

RECEIVED

Sep 08 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

Appellate Case No. 2020-000435

South Carolina Department of Revenue,

Respondent,

-VS-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

EXHIBITS TO APPELLANT'S
PETITION FOR A WRIT OF CERTIORARI

Court of Appeal Filings in South Carolina Department of Revenue v. Study Hall, LLC. 2020-000435

Final Brief of Appellant Filed August 28, 2020.....	Ex A at Bates 001
Final Brief of Respondent Filed August 12, 2020.....	Ex B at Bates 013
Final Reply Brief of Appellant Filed August 28, 2020.....	Ex C at Bates 031
Record on Appeal Filed August 28, 2020.....	Ex D at Bates 047
Final Order dated January 15, 2020	Ex D at Bates 050

Order Granting Motion for Stay Filed February 5, 2020	Ex D at Bates 062
Order Denying Respondent's Motion to Reconsider Filed March 9, 2020	Ex D at Bates 063
Writ of Supersedeas Filed March 16, 2020	Ex D at Bates 068
Motion for Reconsideration and Stay, Filed January 23, 2020	Ex D at Bates 070
Appellant's Petition for Writ of Supersedeas Filed March 11, 2020	Ex D at Bates 080
Transcript of Motion Hearing Dated December 17, 2019.....	Ex D at Bates 147
Petitioner Exhibit 1: Department File	Ex D at Bates 375
Petitioner Exhibit 2: Bill of Indictment and sentencing sheet.....	Ex D at Bates 446
Petitioner Exhibit 3:Memo dated 9/3/2014	Ex D at Bates 453
Petitioner Exhibit 4:Memo dated 9/5/2015	Ex D at Bates 455
Petitioner Exhibit 6:Certified copy from City of Statesboro Settlement agreement	Ex D at Bates 461
Petitioner Exhibit 7: ABL Renewal Notice	Ex D at Bates 470
Petitioner Exhibit 9: Report dated 3/27/2019	Ex D at Bates 472
Respondent Exhibit 1: Renewal Form.....	Ex D at Bates 525
Respondent Exhibit 4: Paper regarding Breathalyzers for bouncers.....	Ex D at Bates 527
Respondent Exhibit 5: Rules for bouncers.....	Ex D at Bates 528
Agency Information Sheet	Ex D at Bates 529
Opinion issued by the SC Court of Appeals File July 13, 2022	Ex E at Bates 534

Appellant’s Petition for Rehearing
Filed July 28, 2022 Ex F at Bates 537

Order of the SC Court of Appeals
Filed August 12, 2022..... Ex G at Bates 540

EXHIBIT A

RECEIVED

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

AUG 28 2020

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

Appellate Case No. 2020-000435

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

FINAL BRIEF OF APPELLANT

Kathleen McDaniel (SC Bar No. 74826)
Sarah J.M. Cox (SC Bar 104316)
BURNETTE SHUTT & McDANIEL, PA
912 Lady Street, Second Floor (29201)
PO Box 1929
Columbia, South Carolina 29202
Telephone: (803) 904-7913
Facsimile: (803) 904-7910

ATTORNEYS FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
STATEMENT OF ISSUE ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
STANDARD OF REVIEW.....	5
ARGUMENT.....	5
CONCLUSION.....	8

TABLE OF AUTHORITIES

Statutes

S.C. Code Ann. § 61-2-100.....	3, 6
S.C. Code Ann. § 61-2-145.....	2
S.C. Code Ann. § 61-4-520.....	3
S.C. Code Ann. § 61-4-560.....	3
S.C. Code Ann. § 61-4-4060.....	3
S.C. Code Ann. § 61-6-1820.....	3, 6
South Carolina Administrative Law Court Rule 29.....	4

Cases

<u>MRI at Belfair, LLC v. South Carolina Dept. of Health and Environmental Control</u> , 394 S.C. 567, 716 S.E.2d 111 (Ct. App. 2011).....	5
<u>South Carolina Dept. of Revenue v. Meenaxi, Inc.</u> , 417 S.C. 639, 790 S.E.2d 792 (Ct. App. 2016).....	5
<u>South Carolina Dept. of Revenue v. Sandalwood Social Club</u> , 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012).....	5, 6

STATEMENT OF ISSUE ON APPEAL

- I. Did the Administrative Law Court act outside its statutory authority when it imposed a 90-day suspension on Appellant even though the court found in Appellant's favor on the sole issue before the court?

STATEMENT OF THE CASE

Appellant holds an on-premises beer and wine permit issued by Respondent. Appellant also holds a liquor-by-the-drink license issued by Respondent. Appellant's on-premises beer and wine permit and liquor-by-the-drink license expired on November 30, 2018. On December 7, 2018, Appellant applied for a renewal of its on-premises beer and wine permit and its restaurant liquor-by-the-drink license at the offices of Respondent. (R.pp. 328-331.) On the same date, Respondent issued a Renewal Notice of Denial (the "Notice of Denial") stating that the renewal was denied because a principal, Jonathan Starkey ("Starkey"), had not filed state income taxes for the tax years from 2014 through 2017. (R.p. 376.) The Notice of Denial further stated that Starkey had 90 days to file his taxes. (Id.) The Notice of Denial also required Appellant to furnish verification of its liability insurance policy complying with S.C. Code Ann. § 61-2-145. (Id.)

Before leaving Respondent's offices, Starkey immediately provided proof of Appellant's liability insurance policy to Respondent. (R.p. 228.) Starkey's understanding at the time was that he had 90 days to provide proof that he had filed his taxes and if he did not do so, Appellant's on-premises beer and wine permit and its restaurant liquor-by-the-drink license would be suspended. (R.pp. 228-229.) Starkey was not aware that Appellant did not have an on-premises beer and wine permit and restaurant liquor by the drink license until February 28, 2019. (R.p. 238.)

On February 28, 2019, State Law Enforcement Division ("SLED") agents conducted an undercover alcohol operation at Appellant's premises and purchased a single beer from Appellant. (R.pp. 334-335.) Following the purchase, the agents obtained a search warrant and seized approximately \$16,000 worth of alcohol from

Appellant. (R.p. 31.) Because Starkey was not present to be issued a ticket, SLED agents obtained two arrest warrants for Starkey for violation of S.C. Code Ann. § 61-4-560 for Operation without a Permit and § 61-6-4060(A), for Unlawful Storage of Liquor in a Place of Business. (R.p. 335.)

On March 7, 2019, Appellant furnished the required tax documentation to Respondent, and Respondent issued an on-premises beer and wine permit and a restaurant liquor-by-the-drink permit to Appellant. (R.pp. 332-333.)

On March 20, 2019, Respondent South Carolina Department of Revenue ("Respondent") issued a Notice of Intent to Cancel to Appellant. (R.pp. 378-379.) The sole reason cited by Respondent for its intent to cancel Appellant's license and permit was that "selling alcoholic beverages without a license indicates that [Starkey lacks] the requisite moral character to hold an alcohol permit and license as required by [South Carolina law.]" (Id.)

Appellant timely protested the Notice of Intent to Cancel by letter received by Respondent on June 18, 2019. (R.pp. 381-382.) Respondent then issued its Determination on July 17, 2019, concluding that Starkey was not of good moral character as required by S.C. Code §§ 61-2-100(D), 61-4-520, and 61-6-1820(2) and therefore was not a proper person to hold an alcohol license. (R.pp. 383-387.) On August 14, 2019, Appellant timely filed a Request for Contested Case Hearing with the South Carolina Administrative Law Court ("ALC"). (R.p. 388.)

On December 17, 2019, the ALC held a hearing on this matter. (R.pp. 99-326.) Appellant called witnesses and presented evidence to prove Starkey's good moral character. (Id.) Respondent called witnesses and presented evidence to attempt to prove

Starkey is of poor moral character. (Id.) On January 15, 2020, the ALC issued its Order finding that Respondent had erred and that Starkey is of the requisite moral character for Appellant to hold an alcohol license. (R.pp. 1-12.) However, the ALC also ordered that “[Appellant’s] license and permit shall be suspended for ninety (90) days.” (Id.) It is this 90-day suspension that Appellant challenges in this appeal.

On January 23, 2020, Appellant moved the ALC pursuant to SCALC Rule 29(D), to reconsider its Order filed January 15, 2020, so as to remove the 90-day suspension and to stay the suspension while considering the motion. (R.p. 22.) On February 5, 2020, the ALC granted Appellant’s motion for stay pending its decision on the motion for reconsideration. (R.p. 14.) On March 9, 2020, the ALC denied Appellant’s motion to reconsider. (R.p. 4.)

This Appeal by Study Hall, LLC followed. Respondent South Carolina Department of Revenue did not file any cross-appeal.

On March 11, 2020, Appellant filed a Petition for Writ of Supersedeas, requesting that the suspension be stayed during the pendency of this appeal. (R.p. 20.) On March 13, 2020, the ALC issued a Writ of Supersedeas staying the suspension during the pendency of this appeal. (R.p. 20.)

STANDARD OF REVIEW

"In an appeal from the decision of an administrative agency, the Administrative Procedures Act [(the APA)] provides the appropriate standard of review." S.C. Dep't of Revenue v. Meenaxi, Inc., 417 S.C. 639, 648, 790 S.E.2d 792, 796–97 (Ct. App. 2016).

"Pursuant to the APA, this court may reverse or modify the ALC if the appellant's substantial rights have been prejudiced because the administrative decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by an error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." MRI at Belfair, LLC v. S.C. Dep't of Health & Envtl. Control, 394 S.C. 567, 572, 716 S.E.2d 111, 113 (Ct. App. 2011).

ARGUMENT

Appellant brings this appeal because the ALC's imposed a penalty on Appellant even though the ALC found in Appellant's favor on the sole issue before it. When the ALC found that Appellant had not committed the offense alleged in the Notice of Intent to Cancel and yet imposed a penalty on Appellant *sua sponte*, the ALC acted outside its statutory authority.

"An administrative agency has only the powers conferred on it by law and must act within the authority created for that purpose." S.C. Dep't of Revenue v. Sandalwood Soc. Club, 399 S.C. 267, 278, 731 S.E.2d 330, 336 (Ct. App. 2012) (internal citations removed). "DOR has the authority to determine an appropriate administrative penalty, within the statutory limits established by the legislature, after the parties have had an

opportunity for a hearing on the issues . . . and in assessing a penalty, DOR should give effect to the major purpose of a civil penalty, which is deterrence.” Id. at 278-79, 336. “[O]nly DOR may bring violations under its regulations, and no private right exists to bring a claim against a business under DOR’s regulatory scheme.” Id. at 280.

In a contested case hearing before the ALC, “[the ALC] is the fact-finder and it is [the ALC’s] prerogative ... to impose an appropriate penalty based on the facts presented.” *Id.* at 280, 337. However, the ALC can only penalize a licensee for violations cited by DOR. See id. at 278.

Here, Respondent cited only one reason in its Determination for its cancelation of Appellant’s license. That one reason was Starkey’s alleged lack of good moral character. (R.p. 390.) Per S.C. Code Ann. §§ 61-2-100(D) and 61-6-1820(2), a business’s principals must be of good moral character for the business to be issued a license or permit to sell alcohol. A business’s principal either is or is not of sufficient moral character to hold an alcohol license or permit. Thus, if a business’s principal is not of good moral character, the only appropriate penalty is revocation or cancelation of said license. Therefore, if the ALC had found that Starkey, Appellant’s sole principal, lacked good moral character, it could only cancel or revoke Appellant’s alcohol license and permit. On the other hand, if the ALC found that Starkey had the requisite good moral character, the ALC could only allow Appellant to retain its license and permit. No other options are available under the law for the imposition of a penalty on a party with sufficient good moral character.

Nowhere in its Order does the ALC state the statutory basis for the imposition of the 90-day suspension. The Order points to no statute that Appellant violated that would give the ALC authority to impose any sort of penalty. Moreover, if the ALC had imposed

a penalty for the violation of statutory provision other than the requirement of sufficient moral character, that also would have exceeded the ALC's authority because the existence of sufficient moral character was the only issue before the ALC. The sole basis of Respondent's decision to cancel Appellant's alcohol license and permit was lack of good moral character. No other administrative grounds were before the ALC.

The ALC analyzed Starkey's moral character and held that Starkey "possesses the requisite moral character to hold an alcoholic beverage license" and that Appellant meets the applicable requirements for licensure. (R.p. 1-12.) Because this was the only issue before the ALC and the court found in favor of Appellant, penalizing Appellant *in any way* is acting outside the statutory authority of the agency. Therefore, the punitive portion of ALC's Order should be reversed because it was imposed outside the statutory authority of the ALC, and Appellant should be allowed to continue to operate without a suspension.

CONCLUSION

For the foregoing reasons, Appellant Study Hall, LLC d/b/a Study Hall, LLC, respectfully asks that this Court reverse the 90-day suspension in the ALC's January 15, 2020 and March 9, 2020 Orders and allow Appellant to continue to sell alcohol without suspension.

Respectfully submitted,

s/ Kathleen M. McDaniel

Kathleen McDaniel (SC Bar No. 74826)

Sarah J.M. Cox (SC Bar 104316)

BURNETTE SHUTT & McDANIEL, PA

PO Box 1929

Columbia, South Carolina 29202

Tel. (803) 904-7913

Fax (803) 904-7910

KMcDaniel@BurnetteShutt.Law

ATTORNEYS FOR APPELLANT

Columbia, South Carolina

August 28, 2020

EXHIBIT B

RECEIVED

Aug 12 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable H.W. Funderburk, Administrative Law Judge

Case No. 19-ALJ-17-0269-CC

South Carolina Department of Revenue.....Respondent,

and

Study Hall, LLC d/b/a Study Hall, LLC, ...Appellant.

FINAL BRIEF OF THE RESPONDENT

Patrick A. McCabe (Bar No. 81264)

Counsel for Litigation

Adam J. Neil (Bar No. 69594)

Managing Counsel for Litigation

P.O. Box 12265

Columbia, SC 29211-9979

(803) 898-5056

Patrick.mccabc@dor.sc.gov

CourtOrders@dor.sc.gov

Attorneys for Respondent
South Carolina Department of Revenue

TABLE OF CONTENTS

Table of Authorities.....	iii-iv
Statement of Issues on Appeal	1
Statement of the Case.....	2
Standard of Review.....	4
Relevant Facts and Legal Argument.....	6
I. Factual Basis for Department's Determination That Permit and License Should Be Canceled	6
II. Legal Analysis and Argument	
A. The ALC Did Not Exceed Its Authority By Imposing Conditions For The License And Permit	
i. Contested case hearings before the ALC are <i>de novo</i> hearings.....	7
ii. In a <i>de novo</i> hearing the ALC is not restricted to a review of the finding by an administrative agency.....	8
iii. The ALC has the authority to establish conditions or restrictions that it considers necessary.....	9
iv. The holding in <u>Sandalwood</u> is distinguishable from this case.....	9
B. Alternatively, the ALC has the broad discretion in determining sanctions to be imposed upon an alcoholic beverage permit or license in a violation matter.....	11

Conclusion.....	12

TABLE OF AUTHORITIES

Cases	Page(s)
<u>Bailey v. S.C. Dep't of Health,</u> 388 S.C. 1, 693 S.E.2d 426 (Ct. App. 2010)	7, 8
<u>Be Mi, Inc. v. S.C. Dep't of Revenue,</u> 408 S.C. 290, 758 S.E.2d 737 (Ct. App. 2014)	8
<u>Clark v. Aiken Cty. Gov't,</u> 366 S.C. 102, 620 S.E.2d 99 (Ct. App. 2005)	5
<u>Dep't of Health & Envtl. Control, Petitioner,</u> 2016 WL 5867852 (Oct. 3, 2016)	4
<u>Feldman v. S.C. Tax Comm'n,</u> 203 S.C. 49, 26 S.E.2d 22 (1943)	9
<u>Marlboro Park Hosp. v S.C. Dep't of Health & Envtl. Control,</u> 358 S.C., 595 S.E. 2d 851 (Ct. App. 2004)	8
<u>Olson v. S.C. Dep't of Health & Envtl. Control,</u> 379 S.C. 57, 663 S.E.2d 497 (Ct. App. 2008)	5
<u>Reliance Ins. Co. v. Smith,</u> 327 S.C. 528, 489 S.E.2d 674 (Ct. App. 1997)	8
<u>S.C. Dep't of Revenue v. Sandalwood Soc. Club,</u> 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012)	8, 9, 10, 11
<u>Turner v. S.C. Dep't of Health & Envtl. Control,</u> 377 S.C. 540, 661 S.E.2d 118 (Ct. App. 2008)	5
<u>Walker v. S.C. Alcoholic Beverage Control Com'n,</u> 305 S.C. 209, 407 S.E. 2d 633 (1991)	11, 12
Statutes	
S.C. Code Ann. § 1-23-600(A) (Supp. 2009)	7
S.C. Code Ann. § 1-23-610(B) (Supp. 2015)	5
S.C. Code Ann. § 12-60-1310(2014)	7
S.C. Code Ann. § 12-60-1350 (2014)	7
S.C. Code Ann. § 61-2-20 (2009)	10
S.C. Code Ann. § 61-2-80 (2009)	4, 9
S.C. Code Ann. § 61-2-100(D) (2009)	2
S.C. Code Ann. § 61-4-250 (2009)	11
S.C. Code Ann. § 61-4-270 (2009)	11
S.C. Code Ann. § 61-4-520 (2009)	1
S.C. Code Ann. § 61-4-560 (2009)	12
S.C. Code Ann. § 61-6-4010 (2009)	12
S.C. Code Ann. § 61-6-1820(2) (Supp. 2018)	1

Other Authorities

5 C.J.S. Appeal and Error § 907	7
John D. Geathers & Justin R. Werner, <u>The Regulation of Alcoholic Beverages in South Carolina</u> (South Carolina Bar 2007).....	9

STATEMENT OF ISSUES ON APPEAL

Did the Administrative Law Court in a *de novo* hearing properly condition the renewal of Petitioner's beer and wine permit and liquor license upon service of a 90-day suspension?

STATEMENT OF THE CASE

On March 20, 2019, the South Carolina Department of Revenue (“Respondent” or “Department”) issued a Notice of Intent to Cancel to Study Hall, LLC d/b/a Study Hall (“Appellant” or “Study Hall”). At that time Appellant maintained both an on-premises beer and wine permit and restaurant liquor by the drink license. The Department’s basis for canceling the permit and license was the Appellant’s principal, Jonathan Starkey (“Starkey”), lacked the requisite moral character to hold an alcohol permit and license.¹ Appellant timely protested the Notice of Intent to Cancel on June 18, 2019.

Department issued its Department Determination on July 17, 2019, finding that Starkey was not of good moral character as required by S.C. Code Ann. § 61-2-100(D), 61-4-520, and 61-6-1820(2). Accordingly, because Appellant’s principal lacked the requisite moral character, the Department determined Appellant’s permit and license should be canceled. On August 14, 2019, Appellant filed a Request for a Contested Case Hearing with the Administrative Law Court (“ALC”).

On December 17, 2019, the ALC held the hearing on this matter. The Department called several witnesses and presented evidence that Starkey lacked the requisite moral character

¹ The Department came to this determination after the Appellant was cited for the sale of alcohol without a license. Additionally, the Department learned that Starkey surrendered an alcohol license in Statesboro Georgia to avoid revocation proceedings when an eighteen year old patron of his establishment was killed by an intoxicated, under-age employee. After the Department determined Starkey lack the requisite moral character to hold an alcohol license and permit the Appellant received a separate administrative citation on October 13, 2019, for selling alcohol on Sundays without a license.

necessary to hold an alcohol license and permit. Kathrine Gatto testified that her son had been killed by an intoxicated underage employee of Starkey's business in Statesboro, Georgia. (R.p. 145, lines 13-15). Statesboro Georgia, Deputy Chief Bryant testified that Starkey's prior business, Rude Rudy's, had been the location of a homicide/murder and the business had a culture that "allows under age employees and patrons to drink alcohol...." (R.p. 121, lines 19-22); that even after the death of Michael Gatto, Starkey's business continued to serve underage individuals alcohol. (R.p. 128, lines 11-17); that Starkey surrendered his City of Statesboro alcohol license as part of a settlement agreement to avoid the revocation of his license.² (R.p. 413) (R.p. 129, line 19-p.130, line 3). SLED Special Agent Keith Dorman provided testimony and evidence that the Appellant was issued a criminal citation for selling beer, wine and alcoholic liquor without a license (R.p. 424) (R.p. 184-p.187, line 5); and received an administrative citation for selling alcohol on Sunday without a license (R.p.464); (R.p.192, line 8-p.195, line 3). ABL Supervisor Krista Strzelczyk testified that the Appellant's license expired in November 2018, and that December 2018, ABL Renewal Notice of Denial clearly stated in two separate paragraphs that "you must cease all sales of beer, wine and /or liquor until you receive your renewed license." (R.p.422) (R.p.164, line 12- p.165, line 3). She also confirmed that the Appellant did not have a license on February 28, 2019, when SLED made the arrest and seizure of contraband alcohol. (R.p. 166, lines 21-25).

In response, the Appellant called witnesses and presented evidence to prove Starkey was of good moral character. On January 15, 2020, the ALC issued its Order granting the permit and

² The application for an alcohol permit or license in South Carolina requires the applicant attest that they have not previously had an alcohol beverage permit or license suspended or revoke.

license with the condition that the Appellant's permit and license "shall be suspended for ninety (90) days." (R.p.1)

On January 23, 2020, Appellant filed a Motion to Reconsider the 90-day suspension and a stay of the suspension while the motion was considered. On February 5, 2020, the Court stayed the suspension until the court ruled on the motion. On March 9, 2020, the ALC denied the Appellant's motion stating that the "Court's imposing a suspension for slightly less than the length of time [Study Hall] operated without a permit and license is certainly less severe than a cancelation that might disqualify Starkey from being permitted or licensed and less severe than a revocation with similar consequences." (R.p.15 ¶ 13).

On March 11, 2020, Appellant filed a Petition for a Writ of Supersedeas with the ALC; requesting a stay of the suspension during the pendency of this appeal. On March 13, 2020, the ALC issued a Writ of Supersedeas staying the suspension. The Appellant claims that the ALC exceeded its statutory authority by issuing a 90-day suspension. However, in a contested case, "the ALJ stands in the discretionary shoes of the agency. . . ." S.C. Dep't of Health & Env'tl. Control, Petitioner, No. 15-ALJ-07-0554-CC, 2016 WL 5867852 (Oct. 3, 2016). By standing in the shoes of the Department, the ALC is "authorized to establish conditions or restrictions which [the court] considers necessary before issuing, or renewing a license or permit." S.C. Code Ann. § 61-2-80 (2009).

STANDARD OF REVIEW

In an appeal from the decision of an administrative agency, the Administrative Procedures Act provides the appropriate standard of review. Olson v. S.C. Dep't of Health & Env'tl. Control, 379 S.C. 57, 63, 663 S.E.2d 497, 500-501 (Ct. App. 2008); Turner v. S.C. Dep't of Health & Env'tl.

Control, 377 S.C. 540, 544, 661 S.E.2d 118, 120 (Ct. App. 2008); Clark v. Aiken Cty. Gov't, 366 S.C. 102, 107, 620 S.E.2d 99, 101 (Ct. App. 2005). S.C Code Ann. § 1-23-610(B) (Supp. 2015) provides the following standard:

The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the [Appellant] have been prejudiced because the finding, conclusion or decision is:

- a) in violation of constitutional or statutory provisions;
- b) in excess of the statutory authority of the agency;
- c) made upon unlawful procedure;
- d) affected by other error of law;
- e) clearly erroneous in the view of the reliable, probative, and substantial evidence on the whole record; or
- f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The ALC's decision to impose a 90-day suspension as a condition on the license should be affirmed because the conclusion reached by the Court is not in violation of any statutory provisions, contains no errors of law; and its conclusion was not arbitrary, capricious, or characterized by the abuse of discretion.

RELEVANT FACTS AND LEGAL ARGUMENT

I. Factual Basis for Department's Determination That the Permit and License Should Be Canceled.

A. Appellant sold beer, wine and alcoholic liquor without a license.

One of the reasons the Department sought to cancel Appellant's permit and license was because Appellant sold beer, wine, and alcoholic liquor without a license. Evidence gathered by SLED on February 28, 2019, indicated that Appellant had made \$130,708.80 in illegal alcohol sales. R.p 424 (Petitioner's Exhibit 8) R.p, 188:13-191:8; Hrg. Transcr. 90:13-93:8. Only after Appellant was cited for illegal alcohol sales did it provide the Department the documentation necessary to obtain its license. Unfortunately the Department did not learn of the February 28, 2019, arrest until after the permit and license were granted.

B. Starkey's business practices in Statesboro, Georgia.

After the arrest of Starkey on February 28, 2019, the Department was contacted by Kathrine Gatto, who informed the Department that her son had been killed at Starkey's prior business in Statesboro, Georgia. Her son, who was underage and consuming alcohol, was beat to death by an intoxicated, underage, off-duty employee. The Department discovered that Starkey's business was known to locals as a place where underage individuals could drink alcohol. Additionally, the Department learned that in order to avoid revocation of his alcohol license Starkey agreed to surrender his alcohol license and to never operate an alcohol establishment in the City of Statesboro, Georgia.

Starkey's history in Georgia, combined with his arrest for selling alcohol without a license were indications that Starkey lacked the requisite moral character to hold an alcohol license and permit.

II. Legal Analysis and Argument

A. The ALC Did Not Exceed Its Authority By Imposing Conditions for The License And Permit.

i. Contested case hearings before the ALC are *de novo* hearings.

The suspension or revocation of an alcohol license is controlled by S.C. Code Ann. § 12-60-1310 to 12-60-1350 (2014). Under these statutes, the Department issues the licensee a notice informing it of the Department's decision concerning the status of the license or of any penalty the Department is seeking to impose. The Department bears the initial burden of proof of showing why the permit and/or license should be canceled. If Department meets its burden of proof, the burden shifts to the licensee. In this matter that means Appellant was tasked with presenting defenses or mitigating circumstances that would justify the ALC's departure from the Department Determination.

The administrative law judge acts as the finder of facts in a *de novo* proceeding. It is important to remember that there is a difference between a trial *de novo* and a *de novo* review. In a trial *de novo* the court is permitted to receive testimony and evidence in addition to what was presented in an earlier hearing. See, e.g., Bailey v. S.C. Dep't of Health, 388 S.C. 1, 4, 693 S.E.2d 426, 428 (Ct. App. 2010) (citing S.C. Code Ann. § 1-23-600(A) (Supp. 2009)) ("The ALC presides over all hearings of contested DHEC permitting cases and, in such cases, serves as the fact-finder and is not restricted by the findings of the administrative agency."). Conversely, in a *de novo* review, the appellate court's "review of the administrative law judge's order must be confined to the record." Id. ("The court may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact."); see also 5 C.J.S. Appeal and Error § 907. The hearings conducted by the ALC concerning alcohol licensing and enforcement are considered to be a trial *de novo*. "In reaching a decision in a contested violation matter, the ALC serves as the sole finder of fact in the *de novo* contested case proceeding." S.C. Dep't of Revenue v. Sandalwood Soc. Club, 399 S.C. 267, 279, 731 S.E.2d 330, 337 (Ct. App. 2012). See Be Mi, Inc. v. S.C. Dep't of Revenue, 408 S.C. 290, 758 S.E.2d 737 (Ct. App. 2014) (in reaching decisions in contested violation

matters the ALC serves as the sole finder of fact in a *de novo* contested case proceeding). See also Marlboro Park Hosp. v S.C. Dep't of Health & Envtl. Control, 358 S.C.573, 579, 595 S.E. 2d 851, 854 (Ct. App. 2004) (holding that a contested case proceedings before the Administrative Law Court are *de novo* proceedings).

ii. In a *de novo* hearing the ALC is not restricted to a review of the initial finding by an administrative agency.

The crux of the Appellant's argument is that the sole issue before the ALC was the moral character of Starky, and therefore the imposition of the condition on the license exceeded the ALC's statutory authority. However, when reviewing an administrative agency's final determination the ALC is not restricted to the issues in the agency's determination. "In the posture of an appeal, the ALJ is not sitting in the appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing." Reliance Ins. Co. v. Smith, 327 S.C. 528, 534, 489 S.E.2d 674, 677 (Ct. App. 1997). "The ALC . . . serves as the fact finder and is not restricted by the findings of the administrative agency." Bailey v. S.C. Dep't of Health, 388 S.C. 1, 4, 693 S.E.2d 426, 428 (Ct. App. 2010). This allows the ALC to expand the scope of the hearing and receive additional evidence and conduct independent fact finding on issues presented before the court.

iii. The ALC has the authority to establish conditions or restrictions that it considers necessary.

Section 61-2-80 provides that "The State, through the Department. . . . is authorized to establish conditions or restrictions which the department considers necessary before issuing or renewing a license or permit." "Liquor licenses are neither contracts nor rights of property. They are mere permits, issued or granted in the exercise of the police power of the state to do what otherwise would be unlawful to do, and to be enjoyed on so long as the restrictions and conditions

governing their continuance are complied with.” Feldman v. S.C. Tax Comm’n, 203 S.C. 49, 26 S.E.2d 22, 25 (1943). These powers are extended to the ALC in a contested case hearing. “If the judge stands fully in the shoes of the Department, then he, like the Department is ‘authorized to establish conditions or restrictions which [he] considers necessary before issuing or renewing a license or permit.’” John D. Geathers & Justin R. Werner, The Regulation of Alcoholic Beverages in South Carolina at 189 (South Carolina Bar 2007). As the fact finder in a *de novo* proceeding the ALC has the discretion and authority to place conditions on a license or permit that it considers necessary. Thus, requiring a 90-day suspension as a condition of the license and permit was within the authority of the ALC.

iv. **The holding in Sandalwood is distinguishable from this case.**

In S.C. Dep’t of Revenue v. Sandalwood Soc. Club, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012), this Court found that ALC abused its discretion and committed an error of law when it penalized the licensee for violations that were not cited by the Department of Revenue. Based upon the testimony of an intervenor, the ALC imposed a more severe penalty than was requested by the Department of Revenue. The Court of Appeals reversed the ALC finding that “what amounted to a private citizen bringing a claim under the DOR’s regulatory scheme was an error of law. Because this error formed part of the basis for a more severe penalty, we reverse the ALC’s decision.” (*Id.* at 281, 337). In other words, the error in Sandalwood was that the ALC effectively permitted a private citizen to bring an enforcement action against the holder of an alcohol license, even though the statutory authority to administer and enforce alcohol licenses lies solely with the Department in conjunction with the South Carolina Law Enforcement Division (“SLED”).

This case is distinctive from Sandalwood in that the 90-day suspension was not based upon claims brought by an intervenor; rather, the Department sought to cancel the license and the ALC

chose to impose a suspension based on testimony and evidence presented by SLED and the Department, the two agencies that are charged with administering and enforcing Title 61. See S.C. Code Ann. § 61-2-20 (2009). That evidence included, among other things:

- The State of Georgia had previously attempted to revoke Starkey's prior alcohol license in Statesboro, a fact that Starkey had never disclosed to the South Carolina Department of Revenue;
- Starkey had not filed South Carolina income tax returns for four years (2014 through 2017).
- Appellant had illegally sold beer, wine, and alcohol *for over three months* after his permit and license had expired on November 30, 2018, despite having received a notice from the Department on December 7, 2018 instructing Appellant "You MUST cease all sales of beer, wine and/or liquor until you receive your renewed license."
- Appellant's local option permit had expired on November 26, 2017, but Appellant continued to make illegal beer, wine, and alcohol sales on Sundays for 95 weeks until it was caught by SLED in October 2019. By failing to obtain a validly issued local option permit, Appellant had avoided paying the State approximately \$19,000 in local option permit fees.
- SLED arrested Starkey and seized contraband alcohol from Appellant's premises on February 29, 2019.

All of this testimony was presented in support of the Department's request—rather than the request of a private citizen or intervenor—to cancel the license and permit.

Another distinction between the present case and Sandalwood is that the ALC in Sandalwood imposed a harsher penalty than was requested from the Department of Revenue. Here, the 90-day suspension imposed by the ALC as a condition for licensure is a less severe penalty than the cancellation of the Petitioner's permit and license. Because the facts and procedural posture of this case are dissimilar from Sandalwood, the holding in Sandalwood does not support a reversal of the ALC in this appeal.

B. Alternatively, the ALC has the broad discretion in determining sanctions to be imposed upon an alcoholic beverage permit or license in a violation matter.

The Department has the authority to determine the appropriate administrative penalty for a violation when a licensee violates the statutes or regulations that govern the sale of alcohol. "[T]he department may, in its discretion, impose a monetary penalty upon the holder of a beer or wine license in lieu of suspension or revocation," S.C. Code Ann. § 61-4-250. "[T]he department may revoke the permit of a person failing to comply with any requirement hereof." S.C. Code Ann. § 61-4-270. If the penalty imposed by the Department is challenged in a contested case hearing the ALC becomes the fact-finder of the *de novo* proceeding. As the fact-finder, the ALC will determine if the violation occurred and impose an appropriate penalty based upon the facts presented. This penalty will be upheld so long as the ALC does not exceed its statutory authority. Walker v. S.C. Alcoholic Beverage Control Com'n, 305 S.C. 209, 407 S.E. 2d 633 (1991). Here, Mr. Starkey admitted that Study Hall was selling beer, wine and liquor without a license. The sale of beer and wine without a permit is a violation S.C. Code Ann. § 61-4-560. Additionally, the sale of alcoholic liquors violates S.C. Code Ann. § 61-6-4010. As there was no dispute as to whether the violations occurred the ALC determined it to be an appropriate condition that the Appellant serve a suspension equivalent or the Appellant to serve a suspension equivalent to the number of days it sold alcohol without a license.

