

**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 )  
 )  
Respondent )  
 )

Case No.: 13-251-00009  
License No.: 088358  
Order No.: 2013-040

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

**ALSO PRESENT:** Andrew Harris, on behalf of PTC, Inc., t/a Roadside Café, 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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**ORDER SUMMARILY SUSPENDING THE CATERING LICENSE OF ROADSIDE  
CAFÉ AND SUMMARILY SUSPENDING ALL CATERING ACTIVITY AT 2403  
BENNING ROAD, N.E.**

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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. The Board now reduces its findings of fact and conclusions law in this Order in compliance with § 2-509 of the D.C. Official Code.

### **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:<sup>1</sup>

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<sup>1</sup> The transcript in this matter was not available at the time this Order was written and issued; however, the Board is sufficiently versed in the evidence and testimony after holding the summary suspension hearing to make the findings

1. 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.

2. 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 Parties 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].

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of fact and conclusions of law contained in this Order. This action was necessary on the part of the Board, because § 25-826(c) requires the Board to issue an Order within 72 hours of the Summary Suspension Hearing. D.C. Code § 25-826(c) (West Supp. 2013).

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).*

3. 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.

4. 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.

5. 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.

6. 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 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.

7. 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 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.

8. 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.

9. 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.

10. 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 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.

11. 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.

12. 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 also 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.*

13. 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 a.m., and that he left the event at 1:00 a.m.

14. 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. According to Mr. Harris, he charges D.C. Soundstage a flat fee and then the event site reimburses him completely for the alcohol he purchases. Mr. Harris further admitted that he has bought alcohol for Mr. Manley in the past so that Mr. Manley could sell alcohol at D.C. Soundstage on January 26, 2013, and on other occasions without giving the proceeds of such sales to Mr. Harris.

15. 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.

### CONCLUSIONS OF LAW

16. The Board has the authority to "summarily revoke, suspend, fine, or restrict" a license to sell alcoholic beverages in the District of Columbia if the Board determines after an investigation that the operations of the licensee present "an imminent danger to the health and safety of the public." D.C. Official Code § 25-826(a) (West Supp. 2013); 23 DCMR § 2009.1 (West Supp. 2013).

17. The Board finds, based on the testimony and evidence in the record that the Respondent operates out of compliance with the terms and conditions of its license, and poses an imminent danger to the health and safety of the public. In addition, based on the violent incident that occurred on January 26, 2013, we further prohibit the sale, service, and consumption of alcohol at D.C. Soundstage under § 2009 of the D.C. Municipal Regulations (DCMR), because the continued operation of the event site as a de facto nightclub poses an imminent danger to the community.

18. This case reveals that Mr. Harris fails to understand the responsibilities of a liquor license holder in the District of Columbia. First, once Mr. Harris was evicted from his original premises, the license should have been immediately returned to the Board for safekeeping. Under § 25-791, “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 . . .*” D.C. Code § 25-791(a) (West Supp. 2013) (emphasis added). Under the law, once the Respondent was evicted from 2101 Benning Road, N.E., it should have immediately returned the license to the Board—not continue operations at 3729 Grant Place, N.E. Supra, at ¶¶ 2 (Stipulation 2 and 6), 12. We also note that changing the business location of a licensed caterer requires the filing of a transfer application with the Board before the caterer may continue its operations at the new address, which the Respondent did not do as of February 5, 2013. D.C. Code § 25-317 (West Supp. 2013). Consequently, on January 26, 2013, Mr. Harris was not authorized to provide alcoholic beverages at catered events.

19. Furthermore, we also find that on January 26, 2013, Mr. Harris failed to take reasonable precautions to prevent the sale of alcoholic beverages to minors. Under § 25-783, “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 (West Supp. 2013). Here, Mr. Harris allowed Mr. Manley to check identification and serve alcoholic beverages, which made him an agent of the Respondent. Nevertheless, the conflicting statements made by Mr. Manley regarding whether he was bartending or checking identification show that the Respondent did not take actions to prevent minors from obtaining alcoholic beverages. Supra, at ¶ 10. This conclusion is further corroborated by the statements of witnesses that the patrons involved in the fight were intoxicated and appeared under the age of 21, and the fact that Mr. Harris admitted that neither he or Mr. Manley checked patron identification on the night of the incident. Supra, at ¶ 13. As result, the record contains definitive proof that the Respondent failed to take reasonable measures to ensure that minors did not obtain alcoholic beverages. Supra, at ¶¶ 6, 8.

