OF FACT

The Board having considered the evidence contained in the record, the testimony of witnesses, the arguments of the parties, and the documents comprising the Board's official file, makes the following findings:

I. Based on the record, the Board affirms the following Findings of Fact from the prior Summary Suspension matter involving the Respondent, and incorporates those findings into this Order:

[A]. PTC, Inc., t/a Roadside Café (Respondent) holds a Retailer's Class Caterer's license at 2101 Benning Road N.E. See ABRA Licensing File No. ABRA-088358. D.C. Soundstage, which is located at 2403 Benning Road, N.E., served as an event site for the Respondent on January 26, 2013.

[B]. The Government presented its case through the testimony of three witnesses consisting of ABRA Investigators Tyrone Lawson, Earl Jones, and MPD Officer Patrick Brescia. The Respondent produced one witness, Andrew Harris. The [p]arties stipulated to the following facts on February 5, 2013:

1. On December 14, 2011, the District of Columbia Alcohol[ic] Beverage Control Board . . . issued to [the Respondent] a Caterer-Class license to sell and serve alcoholic beverages.
2. The licensee's registered business address is 2101 Benning Road, N.E., Washington, D.C.
3. The licensee also holds a . . . CR-Restaurant Class license with the same listed address.
4. On or about January 4, 2012, [the] United States Marshals Service executed upon the license an eviction from its listed business address.
5. Since then, the licensee has only operated pursuant to its Caterer-Class license.
6. Despite the licensee[']s continued operations, it no longer operates from its registered business address.
7. Beginning in February 2012, the licensee entered into a business relationship with Rodney Manley, who co-owns and operates an establishment known as "DC Soundstage."
8. DC Soundstage is located at 2403 Benning Road[,], N.E., Washington, D.C.
9. DC Soundstage[] holds no license to sell or serve alcoholic beverages upon its premises.
10. DC Soundstage hosts events, including musical entertainment.
11. Since approximately June 2012, the licensee has catered several events at D.C. Soundstage.
12. During catered events at DC Soundstage, the licensee sells and serves alcoholic beverages to patrons.

13. [Removed by the parties].
14. Between events, the licensee stores its alcoholic beverages and catering equipment upon the premises of DC Soundstage.
15. The licensee did not obtain the Board's approval for the storage of alcoholic beverages at DC Soundstage or any other location.
16. The licensee's catering customers select dishes for the licensee's preparation from a menu.
17. . . . DC Soundstage provides the menu to customers.
18. Some catering customers do not order the licensee's dishes and, instead, prepare and serve their own food dishes.
19. Catering customers enter into agreements with DC Soundstage who, in turn, forward[] the orders to the licensee.
20. The licensee bills DC Soundstage for the payment of its catering services.
21. The licensee charges DC Soundstage a flat-rate fee in the amount of \$100 for each catered event for sales of alcoholic beverages.
22. On January 25, 2013, DC Soundstage hosted a catered birthday party event, for which the licensee catered dishes.
23. The licensee served food and alcoholic beverages at the catered event.
24. Before [m]idnight, the licensee ended food service.
25. The service of alcoholic beverages continued after the end of food service.
26. During the evening, DC Soundstage admitted over 100 . . . patrons to its premises.
27. DC Soundstage did not restrict admission to the premises to guests of the catered event.
28. DC Soundstage and the licensee served alcoholic beverages to all patrons, including those who were not birthday party guests.
29. On that night, DC Soundstage provided entertainment, specifically music from a disc jockey and dancing.

30. On that night, DC Soundstage did not employ a security service.
31. On that night, DC Soundstage did not check patron's identification prior to entrance.
32. On January 26, 2013, after 1:00 a.m., [Mr. Harris] left the premises of the catered event.
33. Prior to leaving the establishment, the licensee had not taken all remaining alcoholic beverages from customers.
34. On January 26, 2013 at approximately 2:15 a.m., an assailant shot five patrons with a firearm inside of the establishment.

*Proposed Stipulations of Fact 1-3 (Feb. 5, 2013).*

[C]. In addition to the facts stipulated by the parties, Officer Brescia testified before the Board during the hearing. Officer Brescia patrols Police Service Area (PSA) 507, which includes the site of D.C. Soundstage. Officer Brescia has responded to calls for service at D.C. Soundstage for the past year and a half. He believes D.C. Soundstage operates as a nightclub and bar, because D.C. Soundstage has events on every weekend night, operates late at night into the early morning, and frequently attracts crowds of young people—even though he has never observed security at the event site. He also personally heard loud music emanating from the event site, and he has seen bands load and unload equipment.