Imposing this condition on admitted illegal alcohol sales is well within the statutory authority of the ALC.

CONCLUSION

De novo proceedings allow the ALC to examine any issue that is properly put before it, not just the original finding of the administrative agency. Moreover, “[a]s an administrative agency, [the ALC] is the fact finder and it is [the ALC’s] prerogative to impose an appropriate penalty based upon the facts presented.” Walker at 407, 634. Therefore, the ALC had the authority to impose a 90-day suspension as a condition of the Appellant’s alcohol license and permit. There is uncontroverted evidence in the record that Study Hall sold beer, wine and liquor during the period in which it did not have a license. While the Court found that that conduct did not rise to the level that it would prohibit Appellant from holding a license/permit, it was activity for which the Court found there should be action against the license/permit. For the reasons stated above, the Department respectfully requests this Court affirm the ALC’s 90-day suspension of Appellant’s license and permit.

Respectfully submitted,

s/ Patrick A. McCabe

Patrick A. McCabe (Bar No. 81264)
Counsel for Litigation
Adam J. Neil (Bar No 69594)
Managing Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211-9979
(803) 898-5056
Patrick.mccabe@dor.sc.gov

Columbia, South Carolina

August 12, 2020,

EXHIBIT C

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

AUG 28 2020

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT **SC Court of Appeals**

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

Appellate Case No. 2020-000435

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

FINAL REPLY BRIEF OF APPELLANT

Kathleen McDaniel (SC Bar No. 74826)
Sarah J.M. Cox (SC Bar 104316)
BURNETTE SHUTT & McDANIEL, PA
912 Lady Street, Second Floor (29201)
PO Box 1929
Columbia, South Carolina 29202
Telephone: (803) 904-7913
Facsimile: (803) 904-7910

ATTORNEYS FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
INTRODUCTION.....	1
ARGUMENT.....	2
I. Respondent mischaracterizes the suspension as a “condition or restriction” of a license renewal when, in fact, a suspension is a punitive sanction to be imposed only after the finding of a violation, of which there was none in this case.	2
II. Respondent mischaracterizes the ALC’s ruling as imposing the penalty of suspension for alleged violation of two criminal statutes, which is outside the jurisdiction of the ALC.....	5
III. It would have been a violation of due process for the ALC to impose the penalty of suspension for any issue not properly before it.	7
CONCLUSION.....	12

TABLE OF AUTHORITIES

Statutes

S.C. Const. Ann. Art. I, § 22	7, 8
S.C. Code Ann. § 1-23-320	8, 9
S.C. Code Ann. § 1-23-370	8, 9
S.C. Code Ann. § 61-2-80	2, 4, 5
S.C. Code Ann. § 61-2-100	10
S.C. Code Ann. § 61-2-260	8
S.C. Code Ann. § 61-4-50	6, 7, 11
S.C. Code Ann. § 61-4-560	5
S.C. Code Ann. § 61-4-590	7, 8
S.C. Code Ann. § 61-6-4010	5, 6, 7
S.C. Code Ann. § 61-6-4310	11
South Carolina Administrative Law Court Rule 12	9
South Carolina Administrative Law Court Rule 15	9

Cases

<i>Bliss Columbia, LLC d/b/a Tryst v. S.C. Dept. of Revenue</i> , No. 17-ALJ-17-0119-CC (July 27, 2017).	3
<i>Dolgencorp, LLC d/b/a Dollar General Store #1307 v. S.C. Dept. of Revenue</i> , No. 10-ALJ-17-0902-CC (Feb. 10, 2011)	3
<i>South Carolina Dept. of Revenue v. Sandalwood Social Club</i> , 399 S.C. 267 (Ct. App. 2012)	7

Treatises

John D. Geathers & Justin R. Werner, <u>The Regulation of Alcoholic Beverages in South Carolina</u> (South Carolina Bar 2007).....	3, 4

INTRODUCTION

Appellant Study Hall, LLC d/b/a Study Hall, LLC ("Appellant") comes before this Court to ask that this Court find that the Administrative Law Court (the "ALC") exceeded its authority when it found for Appellant on the sole issue properly before it, yet still imposed a penalty on Appellant. In response, Respondent South Carolina Department of Revenue ("Respondent") argues that because the ALC conducted a *de novo* hearing on the sole issue before it, the ALC has the unfettered authority to analyze the facts and locate within those facts *any* violation of the alcoholic beverage laws of the State of South Carolina and impose a penalty based upon said uncited violation. (Resp. Br. pp. 4, 11.) This is not the case.

Contrary to Respondent's argument, the ALC's role in a contested case is to weigh the facts to determine whether the alleged violation for which a licensee has been cited by Respondent has occurred and then, if the ALC finds that the cited violation has occurred, to determine an appropriate penalty for such violation. The *de novo* nature of a hearing before the ALC in a contested case means that the ALC need not defer to the agency's findings of fact or conclusions of law on the claim presented to the ALC. It does not mean that the ALC can punish a different claim *sua sponte*.¹

¹ Appellant would point out here that Respondent included in its Brief many allegedly "relevant facts" regarding Mr. Starkey's previous establishment in Georgia. Inclusion of such information is improper because the ALC explicitly ruled that incident "should not be considered now as a factor in a subsequent renewal" because Respondent and others were made aware of the tragic circumstances which occurred in Georgia before Appellant was issued its initial license or permit. (R.p. 16.) There is no reason for these facts to be included in Respondent's Brief except to attempt to throw suspicion on the character of Mr. Starkey. The ALC found firmly that Mr. Starkey is of good moral character and that finding has never been appealed.

Here, the ALC considered the facts and evidence presented at the contested case hearing regarding the determination made by Respondent that Appellant's principal, Jon Starkey, allegedly lacked the requisite moral character for Appellant to sell alcohol. The ALC found for Appellant on the only issue it was statutorily authorized to analyze. Therefore, no penalty can be assigned.

ARGUMENT

- I. **Respondent mischaracterizes the suspension as a "condition or restriction" of a license renewal when, in fact, a suspension is a punitive sanction to be imposed only after the finding of a violation, of which there was none in this case.**

Respondent argues in its Brief that "requiring a 90-day suspension as a condition of the license and permit was within the authority of the ALC." (Resp. Br., p. 9.) In support of this argument, Respondent cites South Carolina Code Section 61-2-80 for the proposition that the "department . . . is authorized to establish conditions or restrictions which the department considers necessary before issuing or renewing a license or permit." Notably, the ALC does not cite this section as its authority for imposing the suspension. Further, Respondent's analysis is in error for two reasons. First, Respondent mischaracterizes the suspension as condition or restriction. Second, at issue in this case was the proposed cancellation of Appellant's existing alcohol license and permit, not the issuance or renewal of a license or permit.

We first examine the concept of a "condition or restriction" versus a sanction. A condition or restriction can generally be understood as a measure taken to ensure compliance with the existing requirements of holding a license or permit or as an ongoing protection for the surrounding community. A condition or restriction is not punitive in nature.

For example, in a matter concerning the suitability of a retail location for the issuance of a license to sell beer and wine, when the ALC found that school children were frequenting the location, the ALC imposed a condition on the licensee that it could not sell chilled beer or single cans of beer. *Dolgencorp, LLC d/b/a Dollar General Store #1307 v. S.C. Dept. of Revenue*, No. 10-ALJ-17-0902-CC at 3 (Feb. 10, 2011). In *Dolgencorp*, the condition was stipulated to as an effort to ensure compliance with the existing legal requirements that aim to prevent children from having access to alcohol and to prevent the location from being a magnet for crime by making the beer sold in the store less appealing to shoplifters or those consumers who may purchase the beer and drink it on site. *Id.*

Another example of a condition and a restriction that the ALC placed on the issuance of an alcohol license can be found in *Bliss Columbia, LLC d/b/a Tryst v. S.C. Dept. of Revenue*, No. 17-ALJ-17-0119-CC (July 27, 2017). In *Bliss*, the petitioner stipulated to a restriction of hours of operation such that it would only operate between the hours of 11:00 a.m. and 12:00 a.m. (midnight) and a condition that it would not operate as a sexually oriented business. *Id.* at 4. The purpose of the condition and restriction was to address the “rights and welfare of those who live near Petitioner’s business as well as the potential impact on law enforcement.” *Id.*

In contrast, a suspension is not a protective “condition or restriction” of a license; a suspension is a sanction imposed to remedy an actual violation. A suspension is punitive.

The primary sanction available to the Department under Title 61 to remedy an alcoholic beverage violation is the suspension or revocation of the permit, license, or certificate issued to the individual or business in question. The Department is also generally authorized, in its discretion, to impose a

monetary penalty upon a licensee in lieu of the relatively harsh sanctions of license suspension and revocation.

John D. Geathers & Justin R. Werner, *The Regulation of Alcoholic Beverages in South Carolina* at 32 (South Carolina Bar 2007) (emphasis added).

A penalty is not the same as a condition or restriction of a license or permit because a penalty's purpose is not to ensure compliance with an existing law nor is it an ongoing protection for the surrounding community. In this case, the ALC recognized that the suspension is a penalty stating, "the penalty [suspension] imposed by this Court is less severe than the cancellation (revocation) of the permit and license renewal." (R.p. 17.) Because a suspension is not a condition or restriction, Section 61-2-80 does not give the ALC the authority to impose a suspension as a condition or restriction.

Additionally, Section 61-2-80 only authorizes Respondent, and thus the ALC standing in its shoes, to attach a condition or restriction when considering the renewal or issuance of a permit or license. The issue in this case was not whether Appellant's permit and license should be issued or renewed, it was whether Appellant's license and permit should be canceled because Mr. Starkey was alleged to lack sufficient moral character.

Appellant was issued a license and permit by Respondent on March 7, 2019. (R.p. 333.) The ALC recognized this, stating that a "valid renewal went into effect on March 7, 2019." (R.p. 16.) Respondent issued its Notice of Intent to Cancel this license and permit on March 20, 2019. (R.pp. 379-380.) At the time the Notice of Intent to Cancel was issued and at the time of the hearing before the ALC until present, Appellant held a valid alcohol license and permit. The sole issue before the ALC was whether Appellant's license and permit should be canceled; therefore, Section 61-2-80, addressing the issuance and renewal of a license or permit is inapplicable.

Contrary to Respondent's argument, the 90-day suspension that Appellant challenges in this appeal is a penalty and cannot be characterized as a condition or restriction on the issuance or renewal of Appellant's existing license and permit. Accordingly, Section 61-2-80 provides no authority for the ALC to have imposed the suspension.

II. Respondent mischaracterizes the ALC's ruling as imposing the penalty of suspension for alleged violation of two criminal statutes, which is outside the jurisdiction of the ALC.

Respondent argues, in the alternative, that in a contested case the ALC has the "broad discretion" to depart from the alleged administrative violation presented in the agency's determination and impose a penalty for violations never cited by the agency. (Resp. Br., p. 11.) This is an incorrect statement of what the ALC ruled and, if the ALC had so ruled, it would be in excess of the ALC's jurisdiction.

In its Final Order, the ALC rules on the sole issue of Mr. Starkey's moral character, holding "[t]he court concludes that he possesses the requisite moral character to hold an alcoholic beverage license." (R.p. 11.) Respondent argues that the ALC went beyond the issue of moral character and imposed the suspension as a penalty for violation of South Carolina Code Sections 61-4-560 and 61-6-4010. (Resp.'s Brief, p. 11-12.) Respondent states, "As there was no dispute as to whether the violations occurred the ALC determined it to be an appropriate condition that the Appellant serve a suspension" (Resp. Br., p. 12.)

Respondent seems to be arguing that the ALC found that Appellant violated Section 61-4-560 and 61-6-4010, and then the ALC imposed the suspension as a penalty for those violations. This cannot not be the case. These two statutes prescribe criminal

penalties (misdemeanors punishable by fines or imprisonment) for violations, which makes them criminal statutes outside the ALC's limited jurisdiction for adjudication of administrative matters.¹ S.C. Code Ann. § 1-23-600. Indeed, it is logical for these statutes to be strictly criminal, because they address persons who sell alcohol without a license for Respondent to bring an administrative action against.

Respondent never cited Appellant for violating Section 61-4-50 or Section 61-6-4010. Moreover, the ALC recognized that although Appellant had been issued Arrest Warrants for operating without a permit and unlawfully storing alcoholic liquors in a place of business, he had applied for the Pre-Trial Intervention program and had already paid the application fee for that program. (R.p. 6.) Thus, not only was the ALC without jurisdiction to make any such adjudication of a criminal matter, but also there had been no criminal adjudication on the alleged violations of Section 61-4-50 and Section 61-6-4010 by any court with jurisdiction.

The ALC took these two statutes into consideration only when deciding the issue of moral character. The ALC held that a possible violation of those two statutes did not render Mr. Starkey of insufficient moral character.

Respondent's failure to follow the law, therefore, was not due to an inability to distinguish between right and wrong. Moreover, the evidence reflects that Mr. S[t]arkey possesses the ability to comply with the law when properly informed. The court concludes that he possesses the requisite moral character to hold an alcoholic beverage license.

(R.p. 11.)

Finally, there is no doubt that Respondent has jurisdiction to revoke or suspend permits authorizing the sale of beer or wine. S.C. Code Ann. § 61-4-590(A). As explained in greater detail in Appellant's Brief, this means that "only [Respondent] may bring

violations under its regulations." *South Carolina Dept. of Revenue v. Sandalwood Social Club*, 399 S.C. 267, 280 (Ct. App. 2012).

Respondent's attempts to distinguish *Sandalwood* from this case fall flat. The ALC in *Sandalwood* analyzed the facts presented at the contested case hearing, found additional violations of the alcoholic beverage regulations, and penalized the licensee for violations additional to the sole violation cited by the Department. *Id.* Here, Respondent argues that, although Appellant did not commit the only alleged violation properly before the ALC, the evidence supported additional violations for which the ALC could assess a penalty. The fact that the overall punishment of suspension is less severe than the punishment of revocation does not change the core issue here: *any* penalty is inappropriate when not tied to a violation cited by Respondent.

For these reasons, the ALC did not base, and could not have based, the suspension on any violation of Sections 61-4-50 and Section 61-6-4010.

III. It would have been a violation of due process for the ALC to impose the penalty of suspension for any issue not properly before it.

In its alternative argument, Respondent argues that because the contested case hearing before the ALC is *de novo*, that means that the ALC can impose a sanction based on its determination of any possible issue that comes up during the hearing. (Resp. Br., p. 11.) This contradicts the basic due process tenet of notice.

The basic requirements for procedural due process before an administrative agency are enshrined in the Constitution of the State of South Carolina:

No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property

unless by a mode of procedure prescribed by the General Assembly, and he shall have in all such instances the right to judicial review.

S.C. Const. Ann. Art. I, § 22 (emphasis added).

In addition, the Administrative Procedures Act provides that “[n]o revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license.” S.C. Code Ann. § 1-23-370(c).

In an alcohol licensing matter where Respondent seeks to revoke or suspend a permit, Respondent must provide notice of an alleged violation and then must conduct an investigation and issue a departmental determination to the permittee or licensee before it can revoke or suspend a permit. S.C. Code Ann. § 61-4-590(B). Once an agency has issued its department determination, the licensee may then challenge the agency’s departmental determination before the ALC by requesting a contested case hearing, which “must be heard by the Administrative Law Court pursuant to the South Carolina Revenue Procedures Act and the Administrative Procedures Act.” S.C. Code Ann. § 61-2-260 (Supp. 2005).

The specific requirements for a notice of hearing in a contested case are set forth in the Administrative Procedures Act, S.C. Code Ann. § 1-23-320. This notice must include a:

- (1) statement of the time, place, and nature of the hearing;
- (2) statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) reference to the particular sections of the statutes and rules involved;

(4) short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.

S.C. Code Ann. § 1-23-320(B)(4). These requirements are satisfied by two different documents in a contested case before the ALC.

First, after the licensee requests a contested case hearing, the agency must file and serve on all parties an "Agency Information Sheet," which includes "identifying information of the agency action or inaction that is the subject of the hearing." SCALC Rule 12(B) (emphasis added). This gives the ALC and all parties notice of which specific issues will be heard and decided by the ALC at the contested case hearing.

Second, the ALC issues a Notice of Contested Case Hearing, which "sets forth the date, time, place, and purpose of the hearing, the administrative law judge who will conduct the hearing, and any other matters necessary for the prompt resolution of the matter." SCALC Rule 15.

It cannot be disputed that the sole basis of Respondent's action against Appellant was the issue of Mr. Starkey's moral character. This is consistently reflected at every stage of this action.

First, Respondent provided the notice of its intended actions to Appellant as required under S.C. Code Ann. § 1-23-370(c) when it served its Notice of Intent to Cancel on March 20, 2019, which expressly states that Respondent intended to cancel Appellant's license and permit because Respondent alleged that Mr. Starkey was of deficient moral character to act as Appellant's principal. (R.pp. 378-380.)

Next, Respondent provided Appellant with its Department Determination, which describes the "Matter In Dispute" as:

Did the South Carolina Department of Revenue (Petitioner) properly cancel the Respondent's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Respondent's principal is not of good moral character pursuant to S.C. Code Ann. §§ 61-2-100(D), 61-4-520 and 61-6-1820(2) (2009)?

(R.p. 384.)

Finally, the sole issue in this matter is reflected in the Agency Information Sheet filed by Respondent, which describes the "Matter In Controversy" as:

Did the South Carolina Department of Revenue (Petitioner) properly cancel the Respondent's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Respondent's principal is not of good moral character pursuant to S.C. Code Ann. §§ 61-2-100(D), 61-4-520 and 61-6-1820(2) (2009)?

S.C. Code Ann. §§ 61-2-100(D), 61-4-520, 61-6-1820(D), 61-4-150, 61-6-2610, and 61-2-100(D)

(R.pp. 481-482.)

It is also undisputed that the ALC in this case found for Appellant. The ALC states plainly, "[Appellant] has met its burden of demonstrating compliance with the statutory requirements for licensure. [Respondent's] proposed cancellation of [Appellant's] beer and wine permit and business liquor by the drink license is denied." (R.p. 11.) Simply put, Appellant was found not to have committed the violation for which it was cited by Respondent: having a principal with deficient moral character.

At the time of the hearing, Appellant was only on notice that it would have to prove the quality of Mr. Starkey's moral character, not that it would have to defend against any other possible violations. At the hearing, counsel for Respondent stated plainly in his opening statement "[Respondent] determined that Mr. Starkey is not fit to hold a beer and

wine permit as defined by 61-4-50, and [Respondent] also determined that Mr. Starkey is not of good moral character as defined by 61-6-1820.” (R.p. 105.) Respondent’s counsel went on to conclude his opening statement with Respondent’s request to the ALC: “[W] are seeking a cancellation of [Appellant’s] on-premise beer and wine permit, a cancellation of [Appellant’s] restaurant liquor-by-the-drink license and an order from the Court to sell the contraband alcohol fees [sic] pursuant to South Carolina Code 61-6-4310.” (R.p. 108.)

Although neither Respondent nor the ALC have tied the penalty of suspension to a violation cited by Respondent, the ALC purports to base the penalty on the *facts* presented, notwithstanding the lack of cited violation to which to tie the penalty, stating “While the Department did not seek a penalty specifically for this violation, it provided a factual basis for the Department’s proposed cancellation.” (R.p. 17.) In other words, instead of stopping after determining Appellant did not commit the violation for which it was cited, the ALC went on to consider whether the facts presented at the hearing (for the sole purpose of establishing Mr. Starkey’s moral character) indicated any *other* violation of the state’s alcohol laws had occurred. This was a violation of Appellant’s due process right to notice of the claims against it and an opportunity to respond to those claims.

It was only after the ALC issued its Order on January 15, 2020 that Appellant was made aware that the ALC believed Appellant should be punished for something other than having a principal of poor moral character. At that point, the contested case hearing had already been held and therefore Appellant’s opportunity to bring evidence and argue against any other proposed violation had been foreclosed. Contrary to Respondent’s

argument, the ALC cannot help Respondent by analyzing the facts and finding a violation or violations for which it believed Respondent *could* have cited Appellant but did not.

CONCLUSION

Respondent sought cancellation of Appellant's alcohol license and permit for a single reason: that it believed Appellant did not meet the requirements for licensure based upon the alleged lack of good moral character of Jon Starkey. Appellant succeeded, and the ALC found Starkey to be of sufficient moral character. Appellant's license and permit should not be suspended for violations for which it has never been cited by Respondent, which were not found by the ALC, which would exceed the jurisdiction of the ALC, and of which there was no notice. Accordingly, this Court should reverse the ALC's imposition of any suspension of Appellant's license and permit.

Respectfully submitted,

s/ Kathleen M. McDaniel

Kathleen McDaniel (SC Bar No. 74826)

Sarah J.M. Cox (SC Bar 104316)

BURNETTE SHUTT & McDANIEL, PA

PO Box 1929

Columbia, South Carolina 29202

Tel. (803) 904-7913

Fax (803) 904-7910

KMcdaniel@BurnetteShutt.Law

ATTORNEYS FOR APPELLANT

Columbia, South Carolina

August 28, 2020

EXHIBIT D

RECORD ON APPEAL
THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

AUG 28 2020
SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

Appellate Case No. 2020-000435

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

RECORD ON APPEAL

Kathleen McDaniel (Bar No. 774826)
Sarah J.M. Cox (Bar No. 104316)
BURNETTE SHUTT & McDANIEL, PA
Post Office Box 1929
Columbia, South Carolina 29202
P: 803.904.7930
F: 803.904.7910
SCox@BurnetteShutt.Law
KmcDaniel@BurnetteShutt.Law

ATTORNEYS FOR APPELLANT

Patrick McCabe, Esq.
SOUTH CAROLINA
DEPARTMENT OF REVENUE
300A Outlet Pointe Boulevard
Columbia, SC 29211
Patrick.mccabe@dor.sc.gov

ATTORNEY FOR RESPONDENT

INDEX

Final Order dated January 15, 2020	1
Order Granting Motion for Stay, filed February 5, 2020	14
Order Denying Respondent’s Motion to Reconsider, filed March 9, 2020	15
Writ of Supersedeas, filed March 16, 2020	20
Motion for Reconsideration and Stay, filed January 23, 2020.....	22
Appellants’ Petition for Writ of Supersedeas, filed March 11, 2020.....	32
Transcript of Motion Hearing, dated Dec. 17, 2019	99
Petitioner Exhibit 1: Department File	327
Petitioner Exhibit 2: Bill of Indictment and sentencing sheet	398
Petitioner Exhibit 3: Memo dated 9/3/2014	405
Petitioner Exhibit 4: Memo dated 9/5/2015.....	407
Petitioner Exhibit 6: Certified copy from City of Statesboro, settlement agreement	413
Petitioner Exhibit 7: ABL Renewal Notice.....	422
Petitioner Exhibit 8: Report, dated 3/7/2019	424
Petitioner Exhibit 9: Report, dated 10/14/2019	464
Respondent Exhibit 1: Renewal Form	477
Respondent Exhibit 4: Paper regarding Breathalyzers for bouncers.....	479
Respondent Exhibit 5: Rules for bouncers.....	480
Agency Information Sheet and Notice of Appearance.....	481

State Income Tax returns for the years from 2014 through 2017. Ninety days were allowed for these taxes to be filed. In addition, the Department required that Respondent furnish verification of a liability insurance policy complying with S.C. Code Ann. § 61-2-145 (Supp. 2018).¹ Inscribed between the paragraph containing the notice of fees imposed for late application for renewal and the paragraph setting out additional grounds for denial on the basis of a principal's failure to file income tax returns and the liability insurance requirement was a single sentence: "You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license." (Petitioner's Exhibit 1, p. 14 and Petitioner's Exhibit 7.)

Respondent's owner (Starkey) admitted receiving this document but confessed that he did not read it. He provided evidence via three facsimile transmissions that he had the proper liability insurance. He then focused on his belief that he had ninety (90) days to file his taxes thereby resolving the identified renewal problems. He believed he could continue operating and selling beer, wine, and liquor, during the ninety (90) days he had to file his taxes.

On March 7, 2019, Respondent furnished the necessary documentation to the Department, and the Department issued an on-premises beer and wine permit and a restaurant liquor by the drink license. Although this permit and license was issued on March 7, 2019, it had a start date of December 1, 2018, a date consistent with his previous belief. On March 11, 2019, the Department instructed Respondent to return the erroneously dated permit and license. Respondent surrendered the permit and license to the Greenville District Office on March 12, 2019, and, in return, was given a permit and license dated as being issued on March 7, 2019, and having a start date of March 7, 2019.

Subsequently, by notice received by the Department on March 14, 2019, the State Law Enforcement Decision (SLED) informed the Department that Respondent sold alcoholic beverages on February 28, 2019, when Respondent was not licensed. SLED also informed the Department that a search warrant was obtained and that its execution revealed a copy of the Renewal Notice of Denial, it seized numerous cans of beer and bottles of wine and liquor, and the manager voluntarily provided sales records for the months of December, January, and February (2018 through 2019).

¹ This provision, which went into effect on July 1, 2017, applies to all new or renewed permits or licenses for on-premises consumption after that date.

On March 20, 2019, the Department issued a Notice of Intent to Cancel Respondent's permit and license because its owner, Jonathan Starkey, lacks the moral character required to hold an alcohol permit and license as required by South Carolina law, S.C. Code Ann. §§ 61-2-100(D), 61-4-520(1), and 61-6-1820(2) (2009). The Department also seeks to sell or dispose of the alcoholic beverages seized by SLED.

Deputy Chief of Police Robert Bryan of Statesboro, Georgia, investigated a death resulting from a fight on August 28, 2014, between two under-age drinkers in a bar owned by Jonathan Starkey in Statesboro. As a result of the fight, an allegedly off-duty employee pled guilty to voluntary manslaughter.² Deputy Chief Bryan concluded that, from his observations, Jonathan Starkey is not fit to hold an alcohol license.

On cross-examination, Deputy Chief Bryan stated that Mr. Starkey was not indicted nor were any citations issued to him. Starkey was always forthcoming with him and always took responsibility for any mistakes.

Katherine Gatto, the mother of the young man killed in the Statesboro bar, notified the South Carolina Department of Revenue about the incident in Georgia. She opined that Mr. Starkey has a long history of disregarding local alcohol ordinances and state law and does not have the character to operate an establishment within the parameters of the law.

Krista Strzelczyk, an Alcoholic Beverage Licensing Supervisor for the Department, stated that renewal packages go to licensees sixty days prior to the expiration of a license. Respondent's location currently holds a permit and license but did not continuously hold a permit and license between November 30, 2018, and March 7, 2019. A renewal application was denied on December 7, 2018. The denial also advised the business that it must cease all sales of beer, wine, and/or liquor until its receipt of a renewed license. Ms. Strzelczyk also confirmed that Respondent obtained a local option permit in October 2019, after the renewal license was issued on March 7, 2019.³ A revocation in another state could keep a principal from obtaining a license in South Carolina for two years for a beer and wine permit or five years for a liquor license. At the time the cancellation

² Deputy Chief Bryan admitted that there was conflicting evidence regarding the perpetrator's work status at the time of the incident but that both individuals were underage and had been consuming alcoholic beverages.

³ The Department contends that Study Hall did not have a local option permit between November 26, 2017, and October 20, 2019. However, no evidence was produced in this hearing to show that there were Sunday sales during this period. Ms. Strzelczyk stated that she believed there had been violations issued, but none were presented.

was proposed, the Department was not aware of other issues that would have prevented it from issuing the permit.

Special Agent Dorman, based on a tip from a wholesaler of beer that Study Hall's license had expired, confirmed with Ms. Strzelczyk that the location did not have a current permit or license.

On February 28, 2019, undercover SLED agents entered Respondent's restaurant and purchased beer. On that date, Respondent's permit and license had expired and had not been renewed. Following the undercover operation, SLED Agent Dorman obtained a search warrant and seized numerous cans and bottles of beer and bottles of wine and liquor. The owner was charged with operating without a permit in violation of S.C. Code Ann. § 6-4-560 (2009) and with unlawfully storing liquor in a place of business in violation of S.C. Code Ann. § 61-6-4060(A). In addition, the manager furnished sales reports showing sales of beer, wine, and liquor, for the months of December 2018, January 2019, and February 2019.⁴

In 2017, an undercover operation revealed an underage sale. This event was the only violation prior to the February 28, 2019, undercover operation.

Dorman admitted that based on his interactions, Mr. Starkey has been cooperative and compliant although he has not complied with the law.

The City of Clemson police chief, Jimmy Dixon, met with Starkey prior to Study Hall's opening. He stated that Starkey himself has a fine reputation in the community. The bar, on the other hand, has a reputation as a place for underage drinking, and he does not believe that Starkey is fit to hold an alcohol license in South Carolina.

Chief Dixon admitted that he had not filed any protests against licensing or license renewal of bars in his jurisdiction. He also admitted that he received telephone calls about the Statesboro incident and that Starkey offered to show him a video of the incident. He refused to view the video or discuss the matter with Starkey. He advised Starkey that he should follow the rules and regulations established by the Department and the laws of South Carolina.

⁴ Special Agent Dorman produced a report of the investigation including the execution of the search warrant. This report, admitted as Petitioner's Exhibit 8, included the Renewal Notice of Denial which informed the licensee that all sales of beer, wine, and/or liquor must cease until a renewed license was issued. It also incorporated the reports showing sales of beer, wine, and liquor for December 2018, January 2019, and February 2019. The search warrant return included some eighteen pages listing the alcoholic beverages seized.

Jonathan Starkey the sole owner of Study Hall, LLC, testified that he worked with a Department employee to meet the requirements of state laws and regulations. He told this employee about what happened in Statesboro, that a patron had died, and that he voluntarily surrendered his license.

He admitted that he did not apply to renew his license until December 7, 2018. He was given a notice of denial stating that he needed to provide proof of insurance and file his income taxes. He resolved the insurance issue while at the Department's regional office. According to Starkey, the Department employee told him he had ninety (90) days to resolve the issue with his taxes.⁵ He discussed the issues but did not read the denial notice. He believed could operate during the ninety days he was given to file his tax returns. He worked with his accountant and filed his returns within the ninety (90) days. During this time, he filed monthly sales tax reports and paid the sales taxes due for December 2018, January 2019, and February 2019.

Starkey kept the denial at his home office and allowed the previous license to remain on display at the business. He gave the Department a check with the renewal application on December 7, 2018. The Department accepted and negotiated the check. The Department also accepted his monthly sales tax returns and the accompanying payments. Law enforcement officers were in the bar regularly, but no one said anything about the expired license.

On March 7, 2019, Starkey provided the necessary documentation to the Department and was issued a permit and license with start dates of December 1, 2018. He was contacted on March 11, 2019, and instructed to return them. He returned the permit and license with start dates of December 1, 2018, and was issued a permit and a license with start dates of March 7, 2019. On March 20, 2019, Starkey was informed by letter that the March 7, 2019, permit and license were also erroneously granted and was notified that the Department intended to cancel his On-Premises Beer and Wine Permit and his Restaurant Liquor by the Drink License because he lacked "the requisite moral character to hold an alcohol permit and license." He was given the option of consenting to the cancellation and surrendering the permit and license within ninety (90) days or protesting the proposed cancellation, also within ninety (90) days. Although the letter did not

⁵ Although the Department disputes this claim, the notice provided and referenced by Starkey includes the following language in the bullet point identifying Starkey's failure to file income taxes for years 2014 through 2017 as a reason for denying the renewal application: "Notify Alcohol Beverage Licensing within 90 days that the taxes have been filed." (Petitioner's Exhibit 1, p. 14 and Petitioner's Exhibit 7.)

indicate that alcohol sales could continue during the ninety (90) days or through the pendency of further appeal, that extension of the erroneously issued permit and license has, in fact, occurred.

When Special Agent Dorman returned to serve warrants, Starkey, who was in Georgia, instructed his manager to cooperate by printing the sales reports and told him where to find the Renewal Notice of Denial that he believed would show that he had a temporary permit and license for ninety (90) days. When the manager gave the license to Agent Dorman, Dorman explained to Starkey that the denial prohibited the sale of beer, wine, and liquor and was not an extension. Starkey stated that he stopped alcohol sales in accordance with Dorman's instructions.

Starkey denied having any criminal convictions or charges prior to the February 28, 2019, incident. He was served with one Arrest Warrant for operating without a permit and a second one for unlawfully storing alcoholic liquors in a place of business. Starkey has applied for Pre-Trial Intervention and paid the application fee for that program.

He uses breathalyzers to monitor his staff and identification card readers to prevent under-age drinking. He increased staff and uses gates to control crowds when there are events that attract large numbers of patrons.

He denied having defrauded anyone or writing any bad checks. He has provided guidelines for his staff to avoid having impaired workers. He also makes donations to local charities and law enforcement and helps individuals in need.

After Study Hall's previous incident of underage drinking, Starkey discharged the responsible employee.

Starkey admitted that he sold alcoholic beverages on Sundays for approximately two years without paying the local option tax. He also admitted that he owes the State of South Carolina between thirty (30) and forty (40) thousand dollars in personal income taxes and is paying those taxes on an agreed payment plan, which he has been paying for about a year.⁶

His Georgia attorney, Wesley Taulbee, assisted Starkey in opening the bar in Statesboro, Georgia, and in negotiating a settlement with the City of Statesboro concerning the incident in the bar there. He stated that Starkey has good moral character, has been honest with him, has been straightforward, and accepts responsibility for his actions. He admitted that Starkey might miss

⁶ The Court presumes that the amount owed includes penalties and interest.

details but does not make the same mistake twice. Starkey focuses on cooperating with law enforcement.