20. We also note that the Respondent illegally stored alcoholic beverages at the event site. Under § 25-754, a caterer is not permitted to store alcoholic on a premises other than the licensed establishment without Board approval. D.C. Code § 25-754 (West Supp. 2013); 23 DCMR 205.2 (West Supp. 2013). Here, Mr. Harris admitted that he was storing his alcoholic beverages at D.C. Soundstage, not his licensed establishment. Supra, at ¶ 2 (Stipulation 14). Therefore, we find the Respondent in violation of § 25-754.

21. Finally, the Respondent has not submitted any of the reports required by § 2006. 23 DCMR § 2006, *et seq.* (West Supp. 2013). Supra, at ¶ 15. We note that this offense alone is sufficient grounds to suspend the Respondent’s license until the reports are filed. § 2006.5.

22. For these reasons, we find that the Respondent’s operations do not comply with the terms and conditions of its Caterer’s License. The evidence shows that the Respondent is obligated to place its license into safekeeping and has no legal right to operate a catering business that serves alcoholic beverages. Therefore, we summarily suspend the license until the Respondent’s violations are adjudicated and the Respondent comes into compliance with Title 25 of the D.C. Official Code.

23. The record shows that a violent shooting occurred at D.C. Soundstage, the owners of D.C. Soundstage were complicit in the Respondent’s violations of the law, and the event site owners potentially committed independent violations of Title 25 of the D.C. Official Code. We, therefore, find that continued events at D.C. Soundstage pose an immediate danger to public.

24. Under § 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 a site.” 23 DCMR § 2009.3 (West Supp. 2013); see also D.C. Code § 25-211(f) (West Supp. 2013). Here, the evidence shows that a patron at the event discharged a firearm and caused severe injuries to five people. Supra, at ¶ 4. In addition, it appears that D.C. Soundstage, through the actions of Mr. Manley, was complicit in the Respondent’s failure to check patron identification. Supra, at ¶¶ 8, 10, 19. It also appears that D.C. Soundstage assisted the Respondent in violating the District of Columbia’s alcoholic beverage storage rules. Supra, at ¶ 20. Finally, the testimony of Mr. Harris indicate that Mr. Manley may have been unlawfully selling alcohol without a license at D.C. Soundstage in violation of D.C. Official Code § 25-102(a), which is a misdemeanor criminal offense. Supra, at ¶ 14.

25. For these reasons, we have no confidence that the event site owners can guarantee the safety of its patrons or ensure that the sale, service, and consumption of alcohol will occur in accordance with the law. Consequently, we find it appropriate and necessary to prohibit the sale, service, and consumption of alcohol at 2403 Benning Road, N.E., under § 2009.3.

## ORDER

**THEREFORE**, under § 25-826, it is hereby **ORDERED** on this 7th day of February, 2013, that the Retailer’s Class Caterer’s License, held by PTC, Inc., t/a Roadside Café, is hereby **SUSPENDED** until the Board issues its Order in a future show cause proceeding related to the incident on January 26, 2013.

**IT IS FURTHER ORDERED** that this matter be forwarded to the Office of the Attorney General (OAG) for review to determine if additional charges and penalties are warranted. The Board further announces its intention to expedite this matter upon receiving notice of the charges from OAG.

**IT IS FURTHER ORDERED** that the Respondent shall immediately surrender its Catering License, ABRA License No. 088358, to ABRA for safekeeping pursuant to D.C. Official Code § 25-791.

**IT IS FURTHER ORDERED** that caterers in the District of Columbia are prohibited from selling, serving, or permitting the consumption of alcohol at 2403 Benning Road, N.E., Washington, D.C., pursuant to § 2009.3 of Title 23 of the DCMR.

**IT IS FURTHER ORDERED** that ABRA's Licensing Division shall not accept temporary or one-day substantial change applications for 2403 Benning Road, N.E., without the permission of the Board.

A copy of this Order shall be sent to the Respondent and to the Government. ABRA shall also notify D.C. Soundstage and all Caterer License holders of this Order.

District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

  
Donald Brooks, Member

  
Mike Silverstein, Member

I write separately to both concur, in-part, and dissent, in-part with the decision reached by the majority of the Board.

I share all of the concerns of the majority regarding the conduct of this event site's owners. I fully agree that some of the restrictions must be placed on this caterer's site in order to protect the healthy, safety, and welfare of the public. However, I believe that the restrictions chosen by the Board are unnecessarily harsh. The aim of protecting the public's health, safety, and welfare can be equally achieved by adopting more reasonable restrictions such as (1) limiting the hours of alcohol service by a caterer to 11:00 p.m. and (2) requiring the event site to ensure that alcoholic beverages are not stored on the site after the Board-approved hours of the caterer elapse.

  
Nick Alberti, 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).