[D]. On January 26, 2013, Officer Brescia received a 911 call for a shooting at D.C. Soundstage. Outside the event site, he observed a K-9 officer tending to a woman shot in the chest. In addition, he observed another K-9 officer tending to other victims. He found it difficult to enter the event site, because a large group of people were trying to flee the event site after the shooting. MPD found another three victims inside the event site. Once inside Officer Brescia saw implements related to the operation of a nightclub, including a bar, glasses, and band equipment. In addition, he observed that alcohol had spilled onto the floor.

[E]. ABRA Investigator Earl Jones also testified at the hearing. According to Investigator Jones, he responded to the scene around 3:00 a.m. after receiving a call on ABRA's hotline. Investigator Jones was accompanied by ABRA Investigator Tyrone Lawson.

[F]. Investigator Jones left the scene in order to interview various victims of the shooting. Investigator Jones first procured the following information from Dexter Rollins, one of the victims:

Mr. Rollins stated he was in attendance at DC Soundstage, on the night in question[], due to a birthday party being thrown for his aunt at the establishment. Mr. Rollins, who is 19

years of age, stated he arrived [at] DC Soundstage with his mother, and two female cousins, at approximately 11 [p.m.] Mr. Rollins stated at approximately 2:30 a.m., while standing at the bar area near the front of the club, he observed a fight ensue at the front door. Mr. Rollins stated suddenly one of the unknown individuals who was involved in the fight, brandished a firearm, and began to fire shots into the club from the front door. Mr. Rollins stated he was shot in the right ankle. Mr. Rollins stated neither ID checks, nor “pat downs” were being conducted by the one security member, who was stationed at the entrance of the establishment.

Case Report 13-251-00009, 4.

[G]. Investigator Jones then procured the following information from Lacy Kebe, another victim:

Mr. Kebe stated he arrived at the establishment at approximately 12:00 a.m., to meet his cousin, who was already at the venue. Mr. Kebe stated he is not sure what time the incident began, but remembers standing by the front bar area, when he observed a fight start between two unknown male patrons at the entrance to the club. Mr. [Kebe] stated he suddenly saw one of the male patrons begin to fire shots into the club, from the front door area. Mr. Kebe stated he suddenly felt a burning sensation in his left thigh area, and noticed his jeans quickly filling up with blood.

Id.

[H]. Finally, Investigator Jones procured the following information from Latonya Simon, another victim:

Ms. Simon stated she arrived at the venue at approximately 1 a.m., with another female friend . . . Ms. Simon stated while standing by the bar area across from the pool table, she observed a fight ensue between several male patrons by the front door. M[s]. Simon stated she then heard one of the male patrons yell “Fuck this shit[,]” followed by hearing five or six gunshots being fired inside the club. Ms. Simon stated she suddenly felt a sharp pain in the left side of her chest, and saw she had been shot . . . Ms. Simon stated while she was in attendance at DC Soundstage, she observed several male patrons who appeared to be between the ages of 16 to 22, who were extremely intoxicated. Ms. Simon stated at the time she arrived at the club, there was no security presence at the front door, identifications were not being checked, and she did not observe food being sold or served. Ms. Simon stated she was more than positive that the suspect, who fired the gun inside the club, had it on his person the entire time he was inside . . .

Id. at 6. Ms. Simon also told Investigator Jones that she knew that some of the intoxicated patrons she observed were underage, because she knew them from her neighborhood.

[I]. ABRA Investigator Tyrone Lawson also testified during the hearing. Investigator Lawson determined that D.C. Soundstage had a pending application before the Board for

a Retailer's Class CT License. Id. at 3. The Board notes that D.C. Soundstage subsequently withdrew its application on February 6, 2013.

[J]. On the night of the incident, Investigator Lawson entered the event site and requested to speak to the ABC Manager. Id. at 2. Rodney Manley, the owner and operator of D.C. Soundstage, presented an ABC Manager's license that [had] expired on June 26, 2012. Investigator Lawson then interviewed Mr. Manley. Id. at 2. Mr. Manley indicated that the event site on the night of the shooting required patrons to be 18 years old to enter and 21 years of age to drink. Id. at 3. Nevertheless, when asked by Investigator Lawson, he could not recall the minimum date or year for a person to be 21 years of age or older without prompting from an employee. In addition, he could not recall any of the features that constitute a valid Maryland, District of Columbia, or Virginia license. Id. Finally, Mr. Manley gave conflicting statements; whereby, he claimed he was simultaneously checking identification at the door and acting as the event site's bartender.