Chris Cartee, Fire Marshall and Arson Investigator for the City of Clemson, stated that Starkey and his staff have been cooperative and professional and done everything he has requested. Starkey has controlled access and counted customers to stay within occupancy limits. In his opinion, Starkey has been honest and is compliant with the fire code. He considers Starkey to be of good moral character. He admitted that he was not aware of alcohol licensing requirements and did not know that Starkey was operating without proper licensing.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, I conclude the following as matters of law:

1. Jurisdiction over this matter is vested with the ALC pursuant to South Carolina Code Sections 1-23-310 *et seq.* (2005 & Supp. 2017), 1-23-600(B) (Supp. 2017), and 61-2-260 (2009). The standard of proof in an administrative proceeding such as this is a preponderance of the evidence, unless otherwise specified. *Anonymous v. State Bd. of Med. Exam'rs*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988); *see also* S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2017). "A 'preponderance of the evidence' is evidence which convinces as to its truth." *Gorecki v. Gorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010) (citation omitted). Consequently, the court's findings "may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it." *See Tims v. J.D. Kitts Const.*, 393 S.C. 496, 503, 713 S.E.2d 340, 343-44 (Ct. App. 2011) (citations omitted). The party seeking a license has the burden of proving it has met all the statutory requirements for the license. 48 C.J.S. *Intoxicating Liquors* § 186 (2018 Update).
2. The weight and credibility assigned to evidence presented at a hearing is committed to the province of the trier of fact. *See S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992) (citation omitted). The trier of fact who observes a witness is in the best position to judge the witness's demeanor and veracity and to evaluate the credibility of his testimony. *See, e.g., Woodall v. Woodall*, 322 S.C. 7, 10, 471 S.E.2d 154, 157 (1996) (citations omitted); *Wallace v. Milliken & Co.*, 300 S.C. 553, 556, 389 S.E.2d 448, 450 (Ct. App. 1990) (citation omitted).

3. The issuance of a license to sell alcohol “rests in the discretion of the body or official to whom the duty of issuing it is committed” *Palmer v. S.C. Alcoholic Beverage Control Comm’n*, 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984) (citations omitted); see also *Wall v. S.C. Alcoholic Beverage Control Comm’n*, 269 S.C. 13, 235 S.E.2d 806 (1977). “A license may properly be refused where a statutory ground for refusal exists, provided there is a reasonable basis for believing in its existence” 48 C.J.S. *Intoxicating Liquors* § 194 (2018 Update). However, “[g]ood cause must be shown for the denial of a license.” *Id.*⁷
4. In this state, the requirements for beer and wine permits are set forth in Section 61-4-520 (2009) of the South Carolina Code, and the requirements for liquor by the drink licenses for restaurants are set forth in Section 61-6-1820 (2009 & Supp. 2018).
5. Regarding owners and principals of a business applying for a permit or license, “[l]icenses and permits may be issued only to the person who is the owner of the business seeking the permit or license.” S.C. Code Ann. § 61-2-100(A) (2009). Several statutory provisions in South Carolina address the character requirements of an applicant for beer and wine permits and liquor by the drink licenses. Section 61-2-100(D), which applies to all liquor licenses and beer and wine permits, provides that “[t]he Department may not issue a license or permit under this title to any person unless the person and all principals are of good moral character.” S.C. Code Ann. § 61-2-100(D) (2009).
6. With respect to beer and wine permits, Section 61-4-520(1) states that:

A retail permit authorizing the sale of beer or wine must not be issued unless:

 - (1) The applicant, a partner, or co-shareholder of the applicant, and each agent, employee, and servant of the applicant to be employed on the licensed premises are of good moral character.

S.C. Code Ann. § 61-4-520(1) (2009). Finally, Section 61-4-540 similarly states that, before the issuance of a beer and wine permit, the Department must find that “the applicant is fit to sell beer and wine.” See S.C. Code Ann. § 61-4-540 (2009).
7. With respect to retail liquor licenses, Section 61-6-1820(2) provides that:

The department may issue a [liquor] license . . . upon finding:

* * *

⁷ Although the Department proposes “cancellation” of this permit and license which it contends were issued in error, the statutory grounds are those that would apply to a denial, suspension, or revocation.

(2) The applicant, if an individual, is of good moral character or, if a corporation or association, has a reputation for peace and good order in its community, and its principals are of good moral character.

S.C. Code Ann. § 61-6-1820(2) (2009).

Additionally, Section 61-6-110(3) provides that an applicant for a retail liquor license is ineligible if “[the applicant] or the person who will have actual control and management of the business proposed to be operated . . . is not of good repute.”⁸ S.C. Code Ann. § 61-6-110(3) (2009).

8. The term “good moral character” is not defined with particularity in South Carolina law. The South Carolina Attorney General has opined that:

What constitutes good moral character in a given case, then, we cannot say for there is no single criterion in South Carolina by which to judge it; therefore, the Commission itself must determine in each instance whether one possesses it or not. Yet in making that determination, the Commission would not be justified in refusing a license simply upon a “moral appraisal,” or either because previous misconduct which is not relevant to the conduct of the business for which the license is sought because of a remote conviction of a minor offense, or because of an unproved accusation of a crime.

[W]hile good moral character does not mean ‘moral excellence’ . . . it does mean that one must possess all of the elements essential to make up such a character, among those being common honesty and veracity.

1969 Op. S.C. Att’y Gen. 159 (1969), 1969 WL 10708 (citations omitted); *see also* 48 C.J.S. Intoxicating Liquors § 171 (2018 Update) (“[T]here is no single and absolute criterion or standard, and the licensing authorities must judge whether the acts and conduct shown are sufficient in themselves or as an index to character to disqualify the applicant.”).

9. Accordingly, “[m]oral character,” as used in a statute on qualifications required for liquor license holders, means not only the ability to distinguish between right and wrong, but the character to observe the difference, the observance of rules of right conduct, and conduct which indicates and establishes qualities generally acceptable to the populace for positions

⁸ Good repute is a separate component of character, but it is related to a person’s overall good character. In a prior order from this court, one administrative law judge persuasively described moral character as a component of repute. “Moral character is one component of reputation, while the collective opinion of one’s peers regarding one’s deportment, integrity, and community standing is another component. Evidence relating to each component is relevant and probative.” *S.C. Dep’t of Revenue and Taxation v. Burris*, Docket No. 96-ALJ-17-0201-CC, 1999 WL 146238 (S.C. Admin Law Ct. July 24, 1996).

of trust and confidence.” 48 C.J.S. Intoxicating Liquors § 171 n.1 (2018 Update). Likewise, a license may be refused for lack of moral character “to a person who is not likely to carry on, in conformity with law, the business for which the permit is issued, . . . who deliberately misrepresents or knowingly conceals a material fact in order to obtain a license, or whose conduct in other respects does not meet the necessary standards relating to character.” 48 C.J.S. Intoxicating Liquors § 171 (2018 Update).

10. Permit or license applicants that satisfy the statutory criteria are entitled to issuance of the permit or license. *See* 48 C.J.S. Intoxicating Liquors §§ 166 & 194 (2018 Update).

The Department proposes to cancel the Respondent’s permit and license because the Respondent is not of good moral character due to the continued sale of beer, wine, and liquor after the expiration of its permit and license.

While the Respondent does not dispute the continued sale of beer, wine, and liquor after the expiration of its permit and license, Respondent argues that the violation occurred due to a misunderstanding of the Denial Notice, as well as misinformation received from the Department. Specifically, Mr. Starkey stated that he understood the Denial Notice to mean that Respondent could continue selling beer, wine, and liquor for up to ninety (90) days, the time he was given to file his income taxes.

While the court recognizes that the Respondent continued to sell beer, wine, and liquor after the expiration of its permit and license, it is evident that there was confusion regarding the continued validity of the Respondent’s permit and license. The Court notes that a permit and license was issued on March 7, 2019, with an effective date of December 1, 2018. This date is consistent with Respondent’s belief that he had ninety (90) days to file personal income taxes while continuing to sell alcoholic beverages. Although Mr. Starkey did not read the Denial Notice, his interaction with the Department was sufficiently confusing that a reasonable person could have believed that the restaurant could continue operating while the tax issue was being resolved.

In view of the forgoing, the court is not convinced that the violation stemming from the Respondent’s failure to read and correctly interpret the Denial Notice exhibits deficient moral character. Based on the confusion and misinformation proceeding from the Department’s first renewal, I do not find that the unlicensed sales on which taxes were paid demonstrate the absence

of moral fitness to operate a business in conformity with the law.⁹ See *Gantt v. Columbia Coca-Cola Bottling Co.* 204 S.C. 374, 380, 29 S.E.2d 488, 490 (1944) (“an intent to defraud the United States Government is an essential element. For this reason we think the charge to which appellant pleaded guilty involves the element of moral delinquency.”) Additionally, although criminal citations were presented following the undercover operation on February 28, 2019, Respondent acknowledged the unlawful conduct but believed that it was operating in compliance with the law and would not have continued selling had Respondent realized that doing so was unlawful.

Respondent’s failure to follow the law, therefore, was not due to an inability to distinguish between right and wrong. Moreover, the evidence reflects that Mr. Sharkey possesses the ability to comply with the law when properly informed. The court concludes that he possesses the requisite moral character to hold an alcoholic beverage license. See *Columbia Wing Shack, LLC, d/b/a Columbia Wing Shack v. South Carolina Department of Revenue*, Docket No. 18-ALJ-17-0194-CC (S.C. Admin. Law Ct. August 28, 2018).

Thus, the Respondent has met its burden of demonstrating compliance with the statutory requirements for licensure. Petitioner’s proposed cancellation of Respondent’s beer and wine permit and business liquor by the drink license is denied, subject to the conditions set forth below.

ORDER

Based upon the above findings of fact and conclusions of law, the court finds that Respondent meets the applicable requirements for licensure.

IT IS THEREFORE ORDERED that the Department shall **GRANT** the Petitioner’s renewal application for an on-premises beer and wine permit and restaurant liquor by the drink license, subject to the following conditions:

1. That the Petitioner’s permit and license shall be suspended for ninety (90) days, beginning with the date that this order becomes final;
2. That Jonathan Starkey shall continue to comply with the payment plan for his South Carolina income taxes; and

⁹ “With regard to crimes involving alcoholic beverages, it has been held that the illegal manufacture of whiskey constitutes a crime of moral turpitude where the offense involves an element of intent to defraud tax authorities . . .” JOHN D. GEATHERS & JUSTIN WERNER, *THE REGULATION OF ALCOHOLIC BEVERAGES IN SOUTH CAROLINA*, 219 (2007).

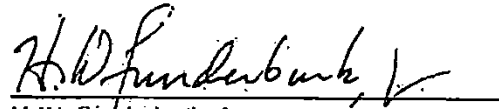
3. That Petitioner will cooperate with any investigation and audit of other business taxes which might be owed, including Local Option Permits, or admissions taxes and shall remit such taxes as are determined to be due within a reasonable time set by the Department or by the final decision of a reviewing court.

A violation of any of these conditions shall constitute a violation of the Petitioner's alcoholic beverage permit and license and may subject Respondent to further suspension or to revocation.

In addition, the Department's Application to sell or otherwise dispose of beer, wine, and liquor seized pursuant to the search warrant executed on February 28, 2019, is **GRANTED**.

AND IT IS SO ORDERED.

January 15, 2020
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0269-CC

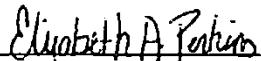
CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served the **Final Order** in this case upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and their attorneys as follows:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

January 15, 2020
Columbia, SC


Elizabeth A. Perkins
Judicial Law Clerk

RECEIVED

MAR 10 2020

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,

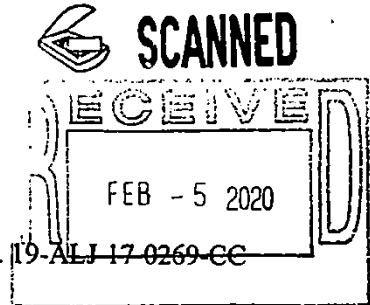
Petitioner,

vs.

Study Hall ,LLC d/b/a Study Hall, LLC,

Respondent.

Docket No. 19-ALJ 17-0269-CC



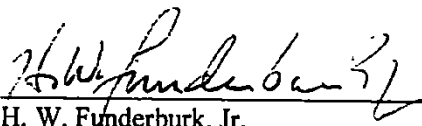
**ORDER GRANTING
MOTION FOR STAY**

This matter is before the South Carolina Administrative Law Court (ALC or Court) on Study Hall, LLC's, d/b/a Study Hall, LLC, (Respondent) Motion for Reconsideration of the Court's Order of January 15, 2020 (Order), and Motion for Stay of the imposition of the suspension of Respondent's alcohol license set forth in the Order.

IT IS HEREBY ORDERED that Respondent's Motion for Stay is **GRANTED** pending the Court's decision on Respondent's Motion for Reconsideration.

AND IT IS SO ORDERED.

February 3, 2020
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

FILED

FEB 03 2020

SC ADMIN. LAW COURT



**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,)
)
 Petitioner,)
)
 vs.)
)
 Study Hall, LLC, d/b/a Study Hall, LLC,)
)
 Respondent.)

Docket No. 19-ALC-7-0269-CG 2020

**ORDER DENYING RESPONDENT'S
MOTION TO RECONSIDER**

A contested case hearing involving the South Carolina Department of Revenue (Petitioner or Department) and Study Hall, LLC, d/b/a Study Hall, LLC, (Respondent) was held on December 17, 2019, at the offices of the Administrative Law Court (ALC or Court) in Columbia, South Carolina. On January 15, 2020, the Court issued an order in which it found Respondent's owner (Starkey) to be of good moral character. However, the Court imposed the following conditions on granting renewal of Respondent's on-premises beer and wine permit and restaurant liquor by the drink license:

1. That the Petitioner's permit and license shall be suspended for ninety (90) days, beginning with the date that this order becomes final;
2. That Jonathan Starkey shall continue to comply with the payment plan for his South Carolina income taxes; and
3. That Petitioner will cooperate with any investigation and audit of other business taxes which might be owed, including Local Option Permits, or admissions taxes.

On January 23, 2020, Respondent filed a Motion for Reconsideration and Stay. The Motion to Stay the suspension of Respondent's alcohol permit and license was granted during the pendency of the Court's consideration of the Motion to Reconsider.

Respondent argues that the Court acted outside of its authority by imposing a penalty for a violation for which Respondent was not cited. Specifically, Respondent contends that the Department cited only one reason for its cancellation of Respondent's permit and license: that Respondent's owner lacked good moral character.

FILED

MAR 06 2020

SC ADMIN. LAW COURT

On March 20, 2019, the Department notified Respondent that it intended to cancel Respondent's On-Premises Beer and Wine Permit and Liquor by the Drink License. Because Respondent was late in applying for renewal, a denial notice was issued advising Respondent to cease all sales of beer, wine, and liquor. Respondent did not comply with the notice nor did Respondent complete the requirements to renew until March 7, 2019.

The South Carolina Law Enforcement Division (SLED) subsequently notified the Department that Respondent was selling alcoholic beverages without a license on February 28, 2019. According to the Department, Respondent was unlicensed between November 30, 2018, and March 7, 2019.¹ Selling alcoholic beverages without a license was identified in the Department Determination as an one of the indications that Respondent's owner did not possess the requisite moral character to hold an alcohol permit and license.

In its Determination the Department observes that "there is no single criterion by which to determine if a person is of good moral character." The associated discussion includes selling alcohol without a license and being convicted of a violation of liquor laws. The Department, apparently, also gave weight to an event in Statesboro, Georgia, that took place in 2014 at a business previously owned and operated by Respondent's owner.

As for the Georgia incident, Starkey claims to have informed the Department about it during the original application process. Ms. Gatto, the victim's mother, testified that she notified the Department about the Georgia incident. Starkey also reported the event to the City of Clemson Chief of Police and attempted to show him the recorded video of the incident. Chief Dixon confirmed that he declined to view the video. The Georgia tragedy could have formed a basis for objection to or even for denial of Respondent's initial license application but should not be considered now as a factor in a subsequent renewal.

While a conviction for a violation of liquor laws can be weighed against an applicant's moral fitness, the record reflects only a pending charge and Starkey's application for Pre-trial Intervention, which, if successful, would expunge the charge.

The only remaining fact supporting the Department's contention that Starkey lacks the requisite moral character is the fact that Respondent stocked and sold beer, wine, and liquor without a valid

¹ The previous license expired on November 30, 2018. A valid renewal went into effect on March 7, 2019. Thus, Respondent was unlicensed for 96 days from December 1, 2018, through March 6, 2019.

permit or license. In the original order, the Court recognized that “Respondent continued to sell beer, wine, and liquor after the expiration of its permit and license.” Selling beer and wine in this circumstance violates S.C. Code Ann. § 61-4-560 (2009) (making operation of a business without a permit a misdemeanor and providing that each day in which business is carried on without a permit a separate offense). In addition, S.C. Code Ann. § 61-4-600 (2009) provides that a permit must be surrendered immediately when the permit is revoked, cancelled, or suspended.

Likewise, S.C. Code Ann. § 61-6-4010 (2009) prohibits the sale of alcoholic liquors “except in accordance with the provisions of this title.” It is the long-standing law of South Carolina that liquor licenses “are mere permits, issued or granted in the exercise of the police power of the state to do what otherwise would be unlawful to do; and to be enjoyed only so long as the restrictions and conditions governing their continuance are complied with.” *Wall v. S.C. Alcoholic Beverage Comm’n*, 269 S.C. 13, 15, 235 S.E.2d 806, 807 (1977); *Feldman v. S.C. Tax Comm’n*, 203 S.C. 49, 57, 26 S.E.2d 22, 25 (1943). Selling alcoholic liquors without a license is a violation of the law. *Pirates’ Cove v. Strom*, 249 S.C. 270, 277, 153 S.E.2d 900, 903 (1967) (citing Section 4-91 (1962) (recodified as S.C. Code Ann. § 61-13-210 (1976) now S.C. Code Ann. § 61-6-4010 (2009))).

When renewal was denied, Respondent’s permit was effectively revoked or cancelled. Moreover, Starkey admitted that beer, wine, and liquor sales continued from December 7, 2018, until March 7, 2019, while he was not licensed.

The case cited by Respondent, *S.C. Dept. of Revenue v. Sandalwood Soc. Club*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012), involved violations shown by evidence presented by an intervenor, not cited by the Department, but used by the ALC to support imposition of a more severe penalty than the monetary fine assessed by the Department.

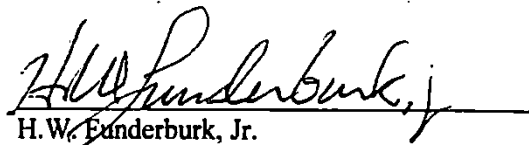
In this case, the violations supporting the penalty proposed by the Department, cancellation of Respondent’s permit and license, derived from testimony by a Department employee, by a SLED agent, and admissions by Starkey. While the Department did not seek a penalty specifically for this violation, it provided a factual basis for the Department’s proposed cancellation. This case is also distinguished from *Sandalwood* because the penalty imposed by this Court is less severe than the cancellation (revocation) of the permit and license renewal, which became effective on March 7, 2019. Furthermore, the Department’s determination that Starkey lacked the moral character to

obtain a permit and license could likely prevent his qualifying for a permit or license for the foreseeable future. The Court's imposing a suspension for slightly less than the length of time Respondent operated without a permit and license is certainly less severe than a cancellation that might disqualify Starkey from being permitted or licensed and less severe than a revocation with similar consequences.

For these reasons, the Motion for Reconsideration is **DENIED**.

AND IT IS SO ORDERED.

March 6, 2020
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0269-CC

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served the **Order Denying Respondent's Motion to Reconsider** in this case upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and their attorneys as follows:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

March 6, 2020
Columbia, South Carolina

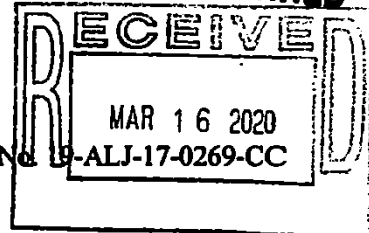

Elizabeth A. Perkins
Judicial Law Clerk

FILED

MAR 06 2020

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT



South Carolina Department of Revenue,

Docket No. 19-ALJ-17-0269-CC

Petitioner,

vs.

WRIT OF SUPERSEDEAS

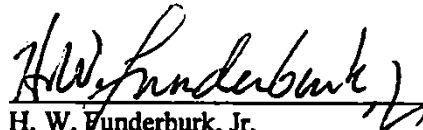
Study Hall, LLC d/b/a Study Hall, LLC,

Respondent.

This matter is before the South Carolina Administrative Law Court (Court) pursuant to a Petition for Writ of Supersedeas filed March 11, 2020, by Study Hall, LLC, d/b/a Study Hall, LLC (Respondent). On January 15, 2020, the Court issued a Final Order imposing a 90-day suspension of Respondent's liquor by the drink license and beer and wine permit, and on March 9, 2020, the Court issued an Order Denying Respondent's Motion for Reconsideration of its Final Order. On March 10, 2020, Respondent filed its Notice of Appeal and Proof of Service with the Court of Appeals. Respondent requests that the Court issue a Writ of Supersedeas staying imposition of the 90-day suspension period during the pendency of its appeal.

IT IS HEREBY ORDERED that Respondent's Petition for Writ of Supersedeas is **GRANTED** and the 90-day suspension is stayed pending the South Carolina Court of Appeal's resolution of Respondent's appeal.

AND IT IS SO ORDERED.


H. W. Wunderburk, Jr.
Administrative Law Judge

March 13, 2020
Columbia, South Carolina

FILED

MAR 13 2020

SC ADMIN. LAW COURT

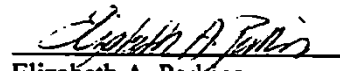
CERTIFICATE OF SERVICE

I, Emily B. Howard, hereby certify that I have this date served the **Writ of Supersedeas** in this case upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, and by electronic mail to the addresses provided by the parties and their attorneys in this matter:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

March 13, 2020
Columbia, SC


Elizabeth A. Perkins
Judicial Law Clerk

FILED

MAR 13 2020

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	Docket No. 19-ALJ-17-0269-CC
	)	
Petitioner,	)	
	)	
v.	)	MOTION FOR RECONSIDERATION AND STAY
	)	
Study Hall, LLC d/b/a/ Study Hall, LLC,	)	
	)	
Respondent.	)	

On January 15, 2020, this Court issued its Order in the above matter, finding that Jon Starkey ("Starkey"), the owner of Respondent Study Hall, LLC ("Respondent"), is of good moral character.¹ Despite finding that Starkey is of good moral character and that there was reason for his confusion as to the issuance of his alcohol licenses, this Court imposed a penalty of suspending the subject licenses for a period of 90 days from the date the Order becomes final, which would be January 25, 2020. Pursuant to SCALC Rule 29(D), Respondent moves this Court to alter or amend its Order to remove the provision for suspension from the Order. Respondent additionally moves subject to SCALC Rule 29(E) for this Court to stay any possible suspension until after a ruling on this Motion.

MOTION FOR RECONSIDERATION

Respondent respectfully moves this Court pursuant to SCALC Rule 29(D), to reconsider its Order issued January 15, 2020 suspending Respondent's beer and wine and restaurant liquor by the drink license for 90 days, despite finding that Starkey is of good moral character. As set forth in further detail below, the Court's decision to suspend

¹ That Order was filed on January 16, 2020. As of the date of this Motion, Respondent has not received a copy of the Order in this matter via mail or email.

FILED

JAN 23 2020

Respondent's permit and license was outside the Court's authority and even if it was within the Court's authority, it is disproportionate to the violation, has no deterrent effect, and results in manifest injustice to Respondent.

I. Statement of the Case

On March 20, 2019, the South Carolina Department of Revenue ("DOR") issued a Notice of Intent to Cancel to Respondent, solely citing Starkey's alleged lack of good moral character as the reason for cancelation. Respondent protested the Notice of Intent to Cancel by letter received by DOR on June 18, 2019. DOR then issued its Determination on July 17, 2019, concluding that Starkey is not of good moral character as required by S.C. Code §§ 61-2-100(D), 61-4-520, and 61-6-1820(2) and therefore is not a proper person to hold an alcohol license. On August 14, 2019, Respondent timely filed a Request for Contested Case Hearing on the issue of Starkey's moral character.

On December 17, 2019, this Court held a hearing on the question of whether Starkey is of the requisite moral character for Respondent to hold an alcohol license. Respondent called witnesses and presented evidence to prove Starkey's good moral character. DOR called witnesses and presented evidence to attempt to prove Starkey is of poor moral character. On January 15, 2020, this Court issued its Order finding that the DOR had erred and that Starkey is of the requisite moral character to hold an alcohol license. However, this Court also ordered that "Respondent's license and permit shall be suspended for ninety (90) days."

II. Argument

Respondent respectfully brings this motion to correct clear errors of law and to prevent manifest injustice. Respondent urges this Court to reconsider its January 15,

2020 Order, to correct clear errors of law and because allowing said Order to stand without amendment would cause manifest injustice to Respondent, who has not been found liable for any administrative violation and who will almost certainly be financially ruined should the Order stand.

- a. This Court acted outside its authority when finding for Respondent but imposing a penalty for a violation for which Respondent was not cited.**

"An administrative agency has only the powers conferred on it by law and must act within the authority created for that purpose." S.C. Dep't of Revenue v. Sandalwood Soc. Club, 399 S.C. 267, 278, 731 S.E.2d 330, 336 (Ct. App. 2012) (internal citations removed). "DOR has the authority to determine an appropriate administrative penalty, within the statutory limits established by the legislature, after the parties have had an opportunity for a hearing on the issues . . . and in assessing a penalty, DOR should give effect to the major purpose of a civil penalty, which is deterrence." Id. at 278-79, 336.

In a contested case hearing before the Administrative Law Court ("ALC"), "[the ALC] is the fact-finder and it is [the ALC's] prerogative ... to impose an appropriate penalty based on the facts presented." Id. at 280, 337. However, the ALC can only penalize a licensee for violations cited by DOR. See Id. at 278.

Here, DOR cited only one reason in its Determination for its cancellation of Respondent's license: Starkey's alleged lack of good moral character. DOR notably did not cite Respondent for selling alcohol without a license or any other administrative violation. Since DOR did not cite Respondent for any administrative violation and simply proposed to cancel Respondent's license due to the issue of Starkey's moral character, this Court was limited in its review to determining whether Starkey has the requisite moral character for Respondent to hold an alcoholic beverage license.

This Court ultimately concluded that Starkey "possesses the requisite moral character to hold an alcoholic beverage license" and that Respondent meets the applicable requirements for licensure. DOR never cited Respondent for violating the law except to the extent it argued that Starkey had poor moral character; therefore, a finding for Respondent cannot have a penalty attached to it.

- b. The penalty of suspending Respondent's license is grossly disproportionate to any possible offense, has no deterrent effect, and will result in manifest injustice to Respondent.**

Even if DOR had cited Respondent for violating the alcoholic beverage laws of the State of South Carolina, which it did not do, suspension for 90 days is grossly disproportionate to any such offense, has no deterrent effect, and will result in manifest injustice to Respondent.

- i. The penalty imposed on Respondent is grossly disproportionate to any possible offense.**

SC Revenue Procedure #13-2 provides penalty guidelines for ABL Violations. For "Alcoholic Liquor by the Drink- Retail Sale and Consumption," the recommended administrative penalty for a first offense is a fine of \$400. The recommended administrative penalty for a second offense is a fine of \$500.

Therefore, if even if DOR had cited Respondent for an administrative violation of the ABL, the maximum penalty DOR guidelines would have dictated was a fine of \$400 to \$500. Respectfully, it is unjust for this Court to penalize Respondent not only for a violation for which it was never cited, but with a penalty so grossly disproportionate to the DOR's own recommended penalties.

ii. The penalty imposed on Respondent has no deterrent effect and will result in manifest injustice to Respondent.

As stated above, "in assessing a penalty, DOR should give effect to the major purpose of a civil penalty, which is deterrence." S.C. Dep't of Revenue v. Sandalwood Soc. Club at 278-79, 336. A suspension of 90 days will not deter Respondent from future violations of the alcohol beverage laws of South Carolina, because it will in fact put Respondent completely out of business. This result is manifestly unjust.

As described in the Affidavit of Jon Starkey (attached as **Exhibit 1**), Respondent will likely be put out of business by a 90 days suspension. (Ex. 1, ¶ 6.) Respondent will be unable to pay its employees if its license is suspended and Starkey himself will be without any income with which to comply with his South Carolina income tax payment plan. (Id. ¶¶ 5, 7, 8.) In addition, Respondent has already forfeited approximately \$16,000.00 of liquor, beer, and wine which were seized by SLED. (Id. ¶ 10.)

Since Respondent has not been cited for an administrative violation by DOR, and even if it had, the penalty would be a fine of \$400 to \$500, a suspension which would put Respondent completely out of business and result in Starkey likely defaulting on his payment plan with DOR goes beyond deterrence and is manifestly unjust.

MOTION FOR STAY

During the pendency of the Court's consideration of this motion for reconsideration, Respondent requests that the Court stay imposition of the suspension of Respondent's alcohol licenses. Although not set forth explicitly in the Order, the purpose for the suspension appears to be punitive or as a deterrent rather than to protect the public from any particular harm as the Court held that Mr. Starkey was of sufficiently good moral character to hold an alcohol license, which was the only question before the Court. Thus,

permitting Study Hall to continue to serve beer, wine, and liquor by the drink during this period of reconsideration by the Court will have no negative impact on the public.

In addition, there is a likelihood that Respondent will succeed on its merits as the Court exceeded its authority in imposing the suspension in the absence of any other alleged administrative violation.

Respondent will suffer immediate, irreparable harm if its alcohol licenses are suspended before this Court gives due consideration to its motion to alter or amend the Order. Respondent will have no income during any period that any alcohol licenses are suspended, leaving him unable to comply with his payment plan for his South Carolina income taxes. (Ex. 1, ¶ 7.) Such event of noncompliance, per the Order, would constitute a violation of the alcoholic beverage permit and license and could subject Study Hall's licenses to further suspension or revocation. In essence, if Respondent's license is suspended, Starkey will be unable to comply with his South Carolina income tax payment plan, another condition contained in the Order at issue here.

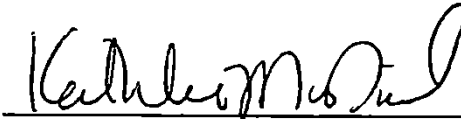
Other than a stay of the suspension, Respondent has no other remedy at law.

CONCLUSION

Based upon the foregoing, Respondent respectfully requests that this Court alter or amend its Order to remove the 90-day suspension period, or in the alternative to impose some other less harsh penalty such as a monetary penalty or additional license-related education requirements because the suspension is not based on any violation properly before this Court and because such suspension is not only grossly disproportionate to the offense, it has no deterrent effect, and will result in manifest injustice to Respondent..

Respondent also requests that during the period that this Court is considering this request that this Court stay the 90-day suspension because such suspension would effectively put Respondent out of business.

Respectfully submitted,



Kathleen McDaniel (Fed. Bar No. 10139 / SC Bar No. 74826)
BURNETTE SHUTT & MCDANIEL, PA
PO Box 1929
Columbia, South Carolina 29202
Tel. (803) 904-7913
Fax (803) 904-7910
KMcDaniel@BurnetteShutt.Law

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina

January 23, 2020

FILED

JAN 23 2020

SC ADMIN LAW COURT

EXHIBIT 1

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
Study Hall, LLC d/b/a/ Study Hall, LLC,	)	
	)	
Respondent.	)	

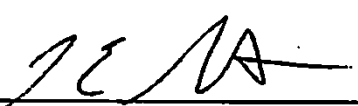
AFFIDAVIT OF JON STARKEY

PERSONALLY APPEARED before me, Jon Starkey, who being first duly sworn,
testifies that:

1. My name is Jon Starkey. I am a resident of Clemson, South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. I am the sole owner of Study Hall, LLC, which operates as Study Hall bar in
Clemson, South Carolina.
5. My sole source of income is income derived from the operation of Study Hall.
6. If Study Hall's alcohol licenses are suspended for three months, I believe such
suspension will put the company out of business.
7. If Study Hall's liquor by the drink and on premises beer and wine licenses are
suspended for three months, I will have no income to live on and no income to
comply with the payment plan for my South Carolina income taxes.

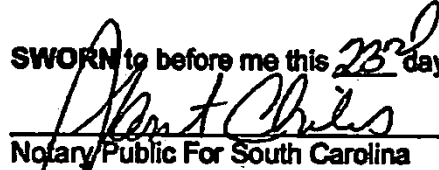
8. If Study Hall's alcohol licenses are suspended for three months, I will have no income to pay my employees, and I cannot expect them to go three months without income as well.
9. If my employees cannot work for Study Hall for three months, I anticipate they will find new jobs, and I will be forced to employ and train a significant percentage of new staff if Study Hall is able to re-open after a suspension period.
10. The value of the liquor, beer, and wine that was taken from Study Hall was approximately \$16,000.00.

FURTHER AFFIANT SAYETH NOT.



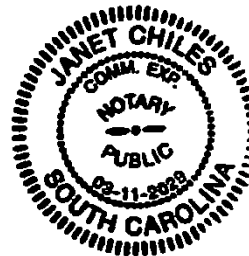
Jon Starkey

SWORN to before me this 23rd day of January, 2020



Notary Public For South Carolina

My Commission Expires: 3/11/2029



FILED

JAN 23 2020

SC ADMIN LAW COURT



BURNETTE SHUTT MCDANIEL

Moving law forward

Kathleen M. McDaniel – Partner

Ph: 803-904-7913

Fax: 803-904-7910

KMcdaniel@BurnetteShutt.Law

BURNETTE SHUTT & MCDANIEL, PA

912 Lady Street • PO Box 1929 • Columbia, SC 29202

O 803.850.0912 F: 803.904.7910

burnetteshutt.law

March 11, 2020

VIA HAND-DELIVERY

The Honorable H.W. Funderburk, Jr.
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

**Re: South Carolina Department of Revenue v. Study Hall, LLC d/b/a
Study Hall, LLC
Docket No. 19-ALJ-17-0269-CC
BSM File No. 19102.001**

Dear Judge Funderburk:

I have enclosed herewith for your consideration and for filing with this Court, in the above-referenced matter, an original and one copy of Appellant's Petition for Writ of Supersedeas. I have also enclosed an original and copy of the corresponding Proof of Service. Please file the originals, clock-in the copies, and return the clocked-in copies to me by way of our office courier delivering same.

Should you have any questions or concerns, please do not hesitate to let me know.

With kind regards, I am

Sincerely,

Kathleen M. McDaniel

KMM/tbw

Enclosures

cc: Patrick McCabe, Esq. (w/ encls.) (via US Mail only)
Sarah Cox, Esq. (w/o encls.)
Jon Starkey (w/encls.) (via email only)

FILED

MAR 11 2020

SC ADMIN LAW COURT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

PETITION FOR WRIT OF SUPERSEDEAS

On March 9, 2020, the Administrative Law Court issued its Order denying Study Hall, LLC's Motion for Reconsideration. In its Motion for Reconsideration, Study Hall, LLC ("Study Hall") had requested that the Administrative Law Court amend its Order, dated January 15, 2020, to remove the imposition of a 90-day suspension of Study Hall's alcohol permits. Study Hall has filed and served its Notice of Appeal to the Court of Appeals to challenge the imposition of the 90-day suspension period. Because imposing the 90-day suspension period during the pendency of an appeal regarding the 90-day suspension period would moot the appeal, Study Hall submits this request that the court issue a Writ of Supersedeas staying imposition of the 90-day suspension period during the pendency of the appeal.

FILED

MAR 11 2020

SC ADMIN LAW COURT

FACTUAL BACKGROUND

On March 20, 2019, the South Carolina Department of Revenue ("DOR") issued a Notice of Intent to Cancel to Study Hall, with the sole basis for cancellation that Jon Starkey, the owner of Study Hall, allegedly lacked the good moral character to hold an alcohol license as the reason for cancellation. Study Hall protested the Notice of Intent to Cancel by letter received by DOR on June 18, 2019. DOR then issued its Determination on July 17, 2019, concluding that Starkey is not of good moral character as required by S.C. Code §§ 61-2-100(D), 61-4-520, and 61-6-1820(2) and therefore is not a proper person to hold an alcohol license. On August 14, 2019, Respondent timely filed a Request for Contested Case Hearing on the issue of Starkey's moral character.

This matter came before the Administrative Law Court for hearing on December 17, 2019, on the question of whether the Starkey is of the requisite moral character for Study Hall to hold an alcohol license. Respondent called witnesses and presented evidence to prove Starkey's good moral character. DOR called witnesses and presented evidence to attempt to prove Starkey is of poor moral character. On January 15, 2020, this Court issued its Order finding that Starkey is of the requisite moral character to hold an alcohol license. **Ex. 1, Final Order.** However, in the same Order, this Court also ordered that "Respondent's license and permit shall be suspended for ninety (90) days." Study Hall moved for reconsideration of this suspension period and for the suspension period to be stayed during the time that the Motion for Reconsideration was under consideration by the court. **Ex. 2, Motion for Reconsideration and Stay.** DOR did not file any post-trial motions.

The Administrative Law Court granted the request to stay the suspension period pending consideration of the Motion for Reconsideration. **Ex. 3, Order Granting Motion for Stay.** On March 9, 2020, the Administrative Law Court issued its Order Denying Respondent's Motion for Reconsideration, wherein the Administrative Law Court denied Study Hall's request that no period of suspension be imposed. **Ex. 4, Order Denying Respondent's Motion for Reconsideration.**

On March 9, 2020, counsel for the South Carolina Department of Revenue contacted counsel for Study Hall and stated that it was SCDOR's intent that the suspension period would begin at midnight on Wednesday, March 11, 2020, and run until June 9, 2020. **Ex. 5, Email from Patrick McCabe.**

On March 10, 2020, Study Hall filed its Notice of Appeal and Proof of Service with the Court of Appeals, appealing the Administrative Law Court's Orders dated January 15, 2020, and March 9, 2020. **Ex. 6, Notice of Appeal, filed on Mar. 10, 2020.** The purpose of the appeal is to challenge the Administrative Law Court's imposition of a 90-day suspension period, which penalty was imposed even though the Administrative Law Court made no determination of any violation of any alcohol licensing laws by Study Hall.

GROUND FOR THE PETITION AND LEGAL ARGUMENTS

Pursuant to Rule 241, SCACR, Study Hall's requests that this court issue a Writ of Supersedeas staying the imposition of the 90-day suspension pending resolution of the subject appeal.

The filing of an appeal from an administrative tribunal does not automatically stay an order of the Administrative Law Court. Rule 241(b), SCACR; S.C. Code Ann. § 1-23-610(A)(2). However, the Administrative Law Court has the authority to grant a stay pending while an appeal is pending. Rule 241(d), SCACR; S.C. Code Ann. § 1-23-610(A)(2). In fact, the South Carolina Appellate Court Rules direct that the request for imposition of such stay should be made first to the administrative tribunal rather than to the Court of Appeals. Rule 241(d), SCACR. Upon motion by any party, an administrative law judge may stay a final order upon appropriate terms. SCALC Rule 29(E).

Specifically, Rule 241(c)(2), SCACR provides that the determination of whether to grant a stay pending appeal should be based upon whether "such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." In a recent decision from Administrative Law Judge Durden, she set forth the analysis as follows:

Indeed, "[t]he purpose of a supersedeas is to stay proceedings in order to preserve the status quo pending the determination of the appeal and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him." *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990) (ellipses and internal citation omitted); see also 4 C.J.S. Appeal and Error § 528 (2012) ("[I]t is an abuse of discretion to deny supersedeas where a refusal to supersede the judgment would deny the right to any appeal.").

Richland Cty. Sch. Dist. One Bd. of Commissioners, No: 19-ALJ-30-0036-AP, 2019 WL 3425218, at *1 (July 17, 2019).

In this case, the Administrative Law Court found in Study Hall's favor that Jon Starkey is of good moral character. Study Hall does not take issue with that determination because it was a determination in Study Hall's favor. The Administrative Law Court's ruling that is not in Study Hall's favor and that will be the subject of the pending appeal is the imposition of the 90-day suspension. If the 90-day suspension goes into effect during the pendency of the appeal, that then the sanction appealed from will be imposed without the benefit of the Court of Appeals evaluating the propriety of the sanction. Study Hall will lose even the possibility of obtaining any "fruits of a meritorious appeal" and the appeal would be moot. This would effectively deny Study Hall the right to an appeal, in which case it would be an abuse of this Court's discretion to refuse to issue the requested writ of supersedeas.

If it is eventually determined that it was lawful for the Administrative Law Court to impose a 90-day suspension, then the requested stay can be lifted and the 90-day suspension begin. Staying the suspension during the appeal merely maintains the current status quo as contemplated by Rule 241, SCACR.

In addition, there will be no harm to the public if the 90-day suspension is stayed. The Administrative Law Court has already determined that Starkey is of sufficiently good moral character to hold an alcohol license, which was the only question before the Court. Thus, permitting Study Hall to continue to serve beer, wine, and liquor by the drink during this period of reconsideration by the Court will have no negative impact on the public.

In addition, there is a likelihood that Study Hall will succeed on its merits of its appeal because it appears to Study Hall that this Court exceeded its authority in imposing the suspension in the absence of any other alleged administrative violation. "An administrative agency has only the powers conferred on it by law and must act within the authority created for that purpose." S.C. *Dep't of Revenue v. Sandalwood Soc. Club*, 399 S.C. 267, 278, 731 S.E.2d 330, 336 (Ct. App. 2012) (internal citations removed). In a contested case hearing before the Administrative Law Court ("ALC"), "[the ALC] is the fact-finder and it is [the ALC's] prerogative ... to impose an appropriate penalty based on the facts presented." *Id.* at 280, 337. However, the ALC can only penalize a licensee for violations cited by DOR. See *Id.* at 278.

In this case, DOR cited only one reason in its Determination for its cancelation of Study Hall's license: Starkey's alleged lack of good moral character. DOR notably did not cite Study Hall for selling alcohol without a license or any other administrative violation. Since DOR did not cite Study Hall for any administrative violation and simply proposed to cancel Respondent's license due to the issue of Starkey's moral character, this Court was limited in its review to determining whether Starkey has the requisite moral character for Study Hall to hold an alcoholic beverage license.

This Court ultimately concluded that Starkey "possesses the requisite moral character to hold an alcoholic beverage license" and that Study Hall meets the applicable requirements for licensure. DOR never cited Study Hall for violating the law except to the extent it argued that Starkey had poor moral character; therefore, a finding for Study Hall cannot have a penalty attached to it.

Study Hall will suffer immediate, irreparable harm if its alcohol licenses are suspended before this Court gives due consideration to its motion to alter or amend the Order. As set forth in Starkey's affidavit, if the 90-day suspension is imposed, it will do irreparable harm to the business, including the possible closure of the business. **Ex. 2, Aff. of Jon Starkey.** Study Hall's owner Starkey will have no income during any period that any alcohol licenses are suspended, leaving

him unable to comply with his payment plan for his South Carolina income taxes, which could also serve as a basis for DOR to revoke, cancel, or suspend Study Hall's alcohol licenses. Such irreparable harm becomes even more pronounced if Study Hall's appeal of the 90-day suspension is rendered moot by the suspension going into effect during the pendency of the appeal.

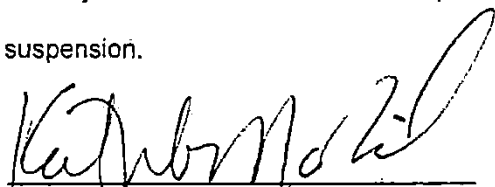
Other than a stay of the suspension, Study Hall has no other remedy at law.

Counsel for Study Hall has consulted with counsel for DOR to determine if DOR is willing to consent to a stay of the 90-day suspension, and DOR indicated that it is not willing to consent.

Study Hall requests that this matter be heard in as expeditious a manner as possible because pursuant to DOR, the suspension period has already begun thus preventing the maintenance of the status quo as contemplated by Rule 241, SCACR.

CONCLUSION

Based upon the foregoing, Study Hall requests that this court issue a Writ of Supersedeas staying the imposition of the 90-day suspension of Study Hall's alcohol licenses and permits during the pendency of Study Hall's appeal of such suspension.



Kathleen McDaniel, Esq. (Bar No. 74826)
BURNETTE SHUTT & MCDANIEL, PA
Post Office Box 1929
Columbia, South Carolina 29202
P: 803.904.7913
F: 803.904.7910
KMcdaniel@BurnetteShutt.Law

**ATTORNEY FOR APPELLANT STUDY
HALL, LLC**

March 11, 2020

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

VERIFICATION

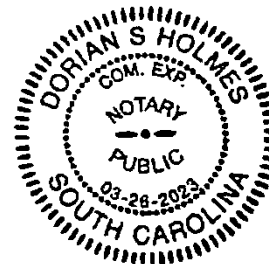
The undersigned, Jon Starkey, being duly sworn, deposes and says that he is the owner of Study Hall, LLC. The undersigned states that he has read the foregoing Petition for Writ of Supersedeas, has personal knowledge of the contents thereof, and that said Petition for Writ of Supersedeas is true to the best of his knowledge, except as to matters stated therein to be alleged on information and belief, and as to those matters, he is informed and believes that they are true.

Signature: [Signature]

Print name: Jon E. Starkey

SWORN to before me this 11th
day of March, 2020.

[Signature]
Notary Public for South Carolina
My commission expires: 03/26/2023



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the following as indicated hereinbelow, via electronic mail and by and First-Class United States Mail, postage prepaid, on the date below addressed to the following:

Document Served: Petition for Writ of Supersedeas and Verification

Parties Served: Patrick McCabe
South Carolina Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
803-898-5056
Patrick.McCabe@dor.sc.gov

**ATTORNEY RESPONDENT SOUTH CAROLINA DEPARTMENT OF
REVENUE**



Kathleen McDaniel, Esq.
BURNETTE SHUTT & MCDANIEL, PA

March 11, 2020
Columbia, South Carolina

Exhibit 1

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	Docket No. 19-ALJ-17-0269-CC
	)	
Petitioner,	)	
	)	
vs.	)	FINAL ORDER
	)	
Study Hall, LLC. d/b/a Study Hall, LLC,	)	
	)	
Respondent.	)	

This matter is before the South Carolina Administrative Law Court (ALC or Court) on a request by Study Hall, LLC. d/b/a Study Hall, LLC. (Respondent) for a contested case hearing challenging the cancellation of its on-premises beer and wine permit and its restaurant liquor by the drink license by the South Carolina Department of Revenue (Petitioner or Department).

A hearing in this matter was held on December 17, 2019, at the ALC in Columbia, South Carolina. After careful consideration of the evidence presented, as well as the applicable law, the court finds that Respondent's owner is of good moral character and that the on-premises beer and wine permit and the restaurant liquor by the drink license should be reissued subject to the conditions set forth herein.

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and passed upon their credibility, taking into consideration the parties' respective burdens of proof, the Court makes the following Findings of Fact by a preponderance of the evidence.

Respondent had an on-premises beer and wine permit and a restaurant liquor by the drink license that expired on November 30, 2018. On December 7, 2018, Respondent applied for renewal of its on-premises beer and wine permit and its restaurant liquor by the drink license for the location at 101 Sloan Street, Clemson, South Carolina.

On the same date, December 7, 2018, the Department issued a Renewal Notice of Denial instructing Respondent that it was late submitting its renewal application and would have to pay a late filing fee of \$300 per month for the beer and wine permit and \$200 for the liquor license. This notice also stated that the renewal was denied because a principal, Jonathan Starkey, had not filed

FILED

JAN 15 2020

State Income Tax returns for the years from 2014 through 2017. Ninety days were allowed for these taxes to be filed. In addition, the Department required that Respondent furnish verification of a liability insurance policy complying with S.C. Code Ann. § 61-2-145 (Supp. 2018).¹ Inscribed between the paragraph containing the notice of fees imposed for late application for renewal and the paragraph setting out additional grounds for denial on the basis of a principal's failure to file income tax returns and the liability insurance requirement was a single sentence: "You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license." (Petitioner's Exhibit 1, p. 14 and Petitioner's Exhibit 7.)

Respondent's owner (Starkey) admitted receiving this document but confessed that he did not read it. He provided evidence via three facsimile transmissions that he had the proper liability insurance. He then focused on his belief that he had ninety (90) days to file his taxes thereby resolving the identified renewal problems. He believed he could continue operating and selling beer, wine, and liquor, during the ninety (90) days he had to file his taxes.

On March 7, 2019, Respondent furnished the necessary documentation to the Department, and the Department issued an on-premises beer and wine permit and a restaurant liquor by the drink license. Although this permit and license was issued on March 7, 2019, it had a start date of December 1, 2018, a date consistent with his previous belief. On March 11, 2019, the Department instructed Respondent to return the erroneously dated permit and license. Respondent surrendered the permit and license to the Greenville District Office on March 12, 2019, and, in return, was given a permit and license dated as being issued on March 7, 2019, and having a start date of March 7, 2019.

Subsequently, by notice received by the Department on March 14, 2019, the State Law Enforcement Decision (SLED) informed the Department that Respondent sold alcoholic beverages on February 28, 2019, when Respondent was not licensed. SLED also informed the Department that a search warrant was obtained and that its execution revealed a copy of the Renewal Notice of Denial, it seized numerous cans of beer and bottles of wine and liquor, and the manager voluntarily provided sales records for the months of December, January, and February (2018 through 2019).

¹ This provision, which went into effect on July 1, 2017, applies to all new or renewed permits or licenses for on-premises consumption after that date

On March 20, 2019, the Department issued a Notice of Intent to Cancel Respondent's permit and license because its owner, Jonathan Starkey, lacks the moral character required to hold an alcohol permit and license as required by South Carolina law, S.C. Code Ann. §§ 61-2-100(D), 61-4-520(1), and 61-6-1820(2) (2009). The Department also seeks to sell or dispose of the alcoholic beverages seized by SLED.

Deputy Chief of Police Robert Bryan of Statesboro, Georgia, investigated a death resulting from a fight on August 28, 2014, between two under-age drinkers in a bar owned by Jonathan Starkey in Statesboro. As a result of the fight, an allegedly off-duty employee pled guilty to voluntary manslaughter.² Deputy Chief Bryan concluded that, from his observations, Jonathan Starkey is not fit to hold an alcohol license.

On cross-examination, Deputy Chief Bryan stated that Mr. Starkey was not indicted nor were any citations issued to him. Starkey was always forthcoming with him and always took responsibility for any mistakes.

Katherine Gatto, the mother of the young man killed in the Statesboro bar, notified the South Carolina Department of Revenue about the incident in Georgia. She opined that Mr. Starkey has a long history of disregarding local alcohol ordinances and state law and does not have the character to operate an establishment within the parameters of the law.

Krista Strzelczyk, an Alcoholic Beverage Licensing Supervisor for the Department, stated that renewal packages go to licensees sixty days prior to the expiration of a license. Respondent's location currently holds a permit and license but did not continuously hold a permit and license between November 30, 2018, and March 7, 2019. A renewal application was denied on December 7, 2018. The denial also advised the business that it must cease all sales of beer, wine, and/or liquor until its receipt of a renewed license. Ms. Strzelczyk also confirmed that Respondent obtained a local option permit in October 2019, after the renewal license was issued on March 7, 2019.³ A revocation in another state could keep a principal from obtaining a license in South Carolina for two years for a beer and wine permit or five years for a liquor license. At the time the cancellation

² Deputy Chief Bryan admitted that there was conflicting evidence regarding the perpetrator's work status at the time of the incident but that both individuals were underage and had been consuming alcoholic beverages

³ The Department contends that Study Hall did not have a local option permit between November 26, 2017, and October 20, 2019. However, no evidence was produced in this hearing to show that there were Sunday sales during this period. Ms. Strzelczyk stated that she believed there had been violations issued, but none were presented



BURNETTE SHUTT MCDANIEL

BURNETTE SHUTT & MCDANIEL, P.A.

It was proposed, the Department was not aware of other issues that would have prevented it from issuing the permit.

O: 803.850.0912 F: 803.804.7910

burnetteshutt@law

Special Agent Dorman, based on a tip from a wholesaler of beer that Study Hall's license had expired, confirmed with Ms. Strzeleyzk that the location did not have a current permit or license.

On February 28, 2019, undercover SLED agents entered Respondent's restaurant and purchased beer. On that date, Respondent's permit and license had expired and had not been renewed. Following the undercover operation, SLED Agent Dorman obtained a search warrant and seized numerous cans and bottles of beer and bottles of wine and liquor. The owner was charged with operating without a permit in violation of S.C. Code Ann. § 6-4-560 (2009) and with unlawfully storing liquor in a place of business in violation of S.C. Code Ann. § 61-6-4060(A). In addition, the manager furnished sales reports showing sales of beer, wine, and liquor, for the months of December 2018, January 2019, and February 2019.⁴

In 2017, an undercover operation revealed an underage sale. This event was the only violation prior to the February 28, 2019, undercover operation.

Dorman admitted that based on his interactions, Mr. Starkey has been cooperative and compliant although he has not complied with the law.

The City of Clemson police chief, Jimmy Dixon, met with Starkey prior to Study Hall's opening. He stated that Starkey himself has a fine reputation in the community. The bar, on the other hand, has a reputation as a place for underage drinking, and he does not believe that Starkey is fit to hold an alcohol license in South Carolina.

Chief Dixon admitted that he had not filed any protests against licensing or license renewal of bars in his jurisdiction. He also admitted that he received telephone calls about the Statesboro incident and that Starkey offered to show him a video of the incident. He refused to view the video or discuss the matter with Starkey. He advised Starkey that he should follow the rules and regulations established by the Department and the laws of South Carolina.

⁴ Special Agent Dorman produced a report of the investigation including the execution of the search warrant. This report, admitted as Petitioner's Exhibit 8, included the Renewal Notice of Denial which informed the licensee that all sales of beer, wine, and/or liquor must cease until a renewed license was issued. It also incorporated the reports showing sales of beer, wine, and liquor for December 2018, January 2019, and February 2019. The search warrant return included some eighteen pages listing the alcoholic beverages seized.

Jonathan Starkey the sole owner of Study Hall, LLC, testified that he worked with a Department employee to meet the requirements of state laws and regulations. He told this employee about what happened in Statesboro, that a patron had died, and that he voluntarily surrendered his license.

He admitted that he did not apply to renew his license until December 7, 2018. He was given a notice of denial stating that he needed to provide proof of insurance and file his income taxes. He resolved the insurance issue while at the Department's regional office. According to Starkey, the Department employee told him he had ninety (90) days to resolve the issue with his taxes.⁵ He discussed the issues but did not read the denial notice. He believed could operate during the ninety days he was given to file his tax returns. He worked with his accountant and filed his returns within the ninety (90) days. During this time, he filed monthly sales tax reports and paid the sales taxes due for December 2018, January 2019, and February 2019.

Starkey kept the denial at his home office and allowed the previous license to remain on display at the business. He gave the Department a check with the renewal application on December 7, 2018. The Department accepted and negotiated the check. The Department also accepted his monthly sales tax returns and the accompanying payments. Law enforcement officers were in the bar regularly, but no one said anything about the expired license.

On March 7, 2019, Starkey provided the necessary documentation to the Department and was issued a permit and license with start dates of December 1, 2018. He was contacted on March 11, 2019, and instructed to return them. He returned the permit and license with start dates of December 1, 2018, and was issued a permit and a license with start dates of March 7, 2019. On March 20, 2019, Starkey was informed by letter that the March 7, 2019, permit and license were also erroneously granted and was notified that the Department intended to cancel his On-Premises Beer and Wine Permit and his Restaurant Liquor by the Drink License because he lacked "the requisite moral character to hold an alcohol permit and license." He was given the option of consenting to the cancellation and surrendering the permit and license within ninety (90) days or protesting the proposed cancellation, also within ninety (90) days. Although the letter did not

⁵ Although the Department disputes this claim, the notice provided and referenced by Starkey includes the following language in the bullet point identifying Starkey's failure to file income taxes for years 2014 through 2017 as a reason for denying the renewal application: "Notify Alcohol Beverage Licensing within 90 days that the taxes have been filed." (Petitioner's Exhibit 1, p. 14 and Petitioner's Exhibit 7.)

indicate that alcohol sales could continue during the ninety (90) days or through the pendency of further appeal, that extension of the erroneously issued permit and license has, in fact, occurred.

When Special Agent Dorman returned to serve warrants, Starkey, who was in Georgia, instructed his manager to cooperate by printing the sales reports and told him where to find the Renewal Notice of Denial that he believed would show that he had a temporary permit and license for ninety (90) days. When the manager gave the license to Agent Dorman, Dorman explained to Starkey that the denial prohibited the sale of beer, wine, and liquor and was not an extension. Starkey stated that he stopped alcohol sales in accordance with Dorman's instructions.

Starkey denied having any criminal convictions or charges prior to the February 28, 2019, incident. He was served with one Arrest Warrant for operating without a permit and a second one for unlawfully storing alcoholic liquors in a place of business. Starkey has applied for Pre-Trial Intervention and paid the application fee for that program.

He uses breathalyzers to monitor his staff and identification card readers to prevent under-age drinking. He increased staff and uses gates to control crowds when there are events that attract large numbers of patrons.

He denied having defrauded anyone or writing any bad checks. He has provided guidelines for his staff to avoid having impaired workers. He also makes donations to local charities and law enforcement and helps individuals in need.

After Study Hall's previous incident of underage drinking, Starkey discharged the responsible employee.

Starkey admitted that he sold alcoholic beverages on Sundays for approximately two years without paying the local option tax. He also admitted that he owes the State of South Carolina between thirty (30) and forty (40) thousand dollars in personal income taxes and is paying those taxes on an agreed payment plan, which he has been paying for about a year.⁶

His Georgia attorney, Wesley Taulbee, assisted Starkey in opening the bar in Statesboro, Georgia, and in negotiating a settlement with the City of Statesboro concerning the incident in the bar there. He stated that Starkey has good moral character, has been honest with him, has been straightforward, and accepts responsibility for his actions. He admitted that Starkey might miss

⁶ The Court presumes that the amount owed includes penalties and interest.

details but does not make the same mistake twice. Starkey focuses on cooperating with law enforcement.

Chris Cartee, Fire Marshall and Arson Investigator for the City of Clemson, stated that Starkey and his staff have been cooperative and professional and done everything he has requested. Starkey has controlled access and counted customers to stay within occupancy limits. In his opinion, Starkey has been honest and is compliant with the fire code. He considers Starkey to be of good moral character. He admitted that he was not aware of alcohol licensing requirements and did not know that Starkey was operating without proper licensing.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, I conclude the following as matters of law:

1. Jurisdiction over this matter is vested with the ALC pursuant to South Carolina Code Sections 1-23-310 *et seq.* (2005 & Supp. 2017), 1-23-600(B) (Supp. 2017), and 61-2-260 (2009). The standard of proof in an administrative proceeding such as this is a preponderance of the evidence, unless otherwise specified. *Anonymous v. State Bd. of Med. Exam'rs*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988); *see also* S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2017). "A 'preponderance of the evidence' is evidence which convinces as to its truth." *Gorecki v. Gorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010) (citation omitted). Consequently, the court's findings "may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it." *See Tims v. J.D. Kitts Const.*, 393 S.C. 496, 503, 713 S.E.2d 340, 343-44 (Ct. App. 2011) (citations omitted). The party seeking a license has the burden of proving it has met all the statutory requirements for the license. 48 C.J.S. *Intoxicating Liquors* § 186 (2018 Update).
2. The weight and credibility assigned to evidence presented at a hearing is committed to the province of the trier of fact. *See S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992) (citation omitted). The trier of fact who observes a witness is in the best position to judge the witness's demeanor and veracity and to evaluate the credibility of his testimony. *See, e.g., Woodall v. Woodall*, 322 S.C. 7, 10, 471 S.E.2d 154, 157 (1996) (citations omitted); *Wallace v. Milliken & Co.*, 300 S.C. 553, 556, 389 S.E.2d 448, 450 (Ct. App. 1990) (citation omitted).

3. The issuance of a license to sell alcohol “rests in the discretion of the body or official to whom the duty of issuing it is committed . . .” *Palmer v. S.C. Alcoholic Beverage Control Comm’n*, 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984) (citations omitted); *see also Wall v. S.C. Alcoholic Beverage Control Comm’n*, 269 S.C. 13, 235 S.E.2d 806 (1977). “A license may properly be refused where a statutory ground for refusal exists, provided there is a reasonable basis for believing in its existence . . .” 48 C.J.S. *Intoxicating Liquors* § 194 (2018 Update). However, “[g]ood cause must be shown for the denial of a license.” *Id.*
4. In this state, the requirements for beer and wine permits are set forth in Section 61-4-520 (2009) of the South Carolina Code, and the requirements for liquor by the drink licenses for restaurants are set forth in Section 61-6-1820 (2009 & Supp. 2018).
5. Regarding owners and principals of a business applying for a permit or license, “[l]icenses and permits may be issued only to the person who is the owner of the business seeking the permit or license.” S.C. Code Ann. § 61-2-100(A) (2009). Several statutory provisions in South Carolina address the character requirements of an applicant for beer and wine permits and liquor by the drink licenses. Section 61-2-100(D), which applies to all liquor licenses and beer and wine permits, provides that “[t]he Department may not issue a license or permit under this title to any person unless the person and all principals are of good moral character.” S.C. Code Ann. § 61-2-100(D) (2009).
6. With respect to beer and wine permits, Section 61-4-520(1) states that:

A retail permit authorizing the sale of beer or wine must not be issued unless:

 - (1) The applicant, a partner, or co-shareholder of the applicant, and each agent, employee, and servant of the applicant to be employed on the licensed premises are of good moral character

S.C. Code Ann. § 61-4-520(1) (2009). Finally, Section 61-4-540 similarly states that, before the issuance of a beer and wine permit, the Department must find that “the applicant is fit to sell beer and wine.” *See* S.C. Code Ann. § 61-4-540 (2009).
7. With respect to retail liquor licenses, Section 61-6-1820(2) provides that:

The department may issue a [liquor] license . . . upon finding:

* * *

⁷ Although the Department proposes “cancellation” of this permit and license which it contends were issued in error, the statutory grounds are those that would apply to a denial, suspension, or revocation.

(2) The applicant, if an individual, is of good moral character or, if a corporation or association, has a reputation for peace and good order in its community, and its principals are of good moral character.

S.C. Code Ann. § 61-6-1820(2) (2009).

Additionally, Section 61-6-110(3) provides that an applicant for a retail liquor license is ineligible if “[the applicant] or the person who will have actual control and management of the business proposed to be operated . . . is not of good repute.”⁸ S.C. Code Ann. § 61-6-110(3) (2009).

8. The term “good moral character” is not defined with particularity in South Carolina law. The South Carolina Attorney General has opined that:

What constitutes good moral character in a given case, then, we cannot say for there is no single criterion in South Carolina by which to judge it; therefore, the Commission itself must determine in each instance whether one possesses it or not. Yet in making that determination, the Commission would not be justified in refusing a license simply upon a “moral appraisal,” or either because previous misconduct which is not relevant to the conduct of the business for which the license is sought because of a remote conviction of a minor offense, or because of an unproved accusation of a crime.

[W]hile good moral character does not mean ‘moral excellence’ . . . it does mean that one must possess all of the elements essential to make up such a character, among those being common honesty and veracity.

1969 Op. S.C. Att’y Gen. 159 (1969), 1969 WL 10708 (citations omitted); *see also* 48 C.J.S. Intoxicating Liquors § 171 (2018 Update) (“[T]here is no single and absolute criterion or standard, and the licensing authorities must judge whether the acts and conduct shown are sufficient in themselves or as an index to character to disqualify the applicant.”).

9. Accordingly, “[m]oral character,” as used in a statute on qualifications required for liquor license holders, means not only the ability to distinguish between right and wrong, but the character to observe the difference, the observance of rules of right conduct, and conduct which indicates and establishes qualities generally acceptable to the populace for positions

⁸ Good repute is a separate component of character, but it is related to a person’s overall good character. In a prior order from this court, one administrative law judge persuasively described moral character as a component of repute. “Moral character is one component of reputation, while the collective opinion of one’s peers regarding one’s deportment, integrity, and community standing is another component. Evidence relating to each component is relevant and probative.” *S.C. Dep’t of Revenue and Taxation v. Burris*, Docket No. 96-ALJ-17-0201-CC, 1999 WL 146238 (S.C. Admin Law Ct. July 24, 1996).

of trust and confidence.” 48 C.J.S. Intoxicating Liquors § 171 n.1 (2018 Update). Likewise, a license may be refused for lack of moral character “to a person who is not likely to carry on, in conformity with law, the business for which the permit is issued. . . . who deliberately misrepresents or knowingly conceals a material fact in order to obtain a license, or whose conduct in other respects does not meet the necessary standards relating to character.” 48 C.J.S. Intoxicating Liquors § 171 (2018 Update).

10. Permit or license applicants that satisfy the statutory criteria are entitled to issuance of the permit or license. *See* 48 C.J.S. Intoxicating Liquors §§ 166 & 194 (2018 Update).

The Department proposes to cancel the Respondent’s permit and license because the Respondent is not of good moral character due to the continued sale of beer, wine, and liquor after the expiration of its permit and license.

While the Respondent does not dispute the continued sale of beer, wine, and liquor after the expiration of its permit and license, Respondent argues that the violation occurred due to a misunderstanding of the Denial Notice, as well as misinformation received from the Department. Specifically, Mr. Starkey stated that he understood the Denial Notice to mean that Respondent could continue selling beer, wine, and liquor for up to ninety (90) days, the time he was given to file his income taxes.

While the court recognizes that the Respondent continued to sell beer, wine, and liquor after the expiration of its permit and license, it is evident that there was confusion regarding the continued validity of the Respondent’s permit and license. The Court notes that a permit and license was issued on March 7, 2019, with an effective date of December 1, 2018. This date is consistent with Respondent’s belief that he had ninety (90) days to file personal income taxes while continuing to sell alcoholic beverages. Although Mr. Starkey did not read the Denial Notice, his interaction with the Department was sufficiently confusing that a reasonable person could have believed that the restaurant could continue operating while the tax issue was being resolved.

In view of the forgoing, the court is not convinced that the violation stemming from the Respondent’s failure to read and correctly interpret the Denial Notice exhibits deficient moral character. Based on the confusion and misinformation proceeding from the Department’s first renewal, I do not find that the unlicensed sales on which taxes were paid demonstrate the absence

of moral fitness to operate a business in conformity with the law.⁹ See *Gantt v. Columbia Coca-Cola Bottling Co.* 204 S.C. 374, 380, 29 S.E.2d 488, 490 (1944) ("an intent to defraud the United States Government is an essential element. For this reason we think the charge to which appellant pleaded guilty involves the element of moral delinquency.") Additionally, although criminal citations were presented following the undercover operation on February 28, 2019, Respondent acknowledged the unlawful conduct but believed that it was operating in compliance with the law and would not have continued selling had Respondent realized that doing so was unlawful.

Respondent's failure to follow the law, therefore, was not due to an inability to distinguish between right and wrong. Moreover, the evidence reflects that Mr. Sharkey possesses the ability to comply with the law when properly informed. The court concludes that he possesses the requisite moral character to hold an alcoholic beverage license. See *Columbia Wing Shack, LLC, d/b/a Columbia Wing Shack v. South Carolina Department of Revenue*, Docket No. 18-ALJ-17-0194-CC (S.C. Admin. Law Ct. August 28, 2018).