[K]. The Board notes that the documents collected by Investigator Lawson indicate the event site was operating seven days per week and hosting events such as Ladies Night. Id. at D.C. Soundstage Website Exhibit. In addition, Investigator Lawson also noted that the event site had a permanent food menu and contained many unsealed containers of alcoholic beverages. Id. at 6. Mr. Manley also told Investigator Lawson that the numerous events at the event site advertised online never happened. He claimed that his son placed the advertisements for events at the event site online.

[L]. Andrew Harris testified on behalf of the Respondent during the hearing. Mr. Harris stated that he lost the space listed on his license soon after he received a Caterer's License in December 2011. He admitted that after this occurred he did not surrender his license to ABRA for safekeeping. Mr. Harris . . . admitted to Investigator Lawson that he is now operating his business from 3729 Grant Place, N.E. Id. at 5. Mr. Harris also admitted that he stores his alcoholic beverages in a cage at D.C. Soundstage and that he catered at least two to three events per month at the event site. Id.

[M]. On the night of the incident, Mr. Harris did not check any patron identification, and he did not see anyone check identification at the event site's front door. In addition, Mr. Harris did not observe any security. According to Mr. Harris, approximately 100 people attended the event. Mr. Harris admitted that food was only served from 9:00 p.m. to 11:00 [p.m.], and that he left the event at 1:00 a.m.

[N]. We also note that the invoices submitted by Mr. Harris show that he charges a flat \$100 rate for catering services, which Mr. Harris admitted was for the use of his license. Government Exhibit Nos. 2, 3 . . . .

[O]. ABRA's records show that the Respondent has not submitted any of the required catering financial reports required by Title 25 of the D.C. Official Code and Title 23 of the DCMR.

Roadside Café Summary Suspension Order, 3-7.

II. The Board also makes the following findings of fact based on the transcript and evidence from the prior summary suspension hearing on February 5, 2013:

- A. Before leaving the event on January 26, 2013, Mr. Harris admitted that he left the establishment even though he was aware that some customers still possessed alcoholic beverages. *Tr.*, 2/5/13 at 286-87. According to Mr. Harris, the amount of people remaining in the establishment was “de minimis” and collecting their beverages was not worth “fighting” about. Id. at 286.
- B. During the event, neither Mr. Harris nor Mr. Manley checked the identification of patrons before serving them alcohol. Id. at 342. Mr. Harris did not check the identification of patrons, because they appeared to be “mature and older” and of “reasonable repute.” Id. at 343, 346. Mr. Harris also admitted that he “trust[ed]” Mr. Manley to check identification when he was not at the bar. Id. at 352.
- C. Invoice Number 042517 indicates that the Respondent agreed to cater events at D.C. Soundstage on January 22, 2013, and January 26, 2013. *ABRA Summary Suspension File No. 13-251-00009*, Government Exhibit No. 2, 1. The invoice indicates that D.C. Soundstage only paid the Respondent \$100 for the service of alcoholic beverages and did not pay any money for food. Id. In addition, in regards to both dates, the invoice states, “Hosts will provide their own food.” Id.
- D. Invoice Number 042517 further indicates that the Urban Radio Show event catered by the Respondent only had sixty guests. Id. Nevertheless, the Respondent has not been able to provide a wholesaler invoice for this event. *Tr.*, 2/5/13 at 226-27.
- E. Mr. Harris kept unsealed and previously used alcoholic beverages in the padlocked cage he maintained at D.C. Soundstage. Id. at 197-98, 360. Mr. Harris used the bottles at multiple catered events. Id. at 360.

III. Andrew Harris, the Respondent’s owner, added the following information to the record: (1) the event on January 26, 2013, featured two birthday parties and Mr. Harris claimed he had no control over who attended, *Tr.*, 8/14/13 at 47, 50; (2) Mr. Harris ended food service at the event at 11:00 p.m.; yet, patrons continued to enter the event after the conclusion of the food service, id. at 47-48; (3) the event featured a disc jockey and dancing, id. at 48-49; (4) Mr. Manley served alcoholic beverages during the event in order to assist the Respondent; id. at 49-50; (5) all of the contracts and invoices related to the event were addressed to Mr. Manley; id. at 50; and (6) during the event on January 26, 2013, the Respondent brought his own alcohol and removed the beverages when he left, but the event site owner continued to provide his own alcohol to patrons, id. at 59.