Thus, the Respondent has met its burden of demonstrating compliance with the statutory requirements for licensure. Petitioner's proposed cancellation of Respondent's beer and wine permit and business liquor by the drink license is denied, subject to the conditions set forth below.

ORDER

Based upon the above findings of fact and conclusions of law, the court finds that Respondent meets the applicable requirements for licensure.

IT IS THEREFORE ORDERED that the Department shall **GRANT** the Petitioner's renewal application for an on-premises beer and wine permit and restaurant liquor by the drink license, subject to the following conditions:

1. That the Petitioner's permit and license shall be suspended for ninety (90) days, beginning with the date that this order becomes final;
2. That Jonathan Starkey shall continue to comply with the payment plan for his South Carolina income taxes; and

⁹ "With regard to crimes involving alcoholic beverages, it has been held that the illegal manufacture of whiskey constitutes a crime of moral turpitude where the offense involves an element of intent to defraud tax authorities" JOHN D. GFATHERS & JUSTIN WERNER, *THE REGULATION OF ALCOHOLIC BEVERAGES IN SOUTH CAROLINA*, 219 (2007).

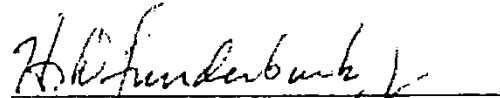
3. That Petitioner will cooperate with any investigation and audit of other business taxes which might be owed, including Local Option Permits, or admissions taxes and shall remit such taxes as are determined to be due within a reasonable time set by the Department or by the final decision of a reviewing court.

A violation of any of these conditions shall constitute a violation of the Petitioner's alcoholic beverage permit and license and may subject Respondent to further suspension or to revocation.

In addition, the Department's Application to sell or otherwise dispose of beer, wine, and liquor seized pursuant to the search warrant executed on February 28, 2019, is **GRANTED**.

AND IT IS SO ORDERED.

January 15, 2020
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0269-CC

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served the **Final Order** in this case upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and their attorneys as follows:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

January 15, 2020
Columbia, SC

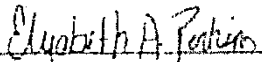

Elizabeth A. Perkins
Judicial Law Clerk

Exhibit 2

55

103

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	Docket No. 19-ALJ-17-0269-CC
	)	
Petitioner,	)	
	)	
v.	)	MOTION FOR RECONSIDERATION AND STAY
	)	
Study Hall, LLC d/b/a/ Study Hall, LLC,	)	
	)	
Respondent.	)	

On January 15, 2020, this Court issued its Order in the above matter, finding that Jon Starkey ("Starkey"), the owner of Respondent Study Hall, LLC ("Respondent"), is of good moral character.¹ Despite finding that Starkey is of good moral character and that there was reason for his confusion as to the issuance of his alcohol licenses, this Court imposed a penalty of suspending the subject licenses for a period of 90 days from the date the Order becomes final, which would be January 25, 2020. Pursuant to SCALC Rule 29(D), Respondent moves this Court to alter or amend its Order to remove the provision for suspension from the Order. Respondent additionally moves subject to SCALC Rule 29(E) for this Court to stay any possible suspension until after a ruling on this Motion.

MOTION FOR RECONSIDERATION

Respondent respectfully moves this Court pursuant to SCALC Rule 29(D), to reconsider its Order issued January 15, 2020 suspending Respondent's beer and wine and restaurant liquor by the drink license for 90 days, despite finding that Starkey is of good moral character. As set forth in further detail below, the Court's decision to suspend

¹ That Order was filed on January 16, 2020. As of the date of this Motion, Respondent has not received a copy of the Order in this matter via mail or email.

FILED
JAN 23 2020

Respondent's permit and license was outside the Court's authority and even if it was within the Court's authority, it is disproportionate to the violation, has no deterrent effect, and results in manifest injustice to Respondent.

I. Statement of the Case

On March 20, 2019, the South Carolina Department of Revenue ("DOR") issued a Notice of Intent to Cancel to Respondent, solely citing Starkey's alleged lack of good moral character as the reason for cancellation. Respondent protested the Notice of Intent to Cancel by letter received by DOR on June 18, 2019. DOR then issued its Determination on July 17, 2019, concluding that Starkey is not of good moral character as required by S.C. Code §§ 61-2-100(D), 61-4-520, and 61-6-1820(2) and therefore is not a proper person to hold an alcohol license. On August 14, 2019, Respondent timely filed a Request for Contested Case Hearing on the issue of Starkey's moral character.

On December 17, 2019, this Court held a hearing on the question of whether Starkey is of the requisite moral character for Respondent to hold an alcohol license. Respondent called witnesses and presented evidence to prove Starkey's good moral character. DOR called witnesses and presented evidence to attempt to prove Starkey is of poor moral character. On January 15, 2020, this Court issued its Order finding that the DOR had erred and that Starkey is of the requisite moral character to hold an alcohol license. However, this Court also ordered that "Respondent's license and permit shall be suspended for ninety (90) days."

II. Argument

Respondent respectfully brings this motion to correct clear errors of law and to prevent manifest injustice. Respondent urges this Court to reconsider its January 15,

2020 Order, to correct clear errors of law and because allowing said Order to stand without amendment would cause manifest injustice to Respondent, who has not been found liable for any administrative violation and who will almost certainly be financially ruined should the Order stand.

a. This Court acted outside its authority when finding for Respondent but imposing a penalty for a violation for which Respondent was not cited.

"An administrative agency has only the powers conferred on it by law and must act within the authority created for that purpose." S.C. Dep't of Revenue v. Sandalwood Soc. Club, 399 S.C. 267, 278, 731 S.E.2d 330, 336 (Ct. App. 2012) (internal citations removed). "DOR has the authority to determine an appropriate administrative penalty, within the statutory limits established by the legislature, after the parties have had an opportunity for a hearing on the issues . . . and in assessing a penalty, DOR should give effect to the major purpose of a civil penalty, which is deterrence." Id. at 278-79, 336.

In a contested case hearing before the Administrative Law Court ("ALC"), "[the ALC] is the fact-finder and it is [the ALC's] prerogative ... to impose an appropriate penalty based on the facts presented." Id. at 280, 337. However, the ALC can only penalize a licensee for violations cited by DOR. See Id. at 278.

Here, DOR cited only one reason in its Determination for its cancellation of Respondent's license: Starkey's alleged lack of good moral character. DOR notably did not cite Respondent for selling alcohol without a license or any other administrative violation. Since DOR did not cite Respondent for any administrative violation and simply proposed to cancel Respondent's license due to the issue of Starkey's moral character, this Court was limited in its review to determining whether Starkey has the requisite moral character for Respondent to hold an alcoholic beverage license.

This Court ultimately concluded that Starkey "possesses the requisite moral character to hold an alcoholic beverage license" and that Respondent meets the applicable requirements for licensure. DOR never cited Respondent for violating the law except to the extent it argued that Starkey had poor moral character; therefore, a finding for Respondent cannot have a penalty attached to it.

- b. The penalty of suspending Respondent's license is grossly disproportionate to any possible offense, has no deterrent effect, and will result in manifest injustice to Respondent.**

Even if DOR had cited Respondent for violating the alcoholic beverage laws of the State of South Carolina, which it did not do, suspension for 90 days is grossly disproportionate to any such offense, has no deterrent effect, and will result in manifest injustice to Respondent.

- I. The penalty imposed on Respondent is grossly disproportionate to any possible offense.**

SC Revenue Procedure #13-2 provides penalty guidelines for ABL Violations. For "Alcoholic Liquor by the Drink- Retail Sale and Consumption," the recommended administrative penalty for a first offense is a fine of \$400. The recommended administrative penalty for a second offense is a fine of \$500.

Therefore, if even if DOR had cited Respondent for an administrative violation of the ABL, the maximum penalty DOR guidelines would have dictated was a fine of \$400 to \$500. Respectfully, it is unjust for this Court to penalize Respondent not only for a violation for which it was never cited, but with a penalty so grossly disproportionate to the DOR's own recommended penalties.

ii. The penalty imposed on Respondent has no deterrent effect and will result in manifest injustice to Respondent.

As stated above, "in assessing a penalty, DOR should give effect to the major purpose of a civil penalty, which is deterrence." S.C. Dep't of Revenue v. Sandalwood Soc. Club at 278-79, 336. A suspension of 90 days will not deter Respondent from future violations of the alcohol beverage laws of South Carolina, because it will in fact put Respondent completely out of business. This result is manifestly unjust.

As described in the Affidavit of Jon Starkey (attached as **Exhibit 1**), Respondent will likely be put out of business by a 90 days suspension. (**Ex. 1, ¶ 6.**) Respondent will be unable to pay its employees if its license is suspended and Starkey himself will be without any income with which to comply with his South Carolina income tax payment plan. (**Id. ¶¶ 5, 7, 8.**) In addition, Respondent has already forfeited approximately \$16,000.00 of liquor, beer, and wine which were seized by SLED. (**Id. ¶ 10.**)

Since Respondent has not been cited for an administrative violation by DOR, and even if it had, the penalty would be a fine of \$400 to \$500, a suspension which would put Respondent completely out of business and result in Starkey likely defaulting on his payment plan with DOR goes beyond deterrence and is manifestly unjust.

MOTION FOR STAY

During the pendency of the Court's consideration of this motion for reconsideration, Respondent requests that the Court stay imposition of the suspension of Respondent's alcohol licenses. Although not set forth explicitly in the Order, the purpose for the suspension appears to be punitive or as a deterrent rather than to protect the public from any particular harm as the Court held that Mr. Starkey was of sufficiently good moral character to hold an alcohol license, which was the only question before the Court. Thus,

permitting Study Hall to continue to serve beer, wine, and liquor by the drink during this period of reconsideration by the Court will have no negative impact on the public.

In addition, there is a likelihood that Respondent will succeed on its merits as the Court exceeded its authority in imposing the suspension in the absence of any other alleged administrative violation.

Respondent will suffer immediate, irreparable harm if its alcohol licenses are suspended before this Court gives due consideration to its motion to alter or amend the Order. Respondent will have no income during any period that any alcohol licenses are suspended, leaving him unable to comply with his payment plan for his South Carolina income taxes. (Ex. 1, ¶ 7.) Such event of noncompliance, per the Order, would constitute a violation of the alcoholic beverage permit and license and could subject Study Hall's licenses to further suspension or revocation. In essence, if Respondent's license is suspended, Starkey will be unable to comply with his South Carolina income tax payment plan, another condition contained in the Order at issue here.

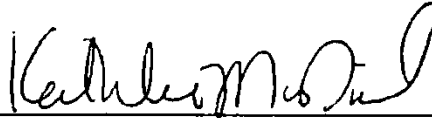
Other than a stay of the suspension, Respondent has no other remedy at law.

CONCLUSION

Based upon the foregoing, Respondent respectfully requests that this Court alter or amend its Order to remove the 90-day suspension period, or in the alternative to impose some other less harsh penalty such as a monetary penalty or additional license-related education requirements because the suspension is not based on any violation properly before this Court and because such suspension is not only grossly disproportionate to the offense, it has no deterrent effect, and will result in manifest injustice to Respondent..

Respondent also requests that during the period that this Court is considering this request that this Court stay the 90-day suspension because such suspension would effectively put Respondent out of business.

Respectfully submitted,



Kathleen McDaniel (Fed. Bar No. 10139 / SC Bar No. 74826)
BURNETTE SHUTT & MCDANIEL, PA
PO Box 1929
Columbia, South Carolina 29202
Tel. (803) 904-7913
Fax (803) 904-7910
KMcdaniel@BurnetteShutt.Law

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina

January 23, 2020

FILED

JAN 23 2020

SC ADMIN LAW COURT

EXHIBIT 1

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
Study Hall, LLC d/b/a/ Study Hall, LLC,	)	
	)	
Respondent.	)	

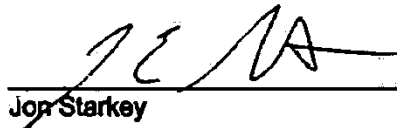
AFFIDAVIT OF JON STARKEY

PERSONALLY APPEARED before me, Jon Starkey, who being first duly sworn,
testifies that:

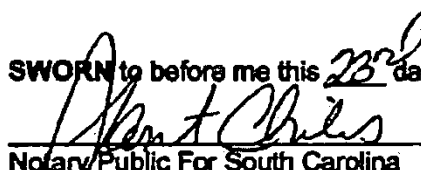
1. My name is Jon Starkey. I am a resident of Clemson, South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. I am the sole owner of Study Hall, LLC, which operates as Study Hall bar in
Clemson, South Carolina.
5. My sole source of income is income derived from the operation of Study Hall.
6. If Study Hall's alcohol licenses are suspended for three months, I believe such
suspension will put the company out of business.
7. If Study Hall's liquor by the drink and on premises beer and wine licenses are
suspended for three months, I will have no income to live on and no income to
comply with the payment plan for my South Carolina income taxes.

8. If Study Hall's alcohol licenses are suspended for three months, I will have no income to pay my employees, and I cannot expect them to go three months without income as well.
9. If my employees cannot work for Study Hall for three months, I anticipate they will find new jobs, and I will be forced to employ and train a significant percentage of new staff if Study Hall is able to re-open after a suspension period.
10. The value of the liquor, beer, and wine that was taken from Study Hall was approximately \$16,000.00.

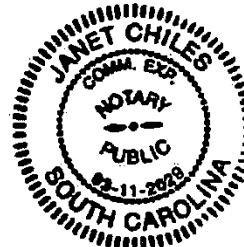
FURTHER AFFIANT SAYETH NOT.


Jon Starkey

SWORN to before me this 23rd day of January, 2020


Notary Public For South Carolina

My Commission Expires: 3/11/2029



FILED

JAN 23 2020

SC ADMIN LAW COURT

Exhibit 3

66

114

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,

Petitioner,

vs.

Study Hall ,LLC d/b/a Study Hall, LLC,

Respondent.

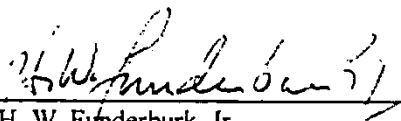
Docket No. 19-ALJ-17-0269-CC

**ORDER GRANTING
MOTION FOR STAY**

This matter is before the South Carolina Administrative Law Court (ALC or Court) on Study Hall, LLC's, d/b/a Study Hall, LLC, (Respondent) Motion for Reconsideration of the Court's Order of January 15, 2020 (Order), and Motion for Stay of the imposition of the suspension of Respondent's alcohol license set forth in the Order.

IT IS HEREBY ORDERED that Respondent's Motion for Stay is **GRANTED** pending the Court's decision on Respondent's Motion for Reconsideration.
AND IT IS SO ORDERED.

February 3, 2020
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

FILED

FEB 03 2020

SC ADMIN. LAW COURT

FILED

MAR 11 2020

SC ADMIN LAW COURT

Exhibit 4

68



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,)
)
Petitioner,)
)
vs.)
)
Study Hall, LLC, d/b/a Study Hall, LLC,)
)
Respondent.)

Docket No. 19-ALC-17-0269-CG 2020

**ORDER DENYING RESPONDENT'S
MOTION TO RECONSIDER**

A contested case hearing involving the South Carolina Department of Revenue (Petitioner or Department) and Study Hall, LLC, d/b/a Study Hall, LLC, (Respondent) was held on December 17, 2019, at the offices of the Administrative Law Court (ALC or Court) in Columbia, South Carolina. On January 15, 2020, the Court issued an order in which it found Respondent's owner (Starkey) to be of good moral character. However, the Court imposed the following conditions on granting renewal of Respondent's on-premises beer and wine permit and restaurant liquor by the drink license:

1. That the Petitioner's permit and license shall be suspended for ninety (90) days, beginning with the date that this order becomes final;
2. That Jonathan Starkey shall continue to comply with the payment plan for his South Carolina income taxes; and
3. That Petitioner will cooperate with any investigation and audit of other business taxes which might be owed, including Local Option Permits, or admissions taxes.

On January 23, 2020, Respondent filed a Motion for Reconsideration and Stay. The Motion to Stay the suspension of Respondent's alcohol permit and license was granted during the pendency of the Court's consideration of the Motion to Reconsider.

Respondent argues that the Court acted outside of its authority by imposing a penalty for a violation for which Respondent was not cited. Specifically, Respondent contends that the Department cited only one reason for its cancellation of Respondent's permit and license: that Respondent's owner lacked good moral character.

FILED

MAR 06 2020

On March 20, 2019, the Department notified Respondent that it intended to cancel Respondent's On-Premises Beer and Wine Permit and Liquor by the Drink License. Because Respondent was late in applying for renewal, a denial notice was issued advising Respondent to cease all sales of beer, wine, and liquor. Respondent did not comply with the notice nor did Respondent complete the requirements to renew until March 7, 2019.

The South Carolina Law Enforcement Division (SLED) subsequently notified the Department that Respondent was selling alcoholic beverages without a license on February 28, 2019. According to the Department, Respondent was unlicensed between November 30, 2018, and March 7, 2019.¹ Selling alcoholic beverages without a license was identified in the Department Determination as an one of the indications that Respondent's owner did not possess the requisite moral character to hold an alcohol permit and license.

In its Determination the Department observes that "there is no single criterion by which to determine if a person is of good moral character." The associated discussion includes selling alcohol without a license and being convicted of a violation of liquor laws. The Department, apparently, also gave weight to an event in Statesboro, Georgia, that took place in 2014 at a business previously owned and operated by Respondent's owner.

As for the Georgia incident, Starkey claims to have informed the Department about it during the original application process. Ms. Gatto, the victim's mother, testified that she notified the Department about the Georgia incident. Starkey also reported the event to the City of Clemson Chief of Police and attempted to show him the recorded video of the incident. Chief Dixon confirmed that he declined to view the video. The Georgia tragedy could have formed a basis for objection to or even for denial of Respondent's initial license application but should not be considered now as a factor in a subsequent renewal.

While a conviction for a violation of liquor laws can be weighed against an applicant's moral fitness, the record reflects only a pending charge and Starkey's application for Pre-trial Intervention, which, if successful, would expunge the charge.

The only remaining fact supporting the Department's contention that Starkey lacks the requisite moral character is the fact that Respondent stocked and sold beer, wine, and liquor without a valid

¹ The previous license expired on November 30, 2018. A valid renewal went into effect on March 7, 2019. Thus, Respondent was unlicensed for 96 days from December 1, 2018, through March 6, 2019.

permit or license. In the original order, the Court recognized that “Respondent continued to sell beer, wine, and liquor after the expiration of its permit and license.” Selling beer and wine in this circumstance violates S.C. Code Ann. § 61-4-560 (2009) (making operation of a business without a permit a misdemeanor and providing that each day in which business is carried on without a permit a separate offense). In addition, S.C. Code Ann. § 61-4-600 (2009) provides that a permit must be surrendered immediately when the permit is revoked, cancelled, or suspended.

Likewise, S.C. Code Ann. § 61-6-4010 (2009) prohibits the sale of alcoholic liquors “except in accordance with the provisions of this title.” It is the long-standing law of South Carolina that liquor licenses “are mere permits, issued or granted in the exercise of the police power of the state to do what otherwise would be unlawful to do; and to be enjoyed only so long as the restrictions and conditions governing their continuance are complied with.” *Wall v. S.C. Alcoholic Beverage Comm’n*, 269 S.C. 13, 15, 235 S.E.2d 806, 807 (1977); *Feldman v. S.C. Tax Comm’n*, 203 S.C. 49, 57, 26 S.E.2d 22, 25 (1943). Selling alcoholic liquors without a license is a violation of the law. *Pirates’ Cove v. Strom*, 249 S.C. 270, 277, 153 S.E.2d 900, 903 (1967) (citing Section 4-91 (1962) (recodified as S.C. Code Ann. § 61-13-210 (1976) now S.C. Code Ann. § 61-6-4010 (2009))).

When renewal was denied, Respondent’s permit was effectively revoked or cancelled. Moreover, Starkey admitted that beer, wine, and liquor sales continued from December 7, 2018, until March 7, 2019, while he was not licensed.

The case cited by Respondent, *S.C. Dept. of Revenue v. Sandalwood Soc. Club*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012), involved violations shown by evidence presented by an intervenor, not cited by the Department, but used by the ALC to support imposition of a more severe penalty than the monetary fine assessed by the Department.

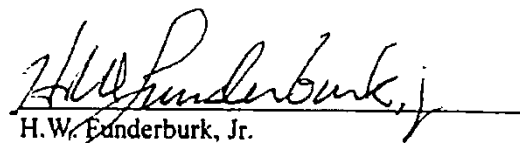
In this case, the violations supporting the penalty proposed by the Department, cancellation of Respondent’s permit and license, derived from testimony by a Department employee, by a SLED agent, and admissions by Starkey. While the Department did not seek a penalty specifically for this violation, it provided a factual basis for the Department’s proposed cancellation. This case is also distinguished from *Sandalwood* because the penalty imposed by this Court is less severe than the cancellation (revocation) of the permit and license renewal, which became effective on March 7, 2019. Furthermore, the Department’s determination that Starkey lacked the moral character to

obtain a permit and license could likely prevent his qualifying for a permit or license for the foreseeable future. The Court's imposing a suspension for slightly less than the length of time Respondent operated without a permit and license is certainly less severe than a cancellation that might disqualify Starkey from being permitted or licensed and less severe than a revocation with similar consequences.

For these reasons, the Motion for Reconsideration is **DENIED**.

AND IT IS SO ORDERED.

March 6, 2020
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0269-CC

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served the **Order Denying Respondent's Motion to Reconsider** in this case upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and their attorneys as follows:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

March 6, 2020
Columbia, South Carolina


Elizabeth A. Perkins
Judicial Law Clerk

FILED

MAR 06 2020

SC ADMIN. LAW COURT

Exhibit 5

74

122

Jason R. Williamson, CP, SCCP

From: Patrick McCabe <Patrick.McCabe@dor.sc.gov>
Sent: Monday, March 9, 2020 3:10 PM
To: Kathleen M. McDaniel
Subject: [EXT]Study Hall
Attachments: Order denying Respondent's Motion to Reconsider.pdf

Kathleen,

I have attached Judge Funderburk's Order.

It is the Department's intention to begin the suspension at midnight on March 11, 2020, which will run until June 9, 2020.

Just let me know if your client is going to surrender his permit and license to the Department or if your office will hold it during the suspension period.

Thanks.



Patrick McCabe
Counsel for Litigation
Litigation & Appeals
803-898-5056 | Patrick.McCabe@dor.sc.gov
South Carolina Department of Revenue | dor.sc.gov
PO Box 12265, Columbia, SC 29211-9979

The content of this email and any attachments may be confidential and legally protected from disclosure. If you are not the intended recipient of this email, please reply immediately to notify the sender, then delete it from your system. You are prohibited from sharing any part of this message with a third party.

Exhibit 6

76

124

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

South Carolina Department of Revenue,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

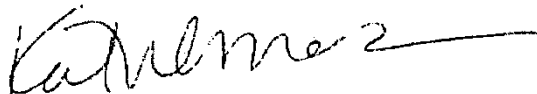
RECEIVED
MAR 10 2020
SC COURT OF APPEALS

Respondent,

Appellant.

NOTICE OF APPEAL

Appellant Study Hall, LLC, d/b/a Study Hall, LLC appeals two orders of the South Carolina Administrative Law Court: Final Order, dated January 15, 2020, and Order Denying Respondent's Motion to Reconsider, dated March 9, 2020. A copy of the two orders appealed are attached as **Exhibit 1**. Appellant received notice of the denial of its Motion to Reconsider on March 9, 2020.



Kathleen McDaniel, Esq. (Bar No. 74826)
BURNETTE SHUTT & MCDANIEL, PA
Post Office Box 1929
Columbia, South Carolina 29202
P: 803.904.7913
F: 803.904.7910
KMcdaniel@BurnetteShutt.Law

ATTORNEY FOR APPELLANT STUDY
HALL, LLC

March 10, 2020
Columbia, South Carolina

Other Counsel of Record:

Patrick McCabe
South Carolina Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
803-898-5056
Patrick.McCabe@dor.sc.gov

**ATTORNEY RESPONDENT
SOUTH CAROLINA
DEPARTMENT OF REVENUE**

EXHIBIT 1

1 No. 19-MJ-1744 CC
RECEIVED
 MAR 10 2020
 FINAL ORDER
 Court of Appeals

Docket No. 19-11 ~~AP-2542~~

FINAL ORDER
U.S. Court of Appeals

FINDINGS OF FACT

FILED

JAN 15 2020

SC ADMIN LAW COURT

State Income Tax returns for the years from 2014 through 2017. Ninety days were allowed for these taxes to be filed. In addition, the Department required that Respondent furnish verification of a liability insurance policy complying with S.C. Code Ann. § 61-2-145 (Supp. 2018).¹ Inscribed between the paragraph containing the notice of fees imposed for late application for renewal and the paragraph setting out additional grounds for denial on the basis of a principal's failure to file income tax returns and the liability insurance requirement was a single sentence: "You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license." (Petitioner's Exhibit 1, p. 14 and Petitioner's Exhibit 7.)

Respondent's owner (Starkey) admitted receiving this document but confessed that he did not read it. He provided evidence via three facsimile transmissions that he had the proper liability insurance. He then focused on his belief that he had ninety (90) days to file his taxes thereby resolving the identified renewal problems. He believed he could continue operating and selling beer, wine, and liquor, during the ninety (90) days he had to file his taxes.

On March 7, 2019, Respondent furnished the necessary documentation to the Department, and the Department issued an on-premises beer and wine permit and a restaurant liquor by the drink license. Although this permit and license was issued on March 7, 2019, it had a start date of December 1, 2018, a date consistent with his previous belief. On March 11, 2019, the Department instructed Respondent to return the erroneously dated permit and license. Respondent surrendered the permit and license to the Greenville District Office on March 12, 2019, and, in return, was given a permit and license dated as being issued on March 7, 2019, and having a start date of March 7, 2019.

Subsequently, by notice received by the Department on March 14, 2019, the State Law Enforcement Decision (SLED) informed the Department that Respondent sold alcoholic beverages on February 28, 2019, when Respondent was not licensed. SLED also informed the Department that a search warrant was obtained and that its execution revealed a copy of the Renewal Notice of Denial, it seized numerous cans of beer and bottles of wine and liquor, and the manager voluntarily provided sales records for the months of December, January, and February (2018 through 2019).

¹ This provision, which went into effect on July 1, 2017, applies to all new or renewed permits or licenses for on-premises consumption after that date.

On March 20, 2019, the Department issued a Notice of Intent to Cancel Respondent's permit and license because its owner, Jonathan Starkey, lacks the moral character required to hold an alcohol permit and license as required by South Carolina law, S.C. Code Ann. §§ 61-2-100(D), 61-4-520(1), and 61-6-1820(2) (2009). The Department also seeks to sell or dispose of the alcoholic beverages seized by SLED.

Deputy Chief of Police Robert Bryan of Statesboro, Georgia, investigated a death resulting from a fight on August 28, 2014, between two under-age drinkers in a bar owned by Jonathan Starkey in Statesboro. As a result of the fight, an allegedly off-duty employee pled guilty to voluntary manslaughter.² Deputy Chief Bryan concluded that, from his observations, Jonathan Starkey is not fit to hold an alcohol license.

On cross-examination, Deputy Chief Bryan stated that Mr. Starkey was not indicted nor were any citations issued to him. Starkey was always forthcoming with him and always took responsibility for any mistakes.

Katherine Gatto, the mother of the young man killed in the Statesboro bar, notified the South Carolina Department of Revenue about the incident in Georgia. She opined that Mr. Starkey has a long history of disregarding local alcohol ordinances and state law and does not have the character to operate an establishment within the parameters of the law.

Krista Strzelezyk, an Alcoholic Beverage Licensing Supervisor for the Department, stated that renewal packages go to licensees sixty days prior to the expiration of a license. Respondent's location currently holds a permit and license but did not continuously hold a permit and license between November 30, 2018, and March 7, 2019. A renewal application was denied on December 7, 2018. The denial also advised the business that it must cease all sales of beer, wine, and/or liquor until its receipt of a renewed license. Ms. Strzelezyk also confirmed that Respondent obtained a local option permit in October 2019, after the renewal license was issued on March 7, 2019.³ A revocation in another state could keep a principal from obtaining a license in South Carolina for two years for a beer and wine permit or five years for a liquor license. At the time the cancellation

² Deputy Chief Bryan admitted that there was conflicting evidence regarding the perpetrator's work status at the time of the incident but that both individuals were underage and had been consuming alcoholic beverages.

³ The Department contends that Stady Hall did not have a local option permit between November 20, 2017, and October 20, 2019. However, no evidence was produced in this hearing to show that there were Sunday sales during this period. Ms. Strzelezyk stated that she believed there had been violations issued, but none were presented.

was proposed, the Department was not aware of other issues that would have prevented it from issuing the permit.

Special Agent Dorman, based on a tip from a wholesaler of beer that Study Hall's license had expired, confirmed with Ms. Strzeleyk that the location did not have a current permit or license.

On February 28, 2019, undercover SLED agents entered Respondent's restaurant and purchased beer. On that date, Respondent's permit and license had expired and had not been renewed. Following the undercover operation, SLED Agent Dorman obtained a search warrant and seized numerous cans and bottles of beer and bottles of wine and liquor. The owner was charged with operating without a permit in violation of S.C. Code Ann. § 6-4-560 (2009) and with unlawfully storing liquor in a place of business in violation of S.C. Code Ann. § 61-6-4060(A). In addition, the manager furnished sales reports showing sales of beer, wine, and liquor, for the months of December 2018, January 2019, and February 2019.¹

In 2017, an undercover operation revealed an underage sale. This event was the only violation prior to the February 28, 2019, undercover operation.

Dorman admitted that based on his interactions, Mr. Starkey has been cooperative and compliant although he has not complied with the law.

The City of Clemson police chief, Jimmy Dixon, met with Starkey prior to Study Hall's opening. He stated that Starkey himself has a fine reputation in the community. The bar, on the other hand, has a reputation as a place for underage drinking, and he does not believe that Starkey is fit to hold an alcohol license in South Carolina.

Chief Dixon admitted that he had not filed any protests against licensing or license renewal of bars in his jurisdiction. He also admitted that he received telephone calls about the Statesboro incident and that Starkey offered to show him a video of the incident. He refused to view the video or discuss the matter with Starkey. He advised Starkey that he should follow the rules and regulations established by the Department and the laws of South Carolina.

¹ Special Agent Dorman produced a report of the investigation including the execution of the search warrant. This report, admitted as Petitioner's Exhibit 8, included the Renewal Notice of Denial which informed the licensee that all sales of beer, wine, and/or liquor must cease until a renewed license was issued. It also incorporated the reports showing sales of beer, wine, and liquor for December 2018, January 2019, and February 2019. The search warrant return included some eighteen pages listing the alcoholic beverages seized.

Jonathan Starkey the sole owner of Study Hall, LLC, testified that he worked with a Department employee to meet the requirements of state laws and regulations. He told this employee about what happened in Statesboro, that a patron had died, and that he voluntarily surrendered his license.

He admitted that he did not apply to renew his license until December 7, 2018. He was given a notice of denial stating that he needed to provide proof of insurance and file his income taxes. He resolved the insurance issue while at the Department's regional office. According to Starkey, the Department employee told him he had ninety (90) days to resolve the issue with his taxes.⁵ He discussed the issues but did not read the denial notice. He believed could operate during the ninety days he was given to file his tax returns. He worked with his accountant and filed his returns within the ninety (90) days. During this time, he filed monthly sales tax reports and paid the sales taxes due for December 2018, January 2019, and February 2019.

Starkey kept the denial at his home office and allowed the previous license to remain on display at the business. He gave the Department a check with the renewal application on December 7, 2018. The Department accepted and negotiated the check. The Department also accepted his monthly sales tax returns and the accompanying payments. Law enforcement officers were in the bar regularly, but no one said anything about the expired license.

On March 7, 2019, Starkey provided the necessary documentation to the Department and was issued a permit and license with start dates of December 1, 2018. He was contacted on March 11, 2019, and instructed to return them. He returned the permit and license with start dates of December 1, 2018, and was issued a permit and a license with start dates of March 7, 2019. On March 20, 2019, Starkey was informed by letter that the March 7, 2019, permit and license were also erroneously granted and was notified that the Department intended to cancel his On-Premises Beer and Wine Permit and his Restaurant Liquor by the Drink License because he lacked "the requisite moral character to hold an alcohol permit and license." He was given the option of consenting to the cancellation and surrendering the permit and license within ninety (90) days or protesting the proposed cancellation, also within ninety (90) days. Although the letter did not

⁵ Although the Department disputes this claim, the notice provided and referenced by Starkey includes the following language in the bullet point identifying Starkey's failure to file income taxes for years 2014 through 2017 as a reason for denying the renewal application: "Notify Alcohol Beverage Licensing within 90 days that the taxes have been filed." (Petitioner's Exhibit 1, p. 14 and Petitioner's Exhibit 7.)

indicate that alcohol sales could continue during the ninety (90) days or through the pendency of further appeal, that extension of the erroneously issued permit and license has, in fact, occurred.

When Special Agent Dorman returned to serve warrants, Starkey, who was in Georgia, instructed his manager to cooperate by printing the sales reports and told him where to find the Renewal Notice of Denial that he believed would show that he had a temporary permit and license for ninety (90) days. When the manager gave the license to Agent Dorman, Dorman explained to Starkey that the denial prohibited the sale of beer, wine, and liquor and was not an extension. Starkey stated that he stopped alcohol sales in accordance with Dorman's instructions.

Starkey denied having any criminal convictions or charges prior to the February 28, 2019, incident. He was served with one Arrest Warrant for operating without a permit and a second one for unlawfully storing alcoholic liquors in a place of business. Starkey has applied for Pre-Trial Intervention and paid the application fee for that program.

He uses breathalyzers to monitor his staff and identification card readers to prevent under-age drinking. He increased staff and uses gates to control crowds when there are events that attract large numbers of patrons.

He denied having defrauded anyone or writing any bad checks. He has provided guidelines for his staff to avoid having impaired workers. He also makes donations to local charities and law enforcement and helps individuals in need.

After Study Hall's previous incident of underage drinking, Starkey discharged the responsible employee.

Starkey admitted that he sold alcoholic beverages on Sundays for approximately two years without paying the local option tax. He also admitted that he owes the State of South Carolina between thirty (30) and forty (40) thousand dollars in personal income taxes and is paying those taxes on an agreed payment plan, which he has been paying for about a year.²

His Georgia attorney, Wesley Faulbee, assisted Starkey in opening the bar in Statesboro, Georgia, and in negotiating a settlement with the City of Statesboro concerning the incident in the bar there. He stated that Starkey has good moral character, has been honest with him, has been straightforward, and accepts responsibility for his actions. He admitted that Starkey might miss

² The Court presumes that the amount owed includes penalties and interest.

details but does not make the same mistake twice. Starkey focuses on cooperating with law enforcement.

Chris Carlee, Fire Marshall and Arson Investigator for the City of Clemson, stated that Starkey and his staff have been cooperative and professional and done everything he has requested. Starkey has controlled access and counted customers to stay within occupancy limits. In his opinion, Starkey has been honest and is compliant with the fire code. He considers Starkey to be of good moral character. He admitted that he was not aware of alcohol licensing requirements and did not know that Starkey was operating without proper licensing

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, I conclude the following as matters of law:

1. Jurisdiction over this matter is vested with the ALC pursuant to South Carolina Code Sections 1-23-310 *et seq.* (2005 & Supp. 2017), 1-23-600(B) (Supp. 2017), and 61-2-260 (2009). The standard of proof in an administrative proceeding such as this is a preponderance of the evidence, unless otherwise specified. *Anonymous v State Bd of Med Exam'rs*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988), *see also* S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2017). "A 'preponderance of the evidence' is evidence which convinces as to its truth." *Giorecki v Giorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010) (citation omitted). Consequently, the court's findings "may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it." *See Tims v J D Kitts Const.*, 393 S.C. 496, 503, 713 S.E.2d 340, 343-44 (Ct. App. 2011) (citations omitted). The party seeking a license has the burden of proving it has met all the statutory requirements for the license. 48 C.J.S. *Intoxicating Liquors* § 186 (2018 Update).
2. The weight and credibility assigned to evidence presented at a hearing is committed to the province of the trier of fact. *See S.C. Cable Television Ass'n v S Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992) (citation omitted). The trier of fact who observes a witness is in the best position to judge the witness's demeanor and veracity and to evaluate the credibility of his testimony. *See, e.g. Woodall v Woodall*, 322 S.C. 7, 10, 471 S.E.2d 154, 157 (1996) (citations omitted), *Wallace v Milliken & Co.*, 300 S.C. 553, 556, 389 S.E.2d 448, 450 (Ct. App. 1990) (citation omitted).

3. The issuance of a license to sell alcohol "rests in the discretion of the body or official to whom the duty of issuing it is committed . . ." *Palmer v. S.C. Alcoholic Beverage Control Comm'n* 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984) (citations omitted); see also *Wall v. S.C. Alcoholic Beverage Control Comm'n* 269 S.C. 13, 235 S.E.2d 806 (1977) "A license may properly be refused where a statutory ground for refusal exists, provided there is a reasonable basis for believing in its existence . . ." 48 C.J.S. *Intoxicating Liquors* § 194 (2018 Update). However, "[g]ood cause must be shown for the denial of a license." *Id*
4. In this state, the requirements for beer and wine permits are set forth in Section 61-4-520 (2009) of the South Carolina Code, and the requirements for liquor by the drink licenses for restaurants are set forth in Section 61-6-1820 (2009 & Supp. 2018).
5. Regarding owners and principals of a business applying for a permit or license, "[l]icenses and permits may be issued only to the person who is the owner of the business seeking the permit or license." S.C. Code Ann. § 61-2-100(A) (2009). Several statutory provisions in South Carolina address the character requirements of an applicant for beer and wine permits and liquor by the drink licenses. Section 61-2-100(D), which applies to all liquor licenses and beer and wine permits, provides that "[t]he Department may not issue a license or permit under this title to any person unless the person and all principals are of good moral character," S.C. Code Ann. § 61-2-100(D) (2009).
6. With respect to beer and wine permits, Section 61-4-520(1) states that:

A retail permit authorizing the sale of beer or wine must not be issued unless:

(1) The applicant, a partner, or co-shareholder of the applicant, and each agent, employee, and servant of the applicant to be employed on the licensed premises are of good moral character

S.C. Code Ann. § 61-4-520(1) (2009). Finally, Section 61-4-540 similarly states that, before the issuance of a beer and wine permit, the Department must find that "the applicant is fit to sell beer and wine." See S.C. Code Ann. § 61-4-540 (2009).
7. With respect to retail liquor licenses, Section 61-6-1820(2) provides that:

The department may issue a [liquor] license . . . upon finding:

• • •

⁷ Although the Department proposes "cancellation" of this permit and license which it contends were issued in error the statutory grounds are those that would apply to a denial, suspension, or revocation.

(2) The applicant, if an individual, is of good moral character or, if a corporation or association, has a reputation for peace and good order in its community, and its principals are of good moral character.

S.C. Code Ann. § 61-6-1820(2) (2009)

Additionally, Section 61-6-110(3) provides that an applicant for a retail liquor license is ineligible if “[the applicant] or the person who will have actual control and management of the business proposed to be operated . . . is not of good repute.”⁸ S.C. Code Ann. § 61-6-110(3) (2009)

- 8 The term “good moral character” is not defined with particularity in South Carolina law. The South Carolina Attorney General has opined that:

What constitutes good moral character in a given case, then, we cannot say for there is no single criterion in South Carolina by which to judge it; therefore, the Commission itself must determine in each instance whether one possesses it or not. Yet in making that determination, the Commission would not be justified in refusing a license simply upon a “moral appraisal,” or either because previous misconduct which is not relevant to the conduct of the business for which the license is sought because of a remote conviction of a minor offense, or because of an unproved accusation of a crime.

[W]hile good moral character does not mean ‘moral excellence’ . . . it does mean that one must possess all of the elements essential to make up such a character, among those being common honesty and veracity

1969 Op. S.C. Att’y Gen. 159 (1969), 1969 WL 10708 (citations omitted). See also 48 C.J.S. Intoxicating Liquors § 171 (2018 Update) (“[T]here is no single and absolute criterion or standard, and the licensing authorities must judge whether the acts and conduct shown are sufficient in themselves or as an index to character to disqualify the applicant.”)

- 9 Accordingly, “[m]oral character,” as used in a statute on qualifications required for liquor license holders, means not only the ability to distinguish between right and wrong, but the character to observe the difference, the observance of rules of right conduct, and conduct which indicates and establishes qualities generally acceptable to the populace for positions

⁸ Good repute is a separate component of character, but it is related to a person’s overall good character. In a prior order from this court, one administrative law judge persuasively described moral character as a component of repute. Moral character is one component of reputation, while the collective opinion of one’s peers regarding one’s deportment, integrity, and community standing is another component. Evidence relating to each component is relevant and probative.” S.C. Dep’t of Revenue and Taxation v. Burris, Docket No. 96-ALL-17-0201-CC, 1999 WL 116278 (S.C. Admin Law Ct. July 24, 1996).

of trust and confidence.” 48 C.J.S. Intoxicating Liquors § 171 n 1 (2018 Update). Likewise, a license may be refused for lack of moral character “to a person who is not likely to carry on, in conformity with law, the business for which the permit is issued. . . . who deliberately misrepresents or knowingly conceals a material fact in order to obtain a license, or whose conduct in other respects does not meet the necessary standards relating to character.” 48 C.J.S. Intoxicating Liquors § 171 (2018 Update).

10. Permit or license applicants that satisfy the statutory criteria are entitled to issuance of the permit or license. See 48 C.J.S. Intoxicating Liquors §§ 166 & 194 (2018 Update).

The Department proposes to cancel the Respondent’s permit and license because the Respondent is not of good moral character due to the continued sale of beer, wine, and liquor after the expiration of its permit and license.

While the Respondent does not dispute the continued sale of beer, wine, and liquor after the expiration of its permit and license, Respondent argues that the violation occurred due to a misunderstanding of the Denial Notice, as well as misinformation received from the Department. Specifically, Mr. Starkey stated that he understood the Denial Notice to mean that Respondent could continue selling beer, wine, and liquor for up to ninety (90) days, the time he was given to file his income taxes.

While the court recognizes that the Respondent continued to sell beer, wine, and liquor after the expiration of its permit and license, it is evident that there was confusion regarding the continued validity of the Respondent’s permit and license. The Court notes that a permit and license was issued on March 7, 2019, with an effective date of December 1, 2018. This date is consistent with Respondent’s belief that he had ninety (90) days to file personal income taxes while continuing to sell alcoholic beverages. Although Mr. Starkey did not read the Denial Notice, his interaction with the Department was sufficiently confusing that a reasonable person could have believed that the restaurant could continue operating while the tax issue was being resolved.

In view of the foregoing, the court is not convinced that the violation stemming from the Respondent’s failure to read and correctly interpret the Denial Notice exhibits deficient moral character. Based on the confusion and misinformation proceeding from the Department’s first renewal, I do not find that the unlicensed sales on which taxes were paid demonstrate the absence

of moral fitness to operate a business in conformity with the law.” See *Giantt v. Columbia Coca-Cola Bottling Co.*, 204 S.C. 374, 380, 29 S.E.2d 488, 490 (1944) (“an intent to defraud the United States Government is an essential element. For this reason we think the charge to which appellant pleaded guilty involves the element of moral delinquency.”) Additionally, although criminal citations were presented following the undercover operation on February 28, 2019, Respondent acknowledged the unlawful conduct but believed that it was operating in compliance with the law and would not have continued selling had Respondent realized that doing so was unlawful.

Respondent’s failure to follow the law, therefore, was not due to an inability to distinguish between right and wrong. Moreover, the evidence reflects that Mr. Sharkey possesses the ability to comply with the law when properly informed. The court concludes that he possesses the requisite moral character to hold an alcoholic beverage license. See *Columbia Wing Shack, LLC, d b a Columbia Wing Shack v. South Carolina Department of Revenue*, Docket No. 18-ALJ-17-0194-CC (S.C. Admin. Law Ct. August 28, 2018).

Thus, the Respondent has met its burden of demonstrating compliance with the statutory requirements for licensure. Petitioner’s proposed cancellation of Respondent’s beer and wine permit and business liquor by the drink license is denied, subject to the conditions set forth below.

ORDER

Based upon the above findings of fact and conclusions of law, the court finds that Respondent meets the applicable requirements for licensure.

IT IS THEREFORE ORDERED that the Department shall **GRANT** the Petitioner’s renewal application for an on-premises beer and wine permit and restaurant liquor by the drink license, subject to the following conditions:

1. That the Petitioner’s permit and license shall be suspended for ninety (90) days, beginning with the date that this order becomes final;
2. That Jonathan Starkey shall continue to comply with the payment plan for his South Carolina income taxes, and

*With regard to crimes involving alcoholic beverages, it has been held that the illegal manufacture of whiskey constitutes a crime of moral turpitude where the offense involves an element of intent to defraud tax authorities. JOHN D. GARDNER & JUSTIN WERNER, THE REGULATION OF ALCOHOLIC BEVERAGES IN SOUTH CAROLINA, 219 (2007).

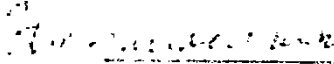
3. That Petitioner will cooperate with any investigation and audit of other business taxes which might be owed, including Local Option Permits, or admissions taxes and shall remit such taxes as are determined to be due within a reasonable time set by the Department or by the final decision of a reviewing court.

A violation of any of these conditions shall constitute a violation of the Petitioner's alcoholic beverage permit and license and may subject Respondent to further suspension or to revocation.

In addition, the Department's Application to sell or otherwise dispose of beer, wine, and liquor seized pursuant to the search warrant executed on February 28, 2019, is **GRANTED**.

AND IT IS SO ORDERED.

January 15, 2020
Columbia, South Carolina



H.W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0269-CC

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served the **Final Order** in this case upon all parties to this case by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and their attorneys as follows:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

January 15, 2020
Columbia, SC


Elizabeth A. Perkins
Judicial Law Clerk

SCANNED

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,)
)
Petitioner,)
)
vs.)
)
Study Hall, LLC, d/b/a Study Hall, LLC,)
)
Respondent.)

Docket No. 19-ALX-17-0269-CG 2020

ORDER DENYING RESPONDENT'S
MOTION TO RECONSIDER

RECEIVED
MAR 10 2020
SC Court of Appeals

A contested case hearing involving the South Carolina Department of Revenue (Petitioner or Department) and Study Hall, LLC, d/b/a Study Hall, LLC, (Respondent) was held on December 17, 2019, at the offices of the Administrative Law Court (ALC or Court) in Columbia, South Carolina. On January 15, 2020, the Court issued an order in which it found Respondent's owner (Starkey) to be of good moral character. However, the Court imposed the following conditions on granting renewal of Respondent's on-premises beer and wine permit and restaurant liquor by the drink license:

1. That the Petitioner's permit and license shall be suspended for ninety (90) days, beginning with the date that this order becomes final;
2. That Jonathan Starkey shall continue to comply with the payment plan for his South Carolina income taxes; and
3. That Petitioner will cooperate with any investigation and audit of other business taxes which might be owed, including Local Option Permits, or admissions taxes.

On January 23, 2020, Respondent filed a Motion for Reconsideration and Stay. The Motion to Stay the suspension of Respondent's alcohol permit and license was granted during the pendency of the Court's consideration of the Motion to Reconsider.

Respondent argues that the Court acted outside of its authority by imposing a penalty for a violation for which Respondent was not cited. Specifically, Respondent contends that the Department cited only one reason for its cancellation of Respondent's permit and license: that Respondent's owner lacked good moral character.

FILED

MAR 06 2020

SC ADMIN. LAW COURT

On March 20, 2019, the Department notified Respondent that it intended to cancel Respondent's On-Premises Beer and Wine Permit and Liquor by the Drink License. Because Respondent was late in applying for renewal, a denial notice was issued advising Respondent to cease all sales of beer, wine, and liquor. Respondent did not comply with the notice nor did Respondent complete the requirements to renew until March 7, 2019.

The South Carolina Law Enforcement Division (SLED) subsequently notified the Department that Respondent was selling alcoholic beverages without a license on February 28, 2019. According to the Department, Respondent was unlicensed between November 30, 2018, and March 7, 2019.¹ Selling alcoholic beverages without a license was identified in the Department Determination as an one of the indications that Respondent's owner did not possess the requisite moral character to hold an alcohol permit and license.

In its Determination the Department observes that "there is no single criterion by which to determine if a person is of good moral character." The associated discussion includes selling alcohol without a license and being convicted of a violation of liquor laws. The Department, apparently, also gave weight to an event in Statesboro, Georgia, that took place in 2014 at a business previously owned and operated by Respondent's owner.

As for the Georgia incident, Starkey claims to have informed the Department about it during the original application process. Ms. Gatto, the victim's mother, testified that she notified the Department about the Georgia incident. Starkey also reported the event to the City of Clemson Chief of Police and attempted to show him the recorded video of the incident. Chief Dixon confirmed that he declined to view the video. The Georgia tragedy could have formed a basis for objection to or even for denial of Respondent's initial license application but should not be considered now as a factor in a subsequent renewal.

While a conviction for a violation of liquor laws can be weighed against an applicant's moral fitness, the record reflects only a pending charge and Starkey's application for Pre-trial Intervention, which, if successful, would expunge the charge.

The only remaining fact supporting the Department's contention that Starkey lacks the requisite moral character is the fact that Respondent stocked and sold beer, wine, and liquor without a valid

¹ The previous license expired on November 30, 2018. A valid renewal went into effect on March 7, 2019. Thus, Respondent was unlicensed for 96 days from December 1, 2018, through March 6, 2019.

permit or license. In the original order, the Court recognized that "Respondent continued to sell beer, wine, and liquor after the expiration of its permit and license." Selling beer and wine in this circumstance violates S.C. Code Ann. § 61-4-560 (2009) (making operation of a business without a permit a misdemeanor and providing that each day in which business is carried on without a permit a separate offense). In addition, S.C. Code Ann. § 61-4-600 (2009) provides that a permit must be surrendered immediately when the permit is revoked, cancelled, or suspended.

Likewise, S.C. Code Ann. § 61-6-4010 (2009) prohibits the sale of alcoholic liquors "except in accordance with the provisions of this title." It is the long-standing law of South Carolina that liquor licenses "are mere permits, issued or granted in the exercise of the police power of the state to do what otherwise would be unlawful to do; and to be enjoyed only so long as the restrictions and conditions governing their continuance are complied with." *Wall v. S.C. Alcoholic Beverage Comm'n*, 269 S.C. 13, 15, 235 S.E.2d 806, 807 (1977); *Feldman v. S.C. Tax Comm'n*, 203 S.C. 49, 57, 26 S.E.2d 22, 25 (1943). Selling alcoholic liquors without a license is a violation of the law. *Pirates' Cove v. Strom*, 249 S.C. 270, 277, 153 S.E.2d 900, 903 (1967) (citing Section 4-91 (1962) (recodified as S.C. Code Ann. § 61-13-210 (1976) now S.C. Code Ann. § 61-6-4010 (2009))).

When renewal was denied, Respondent's permit was effectively revoked or cancelled. Moreover, Starkey admitted that beer, wine, and liquor sales continued from December 7, 2018, until March 7, 2019, while he was not licensed.

The case cited by Respondent, *S.C. Dept. of Revenue v. Sandalwood Soc. Club*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012), involved violations shown by evidence presented by an intervenor, not cited by the Department, but used by the ALC to support imposition of a more severe penalty than the monetary fine assessed by the Department.

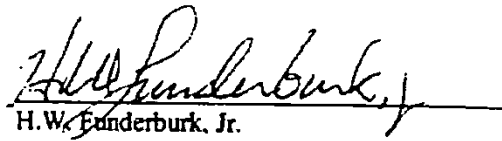
In this case, the violations supporting the penalty proposed by the Department, cancellation of Respondent's permit and license, derived from testimony by a Department employee, by a SLED agent, and admissions by Starkey. While the Department did not seek a penalty specifically for this violation, it provided a factual basis for the Department's proposed cancellation. This case is also distinguished from *Sandalwood* because the penalty imposed by this Court is less severe than the cancellation (revocation) of the permit and license renewal, which became effective on March 7, 2019. Furthermore, the Department's determination that Starkey lacked the moral character to

obtain a permit and license could likely prevent his qualifying for a permit or license for the foreseeable future. The Court's imposing a suspension for slightly less than the length of time Respondent operated without a permit and license is certainly less severe than a cancellation that might disqualify Starkey from being permitted or licensed and less severe than a revocation with similar consequences.

For these reasons, the Motion for Reconsideration is **DENIED**.

AND IT IS SO ORDERED.

March 6, 2020
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge

FILED

MAR 11 2020

SC ADMIN LAW COURT

4

Docket No. 19-ALJ-17-0269-CC

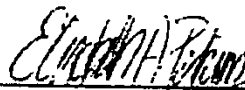
CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served the **Order Denying Respondent's Motion to Reconsider** in this case upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the parties and their attorneys as follows:

Patrick A. McCabe, Esquire
Jason P. Luther, Esquire
SC Department of Revenue
PO Box 12265
Columbia, SC 29211-9979
Counsel for Petitioner

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street, 2nd Floor
Columbia, SC 29201
Counsel for Respondent

March 6, 2020
Columbia, South Carolina


Elizabeth A. Perkins
Judicial Law Clerk

FILED

MAR 11 2020

SC ADMIN LAW COURT

FILED

MAR 06 2020

SC ADMIN. LAW COURT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
MAR 10 2020
SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

South Carolina Department of Revenue,

Respondent,

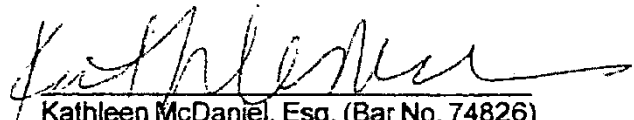
-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on South Carolina Department of Revenue by depositing a copy of it in the United States Mail, postage prepaid, on March 10, 2020, addressed to its attorney of record at PO Box 12265, Columbia, SC 29211-9979.



Kathleen McDaniel, Esq. (Bar No. 74826)
BURNETTE SHUTT & MCDANIEL, PA
Post Office Box 1929
Columbia, South Carolina 29202
P: 803.904.7913
F: 803.904.7910
KMcdaniel@BurnetteShutt.Law

ATTORNEY FOR APPELLANT STUDY
HALL, LLC

March 10, 2020
Columbia, South Carolina

FILED

MAR 11 2020

SC ADMIN LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 19-ALJ-17-0269-CC

South Carolina Department of)
Revenue)
)
Petitioner,)
)
v.)
)
Study Hall, LLC, d/b/a Study Hall,)
LLC,)
)
Respondent.)
-----)

ADMINISTRATIVE HEARING

Tuesday, December 17, 2019
9:59 a.m. - 3:45 p.m.

The administrative hearing before the Honorable H. W. Funderburk, Jr. was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 17th day of December, 2019 before M. Sean Cary, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

99

APPEARANCES

Patrick McCabe, Esquire
Marcus Antley, Esquire
 SCDOR
 Office of General Counsel for Litigation
 Post Office Box 12265
 Columbia, South Carolina 29211-9979
 Attorney for South Carolina Department of Revenue

Kathleen McDaniel, Esquire
Sarah Cox, Esquire
 BURNETTE, SHUTT & McDANIELS, P.A.
 912 Lady Street
 Columbia, South Carolina 29201
 Attorney for Defendant

INDEX

<u>CALL TO ORDER:</u>	<u>PAGE</u>
THE COURT.	5
 <u>PETITIONER'S OPENING STATEMENT:</u>	
MR. McCABE	6
 <u>RESPONDENT'S OPENING STATEMENT:</u>	
MS. McDANIEL	10
 <u>CHIEF BRYAN:</u>	
MR. McCABE . . . DIRECT EXAMINATION.	13
MR. McCABE. . . CROSS-EXAMINATION.	33
MS. McDANIEL .. REDIRECT EXAMINATION.	44
 <u>KATHERINE GATTO:</u>	
MR. McCABE . . . DIRECT EXAMINATION.	46
MS. McDANIEL. . . CROSS-EXAMINATION.	54
MR. McCABE . . . REDIRECT EXAMINATION.	62
 <u>KRISTA STRZELCZYK:</u>	
MR. McCABE . . . DIRECT EXAMINATION.	63
MS. McDANIEL. . . CROSS-EXAMINATION.	79
MR. McCABE . . . REDIRECT EXAMINATION.	82
 <u>AGENT DORMAN:</u>	
MR. McCABE . . . DIRECT EXAMINATION.	84
MS. McDANIEL. . . CROSS-EXAMINATION.	99
MR. McCABE . . . REDIRECT EXAMINATION.	106



CREEL COURT REPORTING, INC.
 1230 Richland Street / Columbia, SC 29201
 (803) 252-3445 / (800) 822-0896

CHIEF DIXON:

MR. McCABE . . .	DIRECT EXAMINATION.	108
MS. McDANIEL. . .	CROSS-EXAMINATION.	115
MR. McCABE . . .	REDIRECT EXAMINATION.	118

MR. STARKEY:

MS. McDANIEL ..	DIRECT EXAMINATION.	121
MR. McCABE. . .	CROSS-EXAMINATION.	169
MS. McDANIEL ..	REDIRECT EXAMINATION.	192
MR. McCABE. . .	RECROSS-EXAMINATION.	195
MS. McDANIEL ..	REDIRECT EXAMINATION.	196

MR. TAULBEE:

MS. McDANIEL ..	DIRECT EXAMINATION.	197
MR. McCABE. . .	CROSS-EXAMINATION.	203

MR. CARTEE:

MS. McDANIEL ..	DIRECT EXAMINATION.	206
MR. McCABE. . .	CROSS-EXAMINATION.	213

PETITIONER'S CLOSING STATEMENT:

MR. McCABE	216

RESPONDENT'S CLOSING STATEMENT:

MS. McDANIEL	219

DISPOSITION OF THE CASE:

THE COURT.	226
Certificate	229

EXHIBITS

(Petitioner's Exhibit Numbers 1 through 9 and Respondent's Exhibit Numbers 1 through 5 were marked prior to the hearing and introduced as follows:)

Petitioner's Exhibit Number 1	5,6
(Department's File)	
Petitioner's Exhibit Number 2	5,17
(Bill of Indictment and Sentencing Sheet)	
Petitioner's Exhibit Number 3	5,18
(Memo dated 9/3/2014)	
Petitioner's Exhibit Number 4	5,23
(Memo dated 9/5/2014)	
Petitioner's Exhibit Number 5.	5
(Not Admitted)	
Petitioner's Exhibit Number 6	5,32
(Certified copy from City of Statesboro referencing the Settlement Agreement)	



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

Petitioner's Exhibit Number 7	5,66
(ABL Renewal Notice of Denial)	
Petitioner's Exhibit Number 8	5,89
(Report dated March 7th, 2018)	
Petitioner's Exhibit Number 9	5,97
(Report dated October 14th, 2018)	
 Respondent's Exhibit Number 1	 5,124
(Renewal Form)	
Respondent's Exhibit Number 2.	5
(Not Admitted)	
Respondent's Exhibit Number 3.	5
(Not Admitted)	
Respondent's Exhibit Number 4	5,164
(Paper regarding Breathalyzers for bouncers)	
Respondent's Exhibit Number 5.	5,164
(Rules for bouncers)	

(All exhibits were retained by the Court.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

102

1 (Petitioner's Exhibit Numbers 1 through 9 and
2 Respondent's Exhibit Numbers 1 through 5 were marked
3 prior to the hearing.)

4 CALL TO ORDER:

5 **THE COURT:** Okay. We're on the record this morning.

6 Case Number 19-ALJ-17-0269. This is a
7 contested case in the matter of the South
8 Carolina Department of Revenue, Petitioner, and
9 Study Hall, LLC -- d/b/a Study Hall, LLC.
10 Petitioner's represented by Patrick McCabe.

11 **MR. McCABE:** Yes, Your Honor. Good morning.

12 **THE COURT:** Good morning, sir. And Respondent
13 represented by Kathleen McDaniel.

14 **MS. McDANIEL:** Thank you, Your Honor. I also have
15 my associate, Sarah Cox, with me here this
16 morning as well.

17 **THE COURT:** All right. Good morning. This is a
18 fairly involved case so I'm not gonna try to
19 tell you what it's all about, I'm gonna let you
20 tell me. But just for the sake of information,
21 this is what -- how we do business. We'll
22 begin with opening statements. Petitioner will
23 introduce each witnesses subject to cross-
24 examination, then the Respondent will introduce
25 its witness, witnesses, also subject to cross-



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

103

1 examination. If there's any rebuttal testimony
2 we'll have that afterwards, and then you'll
3 have the opportunity to make your closing
4 arguments. Are there any issues, motions or
5 stipulations before we begin?

6 **MS. McDANIEL:** None, Your Honor.

7 **MR. McCABE:** Your Honor, we would like to, if
8 there's no objection, to enter into -- enter as
9 -- into, as an exhibit, Petitioner's Exhibit 1,
10 which is just a coup- -- copy of the
11 Department's file. It's the application that
12 was received from the applicant and the protest
13 that we received from the applicant and the
14 Department determination.

15 **THE COURT:** All right.

16 **MS. McDANIEL:** We don't have any objection to that,
17 Your Honor.

18 **THE COURT:** All right. We'll admit that as
19 Petitioner- -- Petitioner's Exhibit 1 and will
20 not enter the minefield ---

21 **MR. McCABE:** Yeah.

22 (Petitioner's Exhibit Number 1 was introduced into
23 the record at this time.)

24 **THE COURT:** Okay. All right. Opening statements?

25 **PETITIONER'S OPENING STATEMENT:**



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 **MR. McCABE:** If we could get the -- the power report
2 or the Power Point. All right. Thank you.
3 Good morning, Your Honor. May it please the
4 Court. We are here today for the case of South
5 Carolina Department of Revenue versus the Study
6 Hall, LLC doing business as Study Hall. Study
7 Hall is a business, operates in Clemson, and
8 the sole principal of the Study Hall is
9 Johnigan- -- Jonathon Starkey. The Department
10 of Revenue determined that Mr. Starkey is not
11 fit to hold a beer and wine permit as defined
12 by 61-4-50, and the Department of Revenue also
13 determined Mr. Starkey is not of good moral
14 character as defined by 61-6-1820. This
15 determination was base upon two things: Mr.
16 Starkey's prior history with an alcohol
17 establishment in Georgia, and Mr. Starkey's
18 continued disregard for South Carolina laws.
19 Let's talk a little bit about Mr. Starkey's
20 prior history in Statesboro, Georgia. Mr.
21 Starkey was the sole owner of a business named
22 Rude Rudy's which was located near the campus
23 of Georgia Southern. Rude Rudy's was known as
24 a location where underage students could
25 purchase alcohol. Now, testimony will show

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

105

1 that the police department found a culture that
2 exists within the business that allows underage
3 employees and patrons to drink at the
4 establishment. Underage consumption
5 contributed to the homicide of a patron, Mr.
6 Michael Gatto. In order to avoid the
7 revocation of his license, Mr. Starkey
8 surrendered his license and agreed to a
9 lifetime ban from operating in the City of
10 Statesboro. And I would mention that this ban
11 was not against Rude Rudy's but against Mr.
12 Starkey personally, he was banned from
13 operating there. Let's talk about Mr.
14 Starkey's disregard for South Carolina laws.
15 On November 30th, 2018, Study Hall's alcohol
16 license and permit expired; at that time he had
17 no license. At December 7th, DOR issued a
18 notice that indicated that Study Hall was to
19 cease all alcohol sales until it's permit and
20 license was renewed. From December 1st until
21 February 28th, 2019, Study Hall conducted -- or
22 conducted over \$130,000 in illegal alcohol
23 sale; these are the sales without a license.
24 On February 28th, SLED conducted a interview --
25 undercover operation and issued a criminal



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 citation for conducting alcohol sales without a
2 license. All the alcohol that was located on
3 the premises was seized as contraband as part
4 of the February 28th, 2019 arrest. Mr. Starkey
5 also was operating without a Local Option
6 Permit. Study Hall's Local Option Permit
7 expired on November 26th, 2017. On Sunday
8 October 13th, 2019, SLED conducted an
9 undercover investigation and was able to
10 purchase alcohol from Study Hall on a Sunday.
11 Study Hall was issued a citation for selling
12 alcohol on Sunday without a Local Option
13 Permit. Study Hall operated 95 Sundays
14 without permit. The cost of a single Local
15 Option Permit is \$200 and the cost of an annual
16 Local Option Permit is \$3,050. So what that
17 means is that Study Hall was able to avoid
18 paying the Department of Revenue up to \$19,000
19 in Local Option Permit fees depending on how he
20 purchased. If he purchased singly it would be
21 \$19,000, if it was the 52 weeks he avoided
22 6000- -- \$6,100 in Local Option Permit fees.
23 As we said, on October 13th SLED conducted an
24 undercover investigation of the Study Hall. As
25 part of this undercover investigation the SLED

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

107

1 Agent had to pay a \$10 cover charge to enter
2 the building. According to South Carolina Code
3 12-21-2420 there must be a five percent tax
4 levy collected and paid upon admission. Since
5 operating -- or excuse me, opening in 2014,
6 Study Hall has never remitted admission tax to
7 the Department of Revenue, in violation of 12-
8 21-2420. There is no account for operating --
9 excuse me, for the admission tax. So all of
10 those things lead us to our conclusion, which
11 is we are seeking a cancellation of Study
12 Hall's on-premise beer and wine permit, a
13 cancellation of Study Hall's restaurant liquor-
14 by-the-drink license and an order from the
15 Court to sell the contraband alcohol fees
16 pursuant to South Carolina Code 61-6-4310.
17 Thank you, Your Honor.

18 **THE COURT:** Ms. McDaniel.

19 **RESPONDENT'S OPENING STATEMENT:**

20 **MS. McDANIEL:** Thank you, Your Honor. Kathleen
21 McDaniel for Study Hall, LLC. Your Honor, this
22 case is about whether or not Mr. Starkey has
23 the requisite good moral character to obtain an
24 alcohol license in South Carolina. And, Your
25 Honor, there are numerous cases in South



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

108

1 Carolina addressing what constitutes good moral
2 character and I'm sure that you are well versed
3 in those, but essentially the basis of a
4 finding of good moral character is whether the
5 applicant has the necessary veracity,
6 trustworthiness, honest- -- honesty and is
7 trusted within the community. Your Honor, this
8 was a simple misunderstanding on the part of
9 Mr. Starkey as it regards to the renewal of the
10 2019 lice- -- licenses for on-premises beer and
11 wine sales. Mr. Starkey went to renew. He
12 knew that he was renewing it late. He had a
13 conversation with the agent at the window, and
14 it was his understanding that he was in a
15 position where he could continue to sell
16 alcohol at his location. Had -- he will
17 testify that had he had known that he could
18 not, he certainly would never have done that
19 and would have never put his business in
20 jeopardy over that misunderstanding. Your
21 Honor, we will discuss the incident that
22 happened in 2014 at Rude Rudy's, however that
23 is a matter that DOR was aware of prior to
24 issuing the initial permit for alcohol
25 licensing in 2016 to the Study Hall, LLC.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

109

1 Clemson Police were also aware of it, and that
2 is a matter that has been dealt with and should
3 not be an issue in this case and should not be
4 a matter that goes to impugn Mr. Starkey's
5 moral character. Mr. Starkey has now obtained
6 a license for Sunday sales. He obtained that
7 recently with no difficulty, indicating that
8 the Agency, DOR, is issuing him licenses now
9 despite the ongoing -- this ongoing proceeding.
10 So, they certainly would not have issued that
11 if they had not determined that he had good
12 moral character at the time of that issuance.
13 Your Honor, Mr. Starkey runs a tight ship.
14 You'll hear testimony about how he manages
15 crowd control, how he protects his customers
16 within the bar and how much he cares about
17 keeping his customers safe. He certainly
18 regrets the incident that happened in 2014 at
19 Rude Rudy's, but that's -- that is in the past.
20 There was never any charges against him for
21 that or against the -- the bar. There were
22 never any criminal charges, he was never sued
23 by the parents, the parents actually sued the
24 City but Mr. Starkey was never found to have
25 any liability for that. In fact, we'll hear

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

110

1 testimony that it was the intervening criminal
2 acts of the gentleman who passed away that
3 actually contributed to his own death. So,
4 Your Honor, all in all, Mr. Starkey certainly
5 has the good moral character to have an alcohol
6 license in this state and we hope that the
7 testimony that we present will assure you of
8 that. Thank you.