IV. Mr. Harris also made the following points: (1) he indicated that some patrons brought their own alcohol to the event; yet, he was concerned that taking their alcohol would put him in

danger, *id.* at 39; (2) he admitted that he illegally stored alcoholic beverages in the District of Columbia, *id.* at 41; and (3) he intended to file his required caterer reports with his tax returns. *Id.* at 42. Mr. Harris further stated that he stored alcoholic beverages at the event site in a cage. *Id.* at 43-44. He also stated that he repeatedly warned the event site owner not to serve alcohol illegally; nevertheless, the event site owner did not listen and hosted multiple events without the participation of Mr. Harris. *Id.* at 44.

## CONCLUSIONS OF LAW

1. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia (D.C.) Official Code pursuant to D.C. Official Code § 25-823(1). D.C. Code § 25-830 (West Supp. 2013); 23 DCMR § 800, *et seq.* (West Supp. 2013). Furthermore, after holding a Show Cause Hearing, the Board is entitled to impose conditions if we determine “that the inclusion of the conditions would be in the best interests of the locality, section, or portion of the District in which the establishment is licensed.” D.C. Code § 25-447 (West Supp. 2013).

### I. Charge I

2. We find that the Respondent exceeded the scope of its Caterer’s License for events it catered on January 22, 2013, and January 26, 2013, by failing to prepare or provide food for these events. Under § 2000.1,

A Caterer's license, issued under D.C. Official Code § 25-113(i), shall authorize the licensee to sell, deliver, and serve alcoholic beverages for consumption on the premises of a catered event at which the licensee is also serving prepared food. A Caterer is a business entity engaged principally in the processing, preparation, and service of food products which it has prepared especially for the customer for an event, and the service of alcoholic beverages is incidental to the food preparation and service . . . . A violation of this subsection shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c).

23 DCMR § 2000.1 (West Supp. 2013). The Respondent’s invoices indicate that the Respondent did not prepare or sell any food on January 22, 2013, and January 26, 2013. *Supra*, at ¶ II(C). Under § 2000.1, caterers in the District of Columbia are not supposed to act as mobile bartending services; instead, a caterer is obligated to make alcoholic beverage sales “incidental to the food preparation and service.” § 2000.1. The Board sustains Charge I and finds the Respondent in violation of § 2000.1, because the Respondent failed to prepare or provide any food for the events on January 22, 2013, and January 26, 2013.

### II. Charge II

3. The Board concludes that the Respondent failed to superintend the event at D.C. Soundstage on January 26, 2013, in accordance with the regulations governing caterers. Under § 2000.2, “The licensee under a Caterer's license or its designated manager shall remain on the

premises of a catered event for the period during which alcoholic beverages are sold, served, and consumed.” 23 DCMR § 2000.2 (West Supp. 2013); see also 23 DCMR § 2005.1; D.C. Code § 25-701 (West Supp. 2013). Under the plain language of the law, while patrons consumed alcohol at the event, Mr. Harris had to remain on the premises. Yet, Mr. Harris admitted that he left the establishment even though he knew that patrons continued to possess alcoholic beverages. Supra, at ¶¶ I(Stip. 33), II(A). Under these facts, the Board sustains Charge II, and notes that it is simply irresponsible for Mr. Harris to begin an event, and not take responsibility for properly ending it.

### III. Charge III

4. Mr. Harris clearly failed to take reasonable precautions to ensure that only individuals of legal drinking age received alcoholic beverages on January 26, 2013. Under § 25-783(b), “A licensee or his agent or employee shall take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or serves an alcoholic beverage is of legal drinking age.” D.C. Code § 25-783(b) (West Supp. 2013). Mr. Harris admitted at the summary suspension hearing that neither D.C. Soundstage nor he checked patron identification before patrons entered the establishment and patrons under the age of twenty-one were permitted to enter the establishment on the date of the shooting. Supra, at ¶¶ I(31), I(F), I(J), I(M). The testimony of witnesses indicates that multiple minors entered the establishment before the shooting. Supra, at ¶¶ I(F), I(H). Even if the Board believed that Mr. Harris was sincere in his efforts to prevent minors from obtaining alcohol, relying solely on the physical inspection of patrons without checking identification when minors are present is inherently irresponsible and unreasonable. Supra, at ¶ II(B). Therefore, the Board sustains Charge III and finds the Respondent in violation of § 25-783(b).