9 **THE COURT:** Mr. McCabe.

10 **MR. McCABE:** Yes, Your Honor. We would -- the
11 Department of Revenue would call Deputy Chief
12 Rob Bryan to the stand.

13 **COURT REPORTER:** Do you solemnly swear the following
14 testimony you're about to give will be the
15 truth, the whole truth and nothing but the
16 truth so help you God?

17 **CHIEF BRYAN:** I do.

18 **CHIEF ROBERT BRYAN,** having been duly sworn, testifies
19 as follows:

20 **CHIEF BRYAN - DIRECT EXAMINATION BY MR. McCABE:**

21 Q: Morning, Chief, how are you this morning?

22 A: Morning, doing well.

23 Q: Good. Please state your name for the record.

24 A: Robert Bryan.

25 Q: All right. And how long have you been in law



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

111

1 enforcement?

2 A: 22 years.

3 Q: All right. And where are you currently

4 employed?

5 A: City of Statesboro.

6 Q: All right. And what is your role with the

7 Statesboro Police Department?

8 A: The Deputy Chief.

9 Q: All right. And how long have you served as the

10 Deputy Chief?

11 A: 2015, 2016 somewhere the end of the year is the

12 Deputy Chief and then also as an Interim Chief.

13 Q: All right. What other positions have you have

14 you held with Statesboro Police Department?

15 A: I was the Investigations Bureau Commander, also

16 the Sergeant in Charge of our Street Crimes

17 Unit, K-9 Officer, Detective, Patrol Officer,

18 Traffic Officer, pretty much everything but

19 Training.

20 Q: Okay. So we wanna talk about an investigation

21 that you conducted when you were a Lieutenant.

22 Did you conduct an investigation into

23 administrative violations for a business in

24 Statesboro named Rude Rudy's?

25 A: Yes, sir.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

112

1 Q: All right. And what prompted the investigation
2 into Rude Rudy's?

3 A: August 28th of that year, Michael Gatto was
4 murdered inside Rude Rudy's. A homicide
5 investigation was started by one of our
6 Detectives, the entire Bureau was assigned to
7 that case. The Director of Public Safety at
8 the time then wanted a parallel administrative
9 investigation done into Rude Rudy's and his
10 alcohol license. At that time he asked that a
11 Detective be assigned, instead of pulling
12 resources I told him I would do it myself.

13 Q: All right.

14 MR. McCABE: Your Honor, at this time I'd like to
15 offer into evidence the Bill of Indictment and
16 Sentencing Sheet as Exhibit 2 since we're gonna
17 be talking about this act that occurred. I
18 wanna make sure that we've got something in
19 evidence that -- that references that there was
20 a -- a -- a homicide and that someone was
21 convicted for that crime.

22 THE COURT: Ms. McDaniel, do you have an objection
23 to that?

24 MS. McDANIEL: Well, Your Honor, I see that there is
25 a -- a certificate of clerk with the seal but



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

113

1 it is incomplete, it doesn't have any of the
2 book page, information on it. So, I would
3 object to this at that ti- -- this time.

4 **MR. McCABE:** Your Honor, this is a certified copy
5 from the Clerk of Court from Superior Court of
6 Bullock County, I mean, I can let you have a
7 look at it.

8 **THE COURT:** Well, is -- if that's different from her
9 copy ---

10 **MR. McCABE:** No, it's -- it's the same copy, Your
11 Honor.

12 **MS. McDANIEL:** Does it have any of the information
13 that -- book, page -- this date of and date and
14 the signature of the Clerk are blank.

15 **THE COURT:** Let me see it.

16 **MR. McCABE:** Yes, sir.

17 **THE COURT:** Well, it's got a seal but it's not
18 signed. Though on the other hand there is a
19 signature from the Clerk of the Superior Court.
20 And I'm -- I'm gonna allow this into evidence
21 with -- with the -- with the acknowledgment
22 that the -- the Defendant is not a participant
23 in this case as far as I know. But I'm gonna
24 allow the documents for whatever it's worth.

25 **MS. McDANIEL:** Okay. Thank you, Your Honor.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

114

1 MR. McCABE: Thank you, Your Honor.

2 (Petitioner's Exhibit Number 2 was introduced into
3 the record at this time.)

4 Q: All right. So there was an investigation into
5 the homicide which led to the investigation
6 into any possible administrative violations, is
7 that your testimony?

8 A: Yes, sir.

9 Q: All right. Who was the owner of Rude Rudy's?

10 A: Mr. Starkey.

11 Q: All right. And let's take a look at this
12 document I've marked as Exhibit 3. If you
13 could take a look at that for just one moment.
14 And what is -- first, do you recognize that
15 document?

16 A: Yes, sir.

17 Q: All right. And what is that document?

18 A: It's a memo that I authored to the Public
19 Safety Director and former Major, dated 9/3 of
20 '14 referencing Rude Rudy's and findings that
21 I'd had up until that point.

22 Q: Okay. And is it the normal practice of your
23 department to issue memorandums concerning
24 investigations?

25 A: For administrative investigations, yes.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

115

1 Criminal investigations are done at RMS.

2 Q: Okay. And does your department normally keep

3 records of memorandums that are issued by

4 officers?

5 A: Yes.

6 Q: All right. Are you authorized to testify as a

7 Document Custodian for your department?

8 A: I am currently the Document Custodian for our

9 ---

10 Q: All right.

11 A: --- department.

12 MR. McCABE: Your Honor, we would offer what we have

13 marked as Exhibit Number 3 into evidence.

14 MS. McDANIEL: No objection, Your Honor.

15 THE COURT: Without objection, Petitioner's Exhibit

16 3 is evidence.

17 (Petitioner's Exhibit Number 3 was introduced into

18 the record at this time.)

19 MR. McCABE: Thank you.

20 Q: Could you please read the first two paragraphs

21 of the September 3rd, 2014 memorandum?

22 A: On 9/2 of '14 I began reviewing our records

23 regarding the conduct at Rude Rudy's. During

24 this review I've determined at least nine

25 violations of the City of Statesboro Alcohol

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

116

1 Ordinance. On 8/28/14 we had at least three
2 violations of the Alcohol Ordinance, one for a
3 violation of 6-88(c) for Disorderly Conduct
4 and/or Breach of Peace, and two violations for
5 6-86 Furnishing Alca- -- Alcohol To Person's
6 Under The Age of 21.

7 Q: All right.

8 MR. McCABE: Your Honor, we've got a little bit of a
9 mixup with the exhibits here. The second page
10 of that had been marked as Exhibit 4. We need
11 to probably correct that, which means all the
12 other exhibits are gonna -- they'll be off by
13 one.

14 MS. McDANIEL: I think that might only be on yours
15 because it's sequential on mine, 82, 83.

16 MR. McCABE: Yes, but I'm saying he's marked it.

17 MS. McDANIEL: Okay.

18 MR. McCABE: As Exhibit 4.

19 THE COURT: So Exhibit 4's ---

20 MR. McCABE: It's the second page of Exhibit 3.

21 THE COURT: Second page of Exhibit 3?

22 MR. McCABE: Correct, Your Honor.

23 THE COURT: Any objection to us ---

24 MS. McDANIEL: No, Your Honor.

25 THE COURT: --- entering it that way?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

117

1 **MR. McCABE:** I apologize for that.

2 **THE COURT:** We'll admit that as part of Exhibit 3.

3 **MR. McCABE:** Thank you, Your Honor.

4 **Q:** And could you read the last paragraph of your
5 September 3rd memorandum?

6 **A:** During the past 12 months from 8/28/14 till
7 8/28/13, Statesboro PD Officers have been
8 dispatched to Rude Rudy's for nine fight-in-
9 progress calls, one murder/ aggravated battery,
10 two affrays, three batteries or simple
11 batteries, two disorderly conducts, two
12 intoxicated persons or public drunkenness.
13 These totals do not reflect other calls for
14 service that SPD Officers have responded to at
15 this location.

16 **Q:** Okay. Thank you. Let me see that document.
17 If I could have you look at what we have marked
18 as Exhibit Number 4. You can take a moment to
19 look at that and make yourself familiar with
20 it.

21 **MS. McDANIEL:** Would this be 5 now?

22 **THE COURT:** Right.

23 **MR. McCABE:** It'd be Number -- Number 4.

24 **THE COURT:** Well, now -- Number 4's part of Exhibit
25 3 so we got a different one, that's the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

118

1 problem. I think that's the problem that Ms.
2 McDaniel was talking about.

3 **COURT REPORTER:** I just corrected his.

4 **THE COURT:** Okay. So we -- we -- this is Exhibit --
5 this is a new Exhibit 4?

6 **COURT REPORTER:** Yes, sir.

7 **THE COURT:** Okay. Sorry. All right. Ms. McDaniel,
8 you and I are happy now?

9 **MS. McDANIEL:** Yes, Your Honor, that's fine.

10 **THE COURT:** Tell me what it is, sir.

11 **Q:** Yes, could you -- you identify that document,
12 please?

13 **A:** It's a memorandum that I authored on 9/17 of
14 '14 in reference to alcohol violations at Rude
15 Rudy's on 9/10 of '14.

16 **Q:** Okay.

17 **THE COURT:** Ms. McDaniel?

18 **MS. McDANIEL:** I'm sorry, what was the date? I
19 wanna make sure I'm looking at the right
20 document.

21 **A:** The memo is dated 9/17 of '14, but it is in
22 reference to alcohol violations at Rude Rudy's
23 on 9/10 of '14.

24 **MS. McDANIEL:** I don't believe have one dated 9/7.

25 **A:** 9/17.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

119

1 MS. McDANIEL: 9/17.

2 MR. McCABE: Your Honor, I hate to ask, but could we
3 take a -- a brief recess so we can get the --
4 the dockets or the exhibits numbered?

5 THE COURT: I think that'd be a good idea.

6 (Off the Record from 10:20 a.m. until 10:24 a.m.)

7 THE COURT: We're back on the record.

8 Q: All right. I'm gonna have you take a look at
9 what we have marked as Petitioner's Exhibit
10 Number 4. If you could make yourself familiar
11 with that document briefly. All right. Could
12 you tell me what that document is?

13 A: A memo I authored on 9/5 of '14. It is also
14 typed in that this memo replaces a memo dated
15 9/3 of '14, and again it was to the Director
16 and former Major.

17 Q: Okay. And is it the normal practice of your
18 department to issue memorandums concerning
19 administrative violations?

20 A: Yes, sir.

21 Q: All right. And does your department normally
22 keep the records of the memorandums issued by
23 officers?

24 A: Yes, sir.

25 Q: All right. And are you authorized to testify



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

120

1 as a Doc- -- Document Custodian for your
2 department?

3 A: Yes, sir.

4 Q: All right. Your Honor, we would offer Exhibit
5 Number 4 into evidence.

6 **THE COURT:** Ms. McDaniel.

7 **MS. McDANIEL:** No objection, Your Honor.

8 **THE COURT:** All right. Without objection, Exhibit
9 Number 4 is admitted.

10 **(Petitioner's Exhibit Number 4 was introduced into**
11 **the record at this time.)**

12 Q: Can you read the first paragraph of this
13 memorandum dated 9/5/14?

14 A: On 9/2 of '14 I began reviewing our records
15 regarding conduct at Rude Rudy's. During this
16 review I determined at least 28 violations of
17 the City of Statesboro Alcohol Ordinance. I
18 also began interviewing subjects tied to some
19 of the reported incidents. I've learned the
20 culture exists within Rude Rudy's that allows
21 underage employees and patrons to drink alcohol
22 at the establishment. A number of these
23 violations cannot be quantified, I can only
24 state the number would be vast and represents
25 a pattern of continuous illegal conduct. The



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

121

1 28 violations of the City of Statesboro alcohol
2 ordinance mentioned are listed below.

3 Q: All right. Does this document indicate how
4 many administrative violations you discovered
5 on the night of August 28th, 2014?

6 A: Yes, sir.

7 Q: And how -- how many is that?

8 A: At least 20.

9 Q: All right. Could you read the first bullet
10 point of your 9/5/14 memorandum?

11 A: The first bullet point covers disorderly
12 conduct or breach of peace, one count. This
13 violation stems from the murder/aggravated
14 assault of Michael Gatto by Grant Spencer.
15 Grant Spencer is an employee of Rude Rudy's at
16 the time of the incident.

17 Q: All right. So a question here, was Mr. Spencer
18 working the night Mr. -- Mr. Gatto was
19 attacked?

20 A: That's kind of a foggy thing to answer, I can
21 give you my observations.

22 Q: Well, what were your observations?

23 A: We were told that he was not ---

24 **MS. McDANIEL:** Objection, Your Honor, hearsay.

25 **THE COURT:** All right. I'll sustain that objection.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

122

1 You can tell us what you saw or heard yourself.

2 A: Yes, sir. He did not appear to be working, he

3 appeared to be there; however, some of his

4 actions made it see work related. However ---

5 **MS. McDANIEL:** Objection, Your Honor. If those were

6 his observance or if that was based upon what

7 people told him.

8 **MR. McCABE:** Excuse me, Judge.

9 Q: Chief, did -- did you observe these?

10 A: On video, yes, sir.

11 Q: All right.

12 **MS. McDANIEL:** No ---

13 **THE COURT:** Okay.

14 **MR. McCABE:** Thank you.

15 A: Those observations being he did go behind the

16 bar. He was -- he was engaged in what would

17 appear to be some work related functions

18 however not while -- again, this is a -- we

19 were told he was not compensated.

20 Q: Please -- please just keep it to the things ---

21 A: Okay.

22 Q: --- that you observed on the video. And you --

23 let me ask you, you personally viewed the video

24 footage of Michael Gatto's attack?

25 A: Yes, sir, and many others there.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

123

- 1 Q: Okay. What happened to Michael Gatto after he
2 was knocked unconscious? From your observation
3 of the video.
- 4 A: He -- it's ugly to say but he was drug outside
5 like a -- a -- to be disposed of. I mean --
6 and I hate to say that with Mr. and Ms. Gatto
7 present but there's no other way to describe
8 that, how his lifeless, unconscious body was
9 treated was not what I would believe to be
10 humane.
- 11 Q: Okay. Who carried him out of the bar?
- 12 A: I believe Mr. Spencer was one of them, I don't
13 have the file in front of me. There was one or
14 two people, I -- I can't testify to that
15 without being able to review something.
- 16 Q: But can you testify that you observed Mr.
17 Spencer ---
- 18 A: Yes.
- 19 Q: --- carry him out of the bar? All right.
20 According to that video, was Mr. Spencer
21 allowed back in the bar after fighting?
- 22 A: Yes.
- 23 Q: So it's your testimony that after Mr. Spencer
24 drug Mr. Gatto outside the building he came
25 back in as if nothing occurred?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

124

- 1 A: Yes, sir.
- 2 Q: Okay. How old was Mr. Spencer on August 28th,
3 2014?
- 4 A: I believe he was under 21, I don't have his
5 exact age front of me.
- 6 Q: Okay. Do you know if Mr. Spencer had been
7 consuming alcohol?
- 8 A: I observed on video him consuming something
9 from an alcohol, whether it was bottle or can,
10 but a alcoholic beverage of some type. From
11 observation I can't testify to what was in the
12 can.
- 13 Q: Okay. Let's talk briefly about Mr. Gatto.
14 They've brought up that Mr. Gatto was
15 responsible for what happened here. Was Mr.
16 Gatto -- or did Mr. Gatto have alcohol in his
17 system?
- 18 A: Yes.
- 19 Q: All right. Do you know if Mr. Gatto had a fake
20 ID on him at that time?
- 21 A: I believe, yes, sir.
- 22 Q: All right. And what was Mr. Gatto's age at the
23 time of his death?
- 24 A: I believe he was 20, or I'm sorry, 19 -- 18.
- 25 Q: Okay. On that memo under the second bullet

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

125

1 point you indicate that you discovered several
2 incidents of serving alcohol to individuals
3 under the age of 21. You -- you indicated that
4 you discovered up to 20. Were these violations
5 that you witnessed through the security camera?

6 A: Yes, sir.

7 Q: All right. Let me have you look at what I have
8 marked as Exhibit Number 5. I'll take that
9 from you. And make yourself familiar with that
10 document, please. What is that document?

11 A: It is a memo dated 9/17 of '14 in reference to
12 a violation on 9/10 of '14 at Rude Rudy's.

13 Q: All right. And am I correct in saying that
14 you're the author of this document?

15 A: I am, yes.

16 Q: All right. And is it normal practice of your
17 department to issue memorandums concerning
18 investigations?

19 A: Administrative, yes, sir.

20 Q: All right. And does your department normally
21 keep records of these memorandums that are
22 issued by officers?

23 A: Yes.

24 Q: And are you authorized to testify as a Document
25 Custodian for your department?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

126

1 A: Yes, sir, I am.

2 Q: All right.

3 MR. McCABE: Your Honor, I would offer Exhibit
4 Number 5 into evidence.

5 MS. McDANIEL: Your Honor, I have to object that Mr.
6 -- that Detec- -- Lieutenant Bryan's document
7 contains hearsay within it and contains a
8 report of what he was told rather than his own
9 observations, so I'd object to this document
10 coming in.

11 MR. McCABE: Your Honor, you can clearly choose to
12 disregard the hearsay statements within it.
13 We're offering it for the fact that there was
14 a violation issued on that day. And -- I mean,
15 th- -- we're offering it for -- for the fact
16 that there was -- not for the hearsay
17 statements that may be contained within, just
18 the fact that there's a violation issued on
19 that day.

20 MS. McDANIEL: Officer Bryan can certainly testify
21 to the existence of a violation issued but not
22 have a documentary replete with hearsay come in
23 to support that.

24 THE COURT: I tend to agree with you, Ms. McDaniel.
25 I -- I will let him testify ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

127

1 MR. McCABE: That's fine, Your Honor.

2 THE COURT: --- but -- but let's -- let's -- let's
3 avoid the -- the hearsay aspect.

4 MR. McCABE: And that's fine. Okay.

5 THE COURT: I'm going to sustain that objection.

6 MR. McCABE: All right.

7 Q: So according to your memorandum, how many
8 violations of furnishing alcohol were -- were
9 discovered on September 10th, 2014?

10 A: One.

11 Q: All right. So is it your testimony that even
12 after the death of Michael Gatto, where we had
13 individuals under the age of 21 that led to the
14 death of an individual, even after that
15 occurred, Rude Rudy's was still serving under
16 the age of 21 illegally?

17 A: Yes, sir.

18 Q: All right. Did your department attempt to
19 gather security footage from the -- by the
20 September 10th, 2014?

21 A: Yes, sir.

22 Q: Were you able to get that footage?

23 A: Eventually.

24 Q: You were?

25 A: Are you ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

128

1 Q: All right. And what did that footage show?

2 A: I'm sorry. You're talking about the September

3 ---

4 Q: I'm sorry. September -- the -- the footage

5 from September 10th.

6 A: September 10th?

7 Q: The date of this -- this memorandum references.

8 A: We were -- we were told ---

9 Q: Okay. You ---

10 **MS. McDANIEL:** Objection.

11 Q: --- can only -- you can't testify ---

12 A: I- -- I'm sorry. I caught myself.

13 Q: Yes.

14 A: There was no video available at a period of

15 time.

16 Q: All right. So the video was not there for some

17 reason?

18 A: That's correct.

19 Q: Okay. So what was the result of your

20 investigation into these administrative

21 violations?

22 A: Everything was compiled, and the -- a hearing

23 was about to occur in reference to that, and as

24 a result of the violations and before the

25 hearing started, Mr. Starkey surrendered his

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

129

1 alcohol license through the City -- to the City
2 through his attorney and a -- in some type of
3 negotiation.

4 Q: All right. So Mr. Starkey did not personally
5 appear at this -- this hearing?

6 A: I want to say he was there. I -- I don't
7 recall.

8 Q: Okay.

9 MR. McCABE: Your Honor, we would offer as Exhibit
10 Number 6 certified copies from the City of
11 Statesboro that referenced the Settlement
12 Agreement between Mr. Starkey and the City of
13 Statesboro in which he surrendered his license.

14 MS. McDANIEL: Your Honor, these are certified. We
15 don't have an objection to that.

16 THE COURT: Okay. Without objection, Exhibit 6 is
17 admitted.

18 (Petitioner's Exhibit Number 6 was introduced into
19 the record at this time.)

20 Q: So let me ask you this: based on your personal
21 perception, in your opinion, do you feel that
22 Mr. Starkey is fit ---

23 MS. McDANIEL: Objection ---

24 MR. McCABE: Excuse me.

25 MS. McDANIEL: I'm sorry -- sorry.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

130

1 Q: --- is fit to hold an alcohol license?

2 A: No, sir.

3 Q: .All right.

4 MR. McCABE: No further ques- -- yes, Your Honor?

5 THE COURT: Nothing.

6 MR. McCABE: Oh, okay. No further questions.

7 THE COURT: All right.

8 CHIEF BRYAN - CROSS-EXAMINATION BY MS. McDANIEL:

9 Q: Hi. Detective Lieutenant Bryan, what is the
10 appropriate way to address you? Is it ---

11 A: An- -- any way ---

12 Q: --- Officer, Lieutenant Bryan?

13 A: --- Deputy Chief, you could call me Rob, it --
14 I'm ---

15 Q: Okay.

16 A: --- not caught up in titles.

17 Q: Very good. Deputy Chief Bryan, let's go back
18 to what was shown to you as Exhibit 3, I
19 believe you have that.

20 A: No, ma'am.

21 MR. McCABE: Right up there.

22 Q: All right. So this is a document where you
23 outlined a list of alleged violations. Now,
24 did you issue any citations or tickets or any
25 form of -- any type of ticket for any of these



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

131

1 violations?

2 A: There -- there were some issued, I believe.
3 And the reason I'm gonna say I believe, I was
4 not the author of the tickets but from knowing
5 the investigation and some other offshoot
6 internal investigations, yes, ma'am, there were
7 some citations issued but I'm not the one that
8 issued those citations.

9 Q: But this document doesn't indicate which -- if
10 any of those were issued based on these
11 violations, is that correct?

12 A: No, ma'am.

13 Q: Okay. So Exhibit 3 is just essentially reports
14 that you found not tickets. Where did you find
15 the information for this?

16 A: Our RMS System has not only the reports but if
17 citations are issued, if warnings are issued,
18 everything lives in that Records Management
19 System.

20 Q: So if you looked in the RMS System for this
21 information you would've seen if a citation or
22 warrant -- warning had been issued, correct?

23 A: Yes, ma'am.

24 Q: And you would have included that on this
25 information if you had seen that, correct?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

132

1 A: No, ma'am. Just simply stating that there was
2 a violation, I was not delineating whether
3 there was a -- a citation issued or an arrest
4 made, just that there was in fact a violation
5 of the Municipal Alcohol Ordinance for
6 administrative purposes.

7 Q: And to the extent that there was nothing issued
8 -- no citation issued, these were simply the
9 alleged violations, correct?

10 A: If that were the case, but on these from 2014
11 there -- without -- I can't say 100 percent
12 there were violations issued on some of these.

13 Q: But we don't have any documentation of that do
14 we?

15 A: No, ma'am, we don't.

16 Q: Okay.

17 A: Not -- not here, not that I'm aware of.

18 Q: Okay. All right. And can you explain to me
19 the geographic layout of Rude Rudy's in
20 comparison to where other bars and areas that
21 were located in Statesboro?

22 A: Yes, ma'am. There is University Plaza which is
23 where it was located. And one of the better
24 ways to say it, it's kind of a horseshoe of
25 businesses. Many of those businesses being,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

133

1 you know, licensed alcohol establishments.
2 There's a -- one across the street and it sits
3 kind of in the middle of an area that you can
4 only really term as a university area. The
5 University is directly across the street from
6 that area. Then you have student housing all
7 in that area.

8 Q: And do you have any indication from this
9 document that you provided as to whether these
10 alleged violations took place inside of Rude
11 Rudy's or outside in that plaza area?

12 A: What -- in the memo, no, ma'am. But ---

13 Q: Well ---

14 A: --- can I ---

15 Q: --- that's what we have here.

16 A: --- clarify that?

17 Q: Certainly.

18 A: One of the things that was looked at when I
19 wrote this memo was only things that could be
20 attributed to occurring within the structure of
21 Rude Rudy's itself. There are numerous other
22 violations that would have occurred in the
23 parking lot area of University Plaza. And one
24 of the things that we take a lot of -- give a
25 lot of information to the officers, make sure



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

134

1 that they've got good guidance is, if it can
2 not be attributed to a certain location it is
3 written up as University Plaza 'cause it would
4 not be fair to hold Mr. Starkey accountable for
5 something that one of the other owners or one
6 of the other licensees within University Plaza
7 was doing; and we saw that some. Some could
8 not be attributed to exactly where patrons
9 were, if there was a fight in the parking lot.
10 So only the violations listed here were linked
11 to Rude Rudy's. There's not any of the other
12 ones that were specific to University Plaza.

13 Q: All right. Let's take a look what has been
14 marked as Exhibit 4. This is your memo dated
15 9/5/14. You've got a number again of alleged
16 violations. How many -- I believe you
17 testified that there was only one citation
18 written based on -- or I could be wrong so let
19 me ask you that. Based on the information
20 contained in the Exhibit 4, were there any
21 citations or tickets written to anyone arising
22 out of the occurrences listed here?

23 A: If you'll give me a minute just to re-- --
24 review them so I can ... The alcohol violation
25 as far as the underage possession cases, those



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

135

1 were not cited. I actually did those
2 interviews myself and received clearance from
3 the City Attorney who was also the Prosecutor
4 in Municipal Court to offer the person that was
5 being interviewed basically cooperate and you
6 have immunity on the charge of possession of
7 alcohol by a person under 21. So no citations
8 were issued due to -- due to that agreement.
9 And the others -- I believe there are a couple
10 that would've actually been done by indictment
11 contained in this thing, and then the noise
12 violations, and I can't testify to how many,
13 but some of those noise violations there were
14 citations issued.

15 Q: Okay. But we don't have any information about
16 how many or when or which ones?

17 A: No, ma'am.

18 Q: Okay. You mentioned the indictment, who was
19 indicted?

20 A: Mr. Spencer.

21 Q: I'm sorry?

22 A: Mr. Spencer.

23 Q: Was there any indictment issued against Mr.
24 Starkey?

25 A: No, ma'am.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: Was there any citation issued against Mr.
2 Starkey?

3 A: No, ma'am. Everything was done
4 administratively before counsel.

5 Q: Okay. And so -- yeah. Had you ever taken any
6 administrative action against Study Hall
7 previous to this?

8 A: Rude Rudy's?

9 Q: I'm sorry, Rude Rudy's.

10 A: I- -- I'm trying to think. Give me one second
11 here. And I -- just to give you right -- a
12 reason why it's taking a second here. I've
13 known Mr. Starkey for a long time, he's been
14 associated with several establishments there.
15 So we've -- we've had discussion over the
16 years, there may have been a- -- an underage
17 ci- -- but nothing that I can testify to that
18 I can say I've issued him a citation previously
19 outside of this. Without being able to look
20 back further, I -- I don't wanna say something
21 that I just can't confirm.

22 Q: Okay. So the -- let me ask that a different
23 way. You said that you've known Mr. Starkey
24 for how long?

25 A: God, a number of years.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

137

- 1 Q: Okay. Do you remember when Rude Rudy's opened?
- 2 A: Yes, ma'am.
- 3 Q: And when was that?
- 4 A: I -- I remember when, I couldn't give you a
- 5 date or a year, but I -- I remember when he had
- 6 the -- the building built. So yes, ma'am, but
- 7 I just don't know the date.
- 8 Q: Had it been about ten years?
- 9 A: That sounds about right.
- 10 Q: And so in that ten years you don't recall any
- 11 other administrative action against Mr. Starkey
- 12 or Rude Rudy's until the death of Mr. Gatto, is
- 13 that correct?
- 14 A: That would be correct, and that -- there were
- 15 no administrative actions being done at that
- 16 time.
- 17 Q: Okay. And do you recall any other tickets
- 18 being issued to Mr. Starkey?
- 19 A: The noise violations, and -- and I was not the
- 20 person that issued those citations, and unle-
- 21 -- unless I was allowed to review further
- 22 information I- -- I'm not prepared to answer
- 23 that.
- 24 Q: Okay. All right. Let's take a look at Exhibit
- 25 2. That was admitted over my objection, but



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

138

1 admitted. And that's a Bill of Indictment
2 against whom?

3 A: Grant James Spencer.

4 Q: Okay. And what has happened to Mr. Spencer?
5 Do you know the disposition of his -- of this
6 criminal matter?

7 A: Yes, ma'am.

8 Q: And what is that?

9 A: I- -- I'd have to look at the sentence but he
10 was sentenced in reference to this indictment.

11 Q: Okay.

12 A: I was in court the day it happened.

13 Q: During the time that you have known Mr. Starkey
14 working at Rude Rudy's, has there ever -- has
15 he always been forthcoming with you about
16 issues?

17 A: Ye- -- yes, ma'am.

18 Q: Okay. Do you feel like he's ever tried to hide
19 anything from you?

20 A: I will say this, the -- the one thing that I
21 would say on the negative of that ---

22 Q: Uh-huh.

23 A: --- is the disappearing video. That still
24 kinda bothers me to this day.

25 Q: All right. The -- are bars required to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

139

1 maintain video in Statesboro?

2 A: They are not required.

3 Q: Okay.

4 A: But ---

5 Q: So -- so that wasn't a requirement?

6 A: It wasn't a requirement but if it was there and

7 -- and then it's for some reason deleted after

8 being given notice ... I'm not saying that

9 that was done, it is just ---

10 Q: Is that ---

11 A: --- it is a suspicious circumstance within

12 there. But in ---

13 Q: So let me ask you this: the video that you were

14 looking for ---

15 A: Uh-huh.

16 Q: --- what is that video that you are talking

17 about?

18 A: It is the video of, I believe her name Helena,

19 and it is an alcohol violation post Mr. Gatto's

20 death.

21 Q: Okay. And did you ultimately get that video?

22 A: I think parts of it.

23 Q: Okay. So it wasn't lost or deleted, you did

24 eventually get parts of it, correct?

25 A: That -- well again, parts and pursuant to an ex

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

140

1 parte order. But outside of that I will say
2 this, Mr. Starkey has, in -- in the past if
3 there has been an issue he has owned up to that
4 rather quickly.

5 Q: Good. You testified you reviewed the video and
6 saw that people under -- and when I said video
7 I mean the video the evening Mr. Gatto died.
8 All right. Let me backup, did you have any
9 trouble obtaining that video?

10 A: No, ma'am.

11 Q: Okay. So Mr. Starkey was forthcoming with that
12 video, correct?

13 A: Yes, ma'am.

14 Q: And you would agree with me that the death of
15 a patron is far more significant than being
16 sold a underage alcohol, correct?

17 A: Yes, ma'am.

18 Q: Okay. So the night that Mr. Gatto died you say
19 that you witnessed on the video multiple people
20 under 21 consuming alcohol. Were you able to
21 tell their ages from the video?

22 A: I was able to determine who they were, and they
23 -- my observations they appear to be under 21,
24 and then after confirming the identity of the
25 person, learning that they were in fact under



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

141

1 21.

2 Q: Okay. And Mr. Gatto was under 21, correct?

3 A: Yes, ma'am.

4 Q: And he was there with a fake ID, correct?

5 A: Yes, ma'am.

6 Q: And isn't it the case that he was currently

7 serving -- he was participating in a pretrial

8 intervention program that barred him from being

9 in bars at all?

10 A: I know that there was a sentence that --

11 without reviewing that I -- I don't wanna talk

12 to the terms of it, but there -- yes, ma'am, he

13 was under some type of pretrial whether it be

14 diversion or pretrial sentencing or some type

15 of plea.

16 Q: Okay. All right. Let me double check that I

17 haven't forgotten to ask you anything, I'll be

18 right back.

19 **MS. McDANIEL:** All right. Thank you, Your Honor.

20 No further questions.

21 **THE COURT:** All right. Mr. McCabe, you have any re-

22 direct?

23 **MR. McCABE:** Yes, Your Honor, just a couple.

24 **CHIEF BRYAN - REDIRECT EXAMINATION BY MR. McCABE:**

25 Q: You said that, in response to one of the



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 questions, that administrative violations were
2 not being done. Could you expand on that a
3 little bit, what do you mean by that they were
4 not being done?

5 A: You have to go back to some previous cases. I
6 actually received instruction from the City
7 Attorney after checking on previous cases in
8 Statesboro, the City Council was no longer
9 going to hear the administrative violations and
10 that has been investigated.

11 Q: All right. So the City Council was no longer
12 hearing administrative violations, is that
13 correct, that's your testimony?