### IV. Charge IV

5. The Board further finds that the licensee illegally stored its alcoholic beverages at D.C. Soundstage. Under § 2003.1, “The licensee under a Caterer's license may store alcoholic beverages in the District of Columbia upon the approval of the Board.” 23 DCMR § 2003.1 (West Supp. 2013). As explained by § 25-754, “Alcoholic beverages shall not be . . . kept for sale . . . by any licensee other than at the licensed establishment; provided that the Board may permit the storing of beverages upon premises other than the licensed establishment under . . . [a] Caterer's license.” D.C. Code § 25-754(a), (a)(5) (West Supp. 2013).

6. The Respondent's licensed address is 2101 Benning Road, N.E. Supra, at ¶ I(2). D.C. Soundstage is located at 2403 Benning Road, N.E. Supra, at ¶ I(8). As admitted by Mr. Harris, without the permission of the Board, the Respondent stored its beverages in a cage found at D.C. Soundstage, not 2101 Benning Road, N.E. Supra, at ¶¶ I(14-15), I(L). Therefore, the Board sustains Charge IV and finds the Respondent in violation of § 2003.1.

### V. Charge V

7. The Board finds that the Respondent failed to file required catering reports to ABRA.

8. Under § 25-113(i)(4), “A caterer licensed under this subsection shall file records with, and maintain records for inspection by, the Board in such manner as the Board shall determine by regulation promulgated under § 25-211(b) . . . .” D.C. Code § 25-113(i)(4) (West Supp. 2013). Under § 2006.1, the Respondent, as a caterer, must submit semiannual reports to the Board that indicate, among other things, the quantity of alcoholic beverages sold by the licensee in the past six months. 23 DCMR § 2006.1 (West Supp. 2013). A violation of § 2006.1 is considered a secondary tier violation subject to a fine or suspension. 23 DCMR § 2006.5 (West Supp. 2013).

9. In this case, the ABRA’s records show that the Respondent has not submitted any of the required financial reports that caterers must submit in a timely fashion. Supra, at ¶¶ I(O), IV. Therefore, the Board sustains Charge V, and finds that the Respondent violated § 2006.1

#### **VI. Charge VI**

10. The Board further finds that the Respondent changed the address of its catering business without the permission of the Board. Under § 25-762, “Before a licensee may make a change in the interior or exterior, or a change in format, of any licensed establishment, which would substantially change the nature of the operation of the licensed establishment as set forth in the initial application for the license, the licensee shall obtain the approval of the Board in accordance with § 25-404.” D.C. Code § 25-762(a) (West Supp. 2013). Here, the Board issued the Respondent a Caterer’s License for 2101 Benning Road, N.E. Supra, at ¶ I(2). As admitted by Mr. Harris, the U.S. Marshals Service evicted him from 2101 Benning Road, N.E., and he subsequently moved his catering business to 3729 Grant Place, N.E., without the permission of the Board. Supra, at ¶¶ I(2), I(4), I(L). Therefore, the Board sustains Charge VI, and finds the Respondent in violation of § 25-762.

#### **VII. Charge VII**

11. The Board finds that the Respondent failed to keep records in accordance with § 2002.2. Under the law,

Caterers shall maintain distinct records identifying the alcoholic beverages purchased from Wholesalers for each scheduled event of one hundred (100) persons or less and shall make such records available for inspection, upon request, by the Board and by the Wholesaler from which the alcoholic beverages were purchased. A Caterer licensed under § 2000.1 shall, concurrent with the information required in § 2006, provide to the Board a sworn affidavit on a form prepared by ABRA attesting that, in the preceding reporting period, it has used alcoholic beverages purchased from Wholesalers only for events of one hundred (100) persons or less. Upon request of the Board, the Caterer shall identify the Wholesaler(s) from whom alcoholic beverages have been purchased. The submission of a knowingly false or misleading affidavit shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c) and Chapter 8.

12. Paragraph II(D) indicates that the Respondent hosted an event for sixty people, but has not been able to provide the appropriate documentation required by § 2002.2. Supra, at II(D). Therefore, the Board sustains Charge VII and finds the Respondent in violation of § 2002.2.

### VIII. Charge VIII

13. Finally, the Board determines that the Respondent removed unsealed containers of alcoholic beverages from the events catered by the Respondent at D.C. Soundstage in violation of § 2004.2 Under the law,

The licensee under a Caterer's license shall be permitted to remove sealed containers of alcoholic beverages from an event site, but shall not be permitted to remove unsealed containers from the premises. Customers who purchase or receive alcoholic beverages at the event site shall be permitted to remove sealed containers of alcoholic beverages from the premises and retain possession of unsealed containers on the premises.

D.C. Code § 2004.2 (West Supp. 2013). Under the plain language of § 2004.2, a caterer may not retain possession of an alcoholic beverage that is opened and used during an event; instead, opened beverages must be disposed of or turned over to the customer. Here, the Respondent retained possession of alcoholic beverages opened at events he catered at D.C. Soundstage and reused them at various events hosted at the event site. Supra, at ¶¶ I(L), II(E). This is a clear violation of § 2004.2; therefore, the Board sustains Charge VIII.

### IX. Penalty

14. Based on our determination regarding Charges I through VIII, the Board finds that the appropriate penalty is revocation of the Respondent's Caterer's License.

15. The Board concludes that the Respondent does not merit a lesser penalty based on Mr. Harris's demonstrated failure to comply with the responsibilities of a liquor license holder in the District of Columbia. Under § 25-823, "The Board may fine, as set forth in the schedule of civil penalties established under § 25-830, and suspend, or revoke the license of any licensee during the license period if: . . . The licensee violates any of the provisions of this title, the regulations promulgated under this title, or any other laws of the District . . ." § 25-823(1).

16. The Board determines that revocation is an appropriate penalty in this case, because the Respondent's actions in this matter show that Mr. Harris is unfit for licensure. As we have said in the past, "A[] [licensee's] knowledge and familiarity with the District of Columbia's alcoholic beverage control laws are an important factor . . ." in determining whether a licensee "is of good character and generally fit for the responsibilities of licensure." In re Shaw's Tavern, LLC, t/a Shaw's Tavern, Case Number 11-CMP-00314, Board Order No. 2012-018, 5 (D.C.A.B.C.B. Jan. 25, 2012); D.C. Code § 25-301(a)(1) (West Supp. 2013). Here, once the U.S. Marshals Service evicted Mr. Harris from his licensed premises, he was obligated to place his license into safekeeping with the Board until the Respondent resumed business at the original address or transferred the license—not continue operating at a different address. D.C. Code §§ 25-317, 25-

791(a) (West Supp. 2013); *Supra*, at ¶¶ I(4), I(L).<sup>1</sup> Consequently, at the time of the shooting, the Respondent had no legal right to operate as a caterer in the District of Columbia. In light of this and other serious violations of the law discussed above, the Board finds that Mr. Harris lacks sufficient knowledge of the alcoholic beverage control laws to superintend a licensed establishment in the District of Columbia.

### ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 6th day of November 2013, **SUSTAINS** Charges I through VIII filed by the Government against PTC, Inc., t/a Roadside Café. In accordance with this Order, the Board hereby **REVOKES** the Respondent's Caterer's License.

**IT IS FURTHER ORDERED** that Andrew Harris is prohibited from holding a liquor license in the District of Columbia for five (5) years from the date of this Order under D.C. Official Code § 25-821(c).

ABRA shall send a copy of this Order to the Respondent and to the Government.

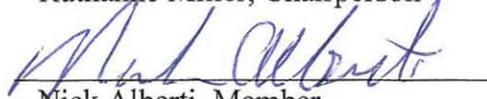
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<sup>1</sup> According to the safekeeping law, "A license which is discontinued for any reason shall be surrendered by the licensee to the Board for safekeeping. The Board shall hold the license until the licensee *resumes business at the licensed establishment* or the license is transferred to a new owner." D.C. Code § 25-791(a) (West Supp. 2013) (emphasis added). The law also requires that the Respondent seek the approval of the Board by filing an application if the Respondent desires to change the establishment's address. D.C. Code § 25-317 (West Supp. 2013).

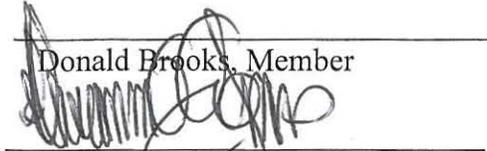
District of Columbia  
Alcoholic Beverage Control Board



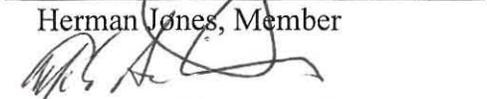
Ruthanne Miller, Chairperson



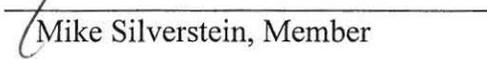
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, N.W., 400S, Washington, D.C. 20009.

Also, 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 (April 2004) 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).