14 A: That is correct.

15 Q: All right. Despite Mr. Starkey's demeanor,
16 helpfulness, do you still believe that he is
17 not fit to hold an alcohol license?

18 A: Yes, sir.

19 Q: All right.

20 MR. McCABE: No further questions, Your Honor.

21 MS. McDANIEL: Nothing, Your Honor.

22 THE COURT: All right. You may return to your seat
23 and ---

24 MR. McCABE: Yes, I'm finished with him, Your Honor.

25 THE COURT: Would we like to release him to return



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

143

1 to Statesboro?

2 **MR. McCABE:** Yes. I mean, Chief, if you're -- if

3 you're ...

4 **CHIEF BRYAN:** Thank you.

5 **THE COURT:** Ms. McDaniel, do you?

6 **MS. McDANIEL:** That's fine, Your Honor.

7 **THE COURT:** All right. Thank you for coming up,

8 sir.

9 **CHIEF BRYAN:** Yes, sir. Thank you, Your Honor.

10 **MR. McCABE:** Your Honor, at this time I would like

11 to call Katherine Gatto to the stand.

12 **COURT REPORTER:** Do you solemnly swear the following

13 testimony you're about to give will be the

14 truth, the whole truth and nothing but the

15 truth so help you God?

16 **MS. GATTO:** I do.

17 **COURT REPORTER:** Thank you.

18 **KATHERINE GATTO,** having been duly sworn, testifies as

19 follows:

20 **MS. GATTO - DIRECT EXAMINATION BY MR. McCABE:**

21 **Q:** Morning Ms. Gatto, thank you for coming ---

22 **A:** Good morning.

23 **Q:** --- we appreciate it. Could you please tell

24 the Court where you live?

25 **A:** Cumming, Georgia.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: All right. And how ---

2 **THE COURT:** Mr. McCabe, just one moment. Ms. Gatto,
3 could you spell your first name for us?

4 A: Certainly, it's K-A-T-H-E-R-I-N-E.

5 **THE COURT:** Thank you.

6 **MR. McCABE:** Thank you, Your Honor.

7 Q: Now, I'm gonna ask you some questions and I
8 want you to remember that you can't talk about
9 things that you've heard, this is only from
10 your personal observations, okay? How are you
11 familiar with Mr. Starkey's former business,
12 Rude Rudy's?

13 A: My 18 year-old son, Michael Joseph Gatto, was
14 murdered inside Rude Rudy's by a Rude Rudy's
15 employee on August 28th, 2014.

16 Q: Okay. And what happened to Rude Rudy's after
17 the death of your son?

18 A: Initially it remained opened, however the City
19 was under tremendous scrutiny for their failure
20 and unwillingness to enforce their own alcohol
21 ordinances and they were finally forced to hold
22 an administrative hearing to review the fate of
23 Mr. Starkey's liquor license. It was scheduled
24 on September 24th, 2014.

25 Q: Okay. And what happened -- did anything --



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

145

1 well, let me ask you, what happened to Mr.
2 Starkey after the death of your son?

3 A: To my knowledge, he -- he -- there was a
4 hearing and he entered into an agreement with
5 the City of Statesboro's Department of Public
6 Safety, and Rude Rudy's was permanently closed,
7 and he agreed to a lifetime ban to ever hold a
8 liquor license in Statesboro, Georgia again.

9 Q: Okay. Let me ask you, opposing counsel said
10 that -- in their opening statement that there
11 was never an attempt to name Mr. Starkey as a
12 defendant in a lawsuit. Could you explain why
13 that is?

14 A: I think she's familiar with apportionment but
15 I -- the -- I believe the fish rots from the
16 head down, and just because the City of
17 Statesboro was negligent in their
18 responsibilities to, you know, for oversight of
19 -- of this man, it doesn't excuse his behavior;
20 one does not excuse the other.

21 Q: Okay.

22 A: It can't exist without their enablement.

23 Q: Okay. What do you know about Mr. Starkey's
24 current establishment here in Clemson?

25 A: I know the name is the Study Hall at 101 Sloan



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Street, I believe, in downtown Clemson.
2 Appears to serve food and alcohol and have
3 occasional music entertainment I believe. I
4 know that it was in development while Rude
5 Rudy's was still open.

6 Q: Okay. You learned that the Department of
7 Revenue was seeking to cancel Mr. Starkey's
8 license. What was your response in that -- to
9 that when you learned that information?

10 A: I wrote a letter to the South Carolina
11 Department of Revenue and attached
12 documentation.

13 Q: Okay. Was that the first time that you've ever
14 reached out to the Department of Revenue?

15 A: Here in South Carolina?

16 Q: Ye- -- yes, ma'am.

17 A: Yes.

18 Q: South Carolina Department of Revenue.

19 A: It is.

20 Q: So prior to that there had been no attempts to
21 inform the Department of Revenue of the conduct
22 in Georgia?

23 A: Not by me.

24 Q: Not by you. All right. So let me ask you, why
25 did you agree to travel from Statesboro to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

147

1 testify today?

2 A: From Cumming ---

3 Q: Yeah.

4 A: --- Georgia.

5 Q: I'm sorry.

6 A: For several reasons. First, I'm shocked and

7 angered that Mr. Starkey seemingly has learned

8 nothing from my son's death and continues to

9 disregard local alcohol ordinances and State

10 law. Secondly, I want to make sure that what

11 happened to my son in Georgia, due to the lack

12 of oversight of Mr. Starkey, does not happen

13 here to someone else's loved one in South

14 Carolina. You know, what -- what my family

15 goes through on a daily basis, no- -- nobody

16 should have to endure.

17 Q: Okay. Did Mr. Starkey ever reach out to you

18 and express any type of remorse to your or your

19 family?

20 A: Not direct- -- I've had no direct conversation

21 ---

22 Q: Right.

23 A: --- with Mr. Starkey ever.

24 Q: Ha- -- has Mr. Starkey done anything to make

25 amends to you and your family?



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: No.

2 Q: All right. Based on your personal perceptions,
3 in your opinion do you feel that Mr. Starkey is
4 fit to hold an alcohol license?

5 A: I think Mr. Starkey has a long and well
6 documented history of disregard of local
7 alcohol ordinances and State law. Mr. Starkey
8 -- despite the fact that the City should have
9 revoked Mr. Starkey's license well before my
10 son's death, Mr. Starkey continued to run his
11 business irresponsibly and ---

12 MS. McDANIEL: Objection, Your Honor. She does not
13 have personal knowledge of that.

14 A: My son's dead body is per- -- is kno- -- is
15 knowledge of that.

16 THE COURT: Just a moment. I -- she kept -- restate
17 your objection, please.

18 MS. McDANIEL: Your Honor, I object to Ms. Gatto
19 testif- -- speaking about previous -- I think
20 she's tried to say numerous violations that
21 happened at the place. She doesn't have
22 personal knowledge of that. All she has
23 knowledge of is what happened to her son and
24 that's what she can testify to.

25 THE COURT: All right. Mr. McCabe, do you have any



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

149

1 response to that?

2 **MR. McCABE:** No, Your Honor. I -- I do agree that --
3 -- that her testimony should be limited to her
4 personal observations.

5 **THE COURT:** Okay. I'll sustain the objection. Ms.
6 Gatto, focus on what you know of your personal
7 knowledge, not what you've heard from other
8 people.

9 A: Yes, sir. Mr. Starkey felt no moral obligation
10 to ---

11 **MS. McDANIEL:** Objection, Your Honor. She doesn't
12 know what Mr. Starkey felt or didn't feel.

13 **THE COURT:** Ma'am, I'm sorry, but she's right. You
14 -- you can't talk about what -- what you think
15 he thinks or thought or didn't think. You can
16 only say what -- what you saw, heard, or -- or
17 believe yourself not based on what you think he
18 might've thought or should've thought.

19 A: I don't believe he possesses the moral cab- --
20 character to run an establishment within the
21 parameters of the law. My son was not the vir-
22 -- first person to be beaten and hospitalized
23 by a Rude Rudy's employee, they were involved
24 in several previous incidences.

25 **MS. McDANIEL:** Objection, Your Honor. I don't know



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

150

1 that she knows that through personal knowledge.

2 A: There are documentations in Court.

3 Q: If we could just focus just -- I -- I
4 understand ---

5 A: My apologies.

6 Q: --- you're very emotional. No, and I
7 understand completely; I understand. So your
8 testimony is based on your personal observation
9 and your perceptions. Am I correct in saying
10 that you believe that Mr. Starkey is not fit to
11 hold an alcohol license anywhere?

12 MS. McDANIEL: Ob- -- objection, Your Honor. That's
13 a leading question. I- -- I'm sorry ---

14 THE COURT: Well ---

15 MS. McDANIEL: --- to keep objecting.

16 THE COURT: --- yes and no. I think that's what she
17 said.

18 MS. McDANIEL: Okay.

19 THE COURT: Although he's embellished it a little
20 bit.

21 MR. McCABE: I'm sorry. Your Honor, I'll -- I'll
22 rephrase that.

23 THE COURT: All right. That objection's sustained.

24 Q: Ms. Gatto, is it your testimony that Mr.
25 Starkey is not fit to hold an alcohol license?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

151

1 A: That would be my opinion. I believe his
2 actions and act- -- and inactions speak for
3 themselves.

4 Q: All right.

5 MR. McCABE: No further questions, Your Honor.

6 MS. GATTO - CROSS-EXAMINATION BY MS. McDANIEL:

7 Q: Good morning, Ms. Gatto.

8 A: Good morning.

9 Q: I'm Kathleen McDaniel. I represent John
10 Starkey in this matter of Study Hall. Ms.
11 Gatto, isn't it the case that you did not sue
12 John Starkey or Study Hall -- or Rude Rudy's
13 for the death of your son?

14 A: Rude Rudy's no longer existed after the death
15 of my son.

16 Q: Okay. And did you pursue Mr. Starkey for any
17 li- -- liability for the death of your son?

18 A: I pursued the City of Statesboro.

19 Q: Okay. So the only entity that you sued, the
20 only person that you sued, was the City of
21 Statesboro, is that correct?

22 A: The one responsible for him, yes.

23 Q: Okay. And isn't it the case that that lawsuit
24 was dismissed on Summary Judgement in 2018?

25 A: That lawsuit's in Appellate Court.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: Okay. Well, I'm going to show you what has
2 been marked as Ex- -- Respondent's Exhibit 3 --
3 well, we haven't admitted it yet but I'll show
4 it to you, if you would take a look at that.

5 A: I wish I could. I need my glasses, I
6 apologize.

7 Q: Okay.

8 A: Can you grab my glasses for me? Thank you.

9 Q: So, Ms. Gatto, if you would, is this a copy of
10 the Order on the City of Statesboro's Motion
11 for Summary Judgement?

12 A: Yes.

13 Q: And if we look up at the top, was this filed on
14 October 23rd, 2018 in the Clerk of State Court
15 [sic] for County of Georgia?

16 A: Yes.

17 **MS. McDANIEL:** Your Honor, we would move to enter
18 this into evidence.

19 **MR. McCABE:** Your Honor, I would object as to
20 relevance. This is a -- a lawsuit between Ms.
21 -- Ms. Gatto and the City of Statesboro. Also,
22 I'm not sure this is a certified copy of a
23 court record. It looks like this was printed
24 strictly from the website, it's not certified
25 by the Clerk of Court.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

153

1 MS. McDANIEL: The party to this case is here, she
2 has testified that this is the order that was
3 recorded in the Court's records.

4 MR. McCABE: Your Honor, it's -- it's -- clearly
5 it's not a certified copy and it does not --
6 does not come in under that exception.

7 MS. McDANIEL: Your Honor, it doesn't need to be a
8 certified copy if she's here and testify's to
9 the ---

10 THE COURT: She is here.

11 MS. McDANIEL: --- authenticity of it.

12 THE COURT: She is a recipient of that order?

13 MS. McDANIEL: Yes, Your Honor. She is the
14 Plaintiff.

15 THE COURT: Mr. McCabe ---

16 MR. McCABE: Yes, Your Honor?

17 THE COURT: --- and Ms. McDaniel, as far as I can
18 tell, and I -- with all due respect to the --
19 the Gatto family's loss in this situation,
20 we're going awfully far afield. I'm gonna --
21 I -- she's -- I'm gonna allow her to testify
22 about -- about this -- about this but just --
23 just remember ladies and gentlemen, what we're
24 dealing with is a South Carolina License and
25 Mr. Starkey's business behaviors in South



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Carolina. I understand where you're going, Mr.
2 McCabe.

3 **MR. McCABE:** Okay. Thank you, Your Honor. I just
4 wanted to make it clear ---

5 **THE COURT:** But I just wanna -- I just gotta be
6 focused on what we have here.

7 **MR. McCABE:** In this ---

8 **THE COURT:** A certain -- a certain amount of this
9 background may have relevance in Mr. Starkey's
10 fitness to hold a liquor license or a beer and
11 wine permit but I don't wanna get too far into
12 history when we've got things to deal with that
13 are much more relevant ---

14 **MR. McCABE:** Completely understand, Your Honor.

15 **THE COURT:** --- for wha- -- for what I can deal
16 with.

17 **MR. McCABE:** Yes, Your Honor.

18 **THE COURT:** I'm gonna ---

19 **MS. McDANIEL:** Thank you, Your Honor.

20 **THE COURT:** --- look back -- you -- she's testified
21 about this lawsuit. If you want to ask her
22 specific questions with reference to that order
23 ---

24 **MS. McDANIEL:** Yes, sir.

25 **THE COURT:** --- you can ask her the questions ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

155

1 MS. McDANIEL: Uh-huh.

2 THE COURT: --- I -- and I don't think you need to
3 have the order in as an Exhibit to ask those
4 questions.

5 MS. McDANIEL: Well, Your Honor, I -- I do think --
6 I -- I appreciate your position on the
7 Statesboro incident and I certainly agree with
8 you. We are simply responding to the evidence
9 that they are trying to put in and defending
10 against it. So the -- I will -- I will ask Ms.
11 Gatto the question and I think that will
12 explain the significance of the order coming
13 in, with your permission, Your Honor.

14 THE COURT: Go.

15 Q: Ms. Gatto, if you would, please turn to --
16 there -- the pages aren't numbered but I'll
17 count them for you. It's 1, 2, 3, 4, 5, 6, 7,
18 8, 9, 10, page 11, on numbered page 11. All
19 right. In the -- let's see, I guess it should
20 be starting on page 10 previously. The order
21 states that it's undisputed that decedent, that
22 would be your son, was arrested by
23 Athens-Clarke County Police Department on July
24 4th, 2014 and was charged with theft of
25 services and underage possession of alcohol, is



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

156

1 that true?

2 A: That he was arrested? Yes, that's correct.

3 Q: And then it goes on and says on August 5th,
4 2014, decedent entered into a pretrial
5 intervention program agreement in which he
6 agreed not to violate criminal laws, consume
7 alcohol and enter bars or locations whose
8 primary purpose is the sell of alcohol- --
9 alcoholic beverages, is that true?

10 A: That is true.

11 Q: Okay. And then it goes on to say it's
12 undisputed that decedent was present in Rude
13 Rudy's on the evening of August 27th, 28th,
14 2014 less than a month after entering the
15 pretrial diversion agreement, is that true?

16 A: It is true but that's where it gets tricky.
17 City has called Rude Rudy's a restaurant where
18 less than 50 percent of sales is alcohol.

19 Q: Okay. Then it says following Rude Rudy's, the
20 decedent was drinking and in possession of a
21 driver's license bearing a name other than his
22 own, is that true?

23 A: I have no way of knowing whether that was true.
24 I know he didn't need one to get a bracelet,
25 but.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

- 1 Q: Okay. But he -- he was not -- he was under a
2 Court Order not to go into bars, correct?
- 3 A: Not to go into bars, but ---
- 4 Q: Okay.
- 5 A: --- Rude Rudy's was a restaurant according to
6 the City, so.
- 7 Q: Okay. And so ---
- 8 A: I'm not sure you can make that argument.
- 9 Q: Okay. And so, Ms. Gatto, my -- I just wanna
10 make it clear, you and your family have not
11 pursued any legal action against Mr. Starkey,
12 have you?
- 13 A: No, we have not.
- 14 Q: Okay.
- 15 **MS. McDANIEL:** Let me ask -- let me check my ...
- 16 Q: Okay. So Ms. Gatto, were you aware that Mr.
17 Starkey was building or developing a new bar in
18 Clemson?
- 19 A: I was.
- 20 Q: When did you become aware of that?
- 21 A: It's after my son's death sometime.
- 22 Q: A year after his death, two years after his
23 death?
- 24 A: I don't remember.
- 25 Q: Do you remember how you became aware of it?



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Online. There were some construction
2 modifications put through to the City Council
3 of South Carolina that wasn't -- was online.

4 Q: Okay. And at that time did you submit any
5 information to the South Carolina DOR regarding
6 Mr. Starkey?

7 A: No. I just assumed he'd be denied the license.

8 Q: Okay. And how did you learn about this
9 proceeding, how did ---

10 A: A Clemson student notified me that something
11 was happening at that establishment. I then
12 found out again online that Mr. Starkey's
13 establishment had been shut down by authorities
14 and that he would have to reapply for a
15 license.

16 Q: Okay. And then -- and then that's when you
17 reached out to DOR?

18 A: Correct.

19 Q: So before, when you knew that he was getting a
20 license, you didn't reach out before then?

21 A: I believe he'd already received the license.

22 Q: And you did not reach out before that even
23 though you knew that he was in the process of
24 opening?

25 A: No. I believe when the construction was



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

159

1 happening I believe he had already had a
2 license or it was my understanding that he
3 already had a license.

4 Q: But until recently, you didn't take any action
5 to contact DOR regarding this construction?

6 A: I didn't need to, I knew of people that already
7 done so.

8 Q: Okay. Thank you.

9 **THE COURT:** Redirect?

10 **MR. McCABE:** Just one brief question.

11 **MS. GATTO - REDIRECT EXAMINATION BY MR. McCABE:**

12 Q: Ms. Gatto, did Rude Rudy's have liability
13 insurance?

14 A: It was my understanding they were no longer
15 insurable due to multiple incidences and
16 lawsuits.

17 **MR. McCABE:** No further questions, Your Honor.

18 **THE COURT:** Okay. Ms. Gatto, you may return to your
19 seat.

- 20 A: Thank you.

21 **THE COURT:** Thank you for coming.

22 **MR. McCABE:** At this time we call our next witness.

23 **COURT REPORTER:** Do you solemnly swear or affirm the
24 testimony you're about to give will be the
25 truth, the whole truth and nothing but the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

160

1 truth so help you God?

2 **MS. STRZELCZYK:** I do.

3 **COURT REPORTER:** Thank you, ma'am, appreciate it.

4 **KRISTA STRZELCZYK**, having been duly sworn, testifies
5 as follows:

6 **MS. STRZELCZYK - DIRECT EXAMINATION BY MR. McCABE:**

7 **Q:** Good morning. Could you please state your name
8 and spell it for the Court Reporter?

9 **A:** Krista Strzelczyk, K-R-I-S-T-A S-T-R-Z-E-L-C-Z-
10 Y-K.

11 **Q:** All right, Krista. And where are you employed?

12 **A:** South Carolina Department of Revenue.

13 **Q:** And what is your title?

14 **A:** I am one of the Alcohol Beverage Licensing
15 Supervisor.

16 **Q:** And what roles are assigned to an ABL
17 Supervisor?

18 **A:** It is our role to basically monitor the
19 employees, make sure that they are performing
20 their job duties. Also review any type of
21 files or anything that is in question and
22 basically review anything that would be in the
23 process of going to out Litigation Department.

24 **Q:** Okay. And based upon that have you -- have you
25 reviewed and are you familiar with the license



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

161

1 for Study Hall, LLC?

2 A: I am.

3 Q: Okay. Does this location currently hold a

4 license and a permit?

5 A: They do.

6 Q: All right. And who was the sole principal for

7 that license and permit?

8 A: Mr. Starkey.

9 Q: Okay. Now, has this location continuously held

10 a license and permit since December of 2018?

11 A: No.

12 Q: Why did this location's license and permit

13 expire -- or excuse me. Did this location's

14 license and permit expire on November 30th,

15 2018?

16 A: Yes.

17 Q: Okay. And why did it expire on that date?

18 A: Based on the County that the business is

19 located, he would have had to renew by that

20 date and we did not receive renewal for his

21 location.

22 Q: Okay. Was this business notified that their

23 license had expired?

24 A: We don't notify them that it's expired but they

25 receive a renewal packet letting them know that



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 it's up for renewal 60 days before the renewal.

2 Q: Okay. Let me have you take a look at what I
3 have marked as Petitioner's Exhibit Number 7.
4 If you could take a look at that and make
5 yourself familiar with that document.

6 A: Okay.

7 Q: What is the document that I've handed you?

8 A: This is an ABL Renewal Notice of Denial.

9 Q: All right. And what is the date on that
10 document?

11 A: December 7th, 2018.

12 Q: All right. And was this document created by an
13 ABL Analyst with knowledge of the Study Hall
14 file?

15 A: It was.

16 Q: All right. And are you ---

17 **MS. McDANIEL:** My apologies, Your Honor. I try --
18 I'm not sure that I have a copy of that. I'm
19 trying to find it in my stack of documents that
20 you handed me.

21 **THE COURT:** I think they've referred to Exhibit 7,
22 so.

23 **MS. McDANIEL:** I'm looking for -- oh, here we go, my
24 apologies.

25 Q: And is it the normal course of business to keep



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

163

1 documents such as this?

2 A: Yes.

3 Q: All right. And is there any reason not to

4 trust the authenticity of this document?

5 A: No.

6 **MR. McCABE:** Your Honor, I'd offer Exhibit Number 7

7 into evidence.

8 **MS. McDANIEL:** No objection, Your Honor.

9 **THE COURT:** It is, without objection, submitted.

10 **(Petitioner's Exhibit Number 7 was marked for**

11 **identification purposes.)**

12 Q: Does Exhibit Number 7 notify Study Hall that

13 it's license and permit was expired?

14 A: It does.

15 Q: All right. Could you please read the sentence

16 that gives notice not to sell alcohol?

17 A: It says you must cease all sales of beer, wine

18 and/or liquor until you receive your renewed

19 license.

20 Q: Is this sentence in bold print?

21 A: It is.

22 Q: Is this sentence repeated anywhere else on this

23 letter?

24 A: It is.

25 Q: And where is that?



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

164

- 1 A: On page 2, at the bottom it says you must cease
2 all sales or beer, wine and/or liquor until you
3 receive your renewed license.
- 4 Q: Okay. So what date was Study Hall issued it's
5 license, when did they eventually get their
6 license?
- 7 A: I believe it was March 7th of 2019.
- 8 Q: Okay. Were you informed that SLED had made an
9 arrest and seizure of contraband alcohol from
10 this location?
- 11 A: Yes.
- 12 Q: Prior to -- prior to the license being issued?
- 13 A: Can you repeat that?
- 14 Q: Yes. Prior to the license being issued, did
15 you have knowledge that SLED had gone and made
16 an arrest and seized contraband alcohol?
- 17 A: No.
- 18 Q: Okay. If the ABL Department had been aware
19 that Study Hall had been selling without a
20 license would you have issued the license and
21 permit?
- 22 A: No.
- 23 Q: And why not?
- 24 A: If Mr. Starkey cannot hold up to the laws and
25 regulations of South Carolina and prove to us

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

165

1 that he's of good moral character then the
2 Department would not issue a license to
3 somebody that doesn't present good moral
4 character.

5 Q: Okay. Was there a mistake on the license and
6 permit when it was eventually issued -- when he
7 came in, got his license, was there a -- a
8 mistake on that applica- -- or on that license
9 and permit?

10 A: There was.

11 Q: And what was that mistake?

12 A: The issue date that was listed on the license
13 was incorrect.

14 Q: All right. And how was that remedied?

15 A: I contacted Mr. Starkey myself after being
16 contacted by the office that issued the license
17 and advised him that the wrong date was on his
18 license and if he could please bring it into
19 the Department so we could issue him the
20 correct license with the correct issue date.

21 Q: All right. So despite this mistake, is there
22 any doubt that Mr. Starkey did not have a
23 license on February 28th, 2019 when SLED made
24 the arrest and seizure of contraband alcohol?

25 A: No.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: All right. What is an LOP, we're gonna talk a
2 little bit about that, what is that?

3 A: An LOP is if -- if you carry a liquor-by-the-
4 drink license and you're in an approved County
5 for Sunday sales, it allows you to sell liquor
6 during restricted hours on Sunday.

7 Q: Okay. Does Study Hall currently have an LOP?

8 A: They currently do.

9 **MS. McDANIEL:** And Your Honor, I'm going to object
10 to testimony regarding that. We're here based
11 on the Department determination that -- the
12 only basis for this determination for, in this
13 matter was the sale of the -- sale on February
14 28th, 2019. The issue about a Sunday sales,
15 all of those other issues that Mr. McCabe
16 presented in his opening statement, none of
17 that was part of determination. That's nothing
18 that we've ever been informed about would be an
19 issue and it would be unfair, and I would argue
20 a violation of due process, for us to have to
21 address those matters when they were never a
22 part of the original determination that we're
23 here concerning.

24 **MR. McCABE:** Your Honor, if I may. This is a de
25 novo hearing. The Department became aware that



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

167

1 this violation occurred after the Department
2 determination was issued, and those documents
3 were provided in discovery to Ms. McDaniel, so
4 she had fair notice that this was on the table.
5 And you can not ask the Department to turn
6 their eyes to a continuing violation.

7 **MS. McDANIEL:** Your Honor, I would simply say the
8 determination is what the determination is.
9 We're here on a de novo review of the
10 determination, not my client's entire life
11 history of alcohol licensing.

12 **THE COURT:** Yes, ma'am, I understand that. The
13 local option issue, I don't believe -- and Mr.
14 McCabe, I- -- I'm not going to make your
15 argument. Assuming that the February 28th was
16 not a Sunday ---

17 **MR. McCABE:** Correct.

18 **THE COURT:** -- what do you plan to accomplish by
19 talking about the local option issue?

20 **MR. McCABE:** Our purpose is to show that even after
21 the February 28th, when Mr. Starkey supposedly
22 came in to compliance, even then he didn't come
23 into compliance because he continued to sell
24 without a license -- or an LOP for -- for 95
25 Sundays. He's gone since 2000 -- I believe



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 2016 without a local option permit; so, he
2 still is not in compliance with the law.

3 **MS. McDANIEL:** Your Honor, this determination was
4 issued on July 15th, 2019. If that had been a
5 part of their consideration, if -- if -- if
6 what Mr. McCabe says is true, they could have
7 made that a part of this. They did not. They
8 only focused on the -- the February sale not
9 the Sunday sales.

10 **MR. McCABE:** Your Honor, if I may. We were not
11 aware -- when the Department was issued there
12 had not been a citation issued, SLED had not
13 received a complaint, they had not done an
14 investigation. Once again, Ms. McDaniel
15 received all of these documents in discovery.
16 She could've simply conducted maybe a little
17 bit further discovery then instead of just
18 asking for documents, she would've been able to
19 know what we were looking at.

20 **MS. McDANIEL:** Your Honor, we weren't required.
21 That was certainly not within the scope of what
22 the determination was and that was not
23 something that would have been necessary for us
24 to do.

25 **THE COURT:** All right. This is a de novo hearing



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

169

1 and I'm gonna -- I'm gonna to allow this
2 testimony. I'm not sure that -- well, I'm
3 gonna allow the testimony. Now, I admit that
4 that's not part of their original
5 determination. It does go to the issue of
6 whether Mr. Starkey has complied with State
7 law. And I'm -- and to the extent that this
8 is the -- a de novo hearing, I'm going to allow
9 this -- I'm going to allow that testimony for
10 the purpose of showing the appearance of
11 compliance or noncompliance. What she's said
12 so far is that he's got one.

13 **MS. McDANIEL:** That's correct, Your Honor. Thank
14 you, Your Honor.

15 **MR. McCABE:** Thank you.

16 **THE COURT:** Proceed, and I'll overrule that
17 objection.

18 **Q:** When did Study Hall obtain their LOP?

19 **A:** I don't know the exact date but I believe it
20 was after his re- -- his license was issued,
21 his renewal.

22 **Q:** All right. Did anything happen at Study Hall
23 before -- the week before the LOP was
24 purchased?

25 **A:** I believe there was a violation issued.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: Okay. Was Study Hall -- well, let me ask you
2 this: did Study Hall have an LOP from November
3 26th, 2017 until October 20th, 2019?
4 A: No.
5 Q: All right. Would Study Hall been permitted to
6 sell alcohol on those 95 Sundays if it did not
7 have an LOP?
8 A: They would not.
9 Q: All right. How much is a single LOP?
10 A: It's \$200 per Sunday.
11 Q: All right. So, per Sunday. How much is it if
12 you buy that at the year -- for a year -- 52
13 weeks?
14 A: \$3,050.
15 Q: Okay. So by not purchasing LOP's, Mr. Starkey
16 could have potentially -- is -- is it your
17 testimon- -- well, let me ask you this -- I'm
18 getting ahead of myself. If Mr. Starkey were
19 to have purchased a single Sunday LOP, what
20 amount of money would have been due to the
21 Department, just a rough estimate that you'd
22 think?
23 A: \$19,000.
24 Q: Okay. If Mr. Starkey had purchased the 52 week
25 LOP, what would have been due to the

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

171

1 Department?

2 A: Maybe about \$6,100.

3 Q: All right. So in 2019, how many licenses were

4 purchased by Study Hall?

5 A: Three.

6 Q: All right. And let me ask you, what preceded

7 the purchase of each of these licenses?

8 A: I'm sorry, can you say that again?

9 Q: Did something occur before these license were

10 purchased?

11 A: Yes.

12 Q: What -- what occurred?

13 A: I believe he was issued -- he was selling

14 without a license before that.

15 Q: Okay. And before he purchased the LOP, what

16 happened there?

17 A: He was issued a violation.

18 Q: For?

19 A: For sale on Sundays.

20 Q: All right. So did ABL have any concerns about

21 a business that fails to obtain the appropriate

22 licenses and continues to sell alcohol

23 beverages?

24 A: Yes, we do.

25 Q: All right. And what are those concerns?



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Our concerns would be if Mr. Starkey cannot
2 hold up to the South Carolina law, it -- it
3 would ma- -- it would -- it would determine
4 that he would not be of good moral character to
5 hold a license in the State based off of his
6 history of selling without a license.

7 Q: Okay. I know we're talking about South
8 Carolina, but visit Georgia here just for a
9 quick second here. Was ABL aware of Mr.
10 Starkey's business activities in the state of
11 Georgia when it issued it's original license?

12 A: We were not.

13 Q: All right. If the Department had been aware
14 that Mr. Starkey's business activity in the
15 State of Georgia ---

16 MS. McDANIEL: Objection, Your Honor. Purely
17 speculative.

18 MR. McCABE: I'm sorry?

19 MS. McDANIEL: I- -- I would say if a question of if
20 you had been aware, that calls for speculation.

21 THE COURT: I agree.

22 MR. McCABE: All right.

23 THE COURT: Sustained.

24 Q: Well, let's go to -- yeah. How does the
25 Department of Revenue treat revocations from



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

173

1 other states?

2 A: If it's a revocation against the license holder
3 it would ban them from being able to sell beer
4 and wine in the State for two years and liquor
5 for five years.

6 Q: All right. So Department -- so it's your
7 testimony that if someone from out of state
8 received a revocation against their license
9 they would not be able to obtain a license here
10 within the State of South Carolina?

11 A: That's correct.

12 Q: All right. Does the Study Hall have any
13 violations for underage sales?

14 A: I believe there is one.

15 Q: You remember when that occurred?

16 **MS. McDANIEL:** And, Your Honor, I'm just going to
17 make the same objection just to put it on the
18 record that these are matters that were not
19 part of the initial determination and are
20 beyond the scope of this hearing.

21 **MR. McCABE:** Your Honor, once again this is a de
22 novo hearing and she -- she received all of the
23 violations, including the one from 2017, as
24 part of discovery. If she requests everything
25 from the Department's file regarding her client



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

174

1 I believe that we should be able to ask about
2 those things that are within the Department
3 file.

4 **THE COURT:** Just because you furnish them in
5 discovery I don't know that that carries over
6 to what you can do in court. But I- -- I'm
7 gonna allow -- I'm gonna allow for her to
8 answer that question simply because it -- I
9 don't think if all he has in, since opening the
10 business in 2017 is one violation for underage
11 sales, well frankly I think that benefits him,
12 but ---

13 **MS. McDANIEL:** Thank you, Your Honor.

14 **THE COURT:** So I'm gonna let him answer -- ask --
15 he's asked that question so I'm gonna let her
16 answer.

17 **MS. McDANIEL:** Thank you, Your Honor.

18 **Q:** The question was does he have a violation for
19 underage sales?

20 **A:** He did.

21 **Q:** All right. And what was the penalty for this
22 violation?

23 **A:** It was a \$500 fine.

24 **Q:** All right. And did the Study Hall contest this
25 violation?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

175

1 A: I don't believe so.

2 Q: Okay. When you review an application, does the

3 ABL Department review taxes to make sure

4 there's no back taxes owed, anything of that

5 sort with the applicant?

6 A: We do.

7 Q: All right. Does this mean that you're familiar

8 with the Department's tax record systems?

9 A: I am.

10 Q: Okay. What is an admissions tax?

11 A: Admissions tax is ---

12 **MS. McDANIEL:** Your Honor, I'm going to continue my

13 objection. This is information that was not

14 part of the determination and it's certainly

15 nothing that we've ever been provided any

16 documentation regarding the issue of this

17 admissions tax. This is a completely new issue

18 that I had never heard about until today.

19 **MR. McCABE:** Your Honor, once again this is a de

20 novo hearing and the Department learned of this

21 on Friday.

22 **MS. McDANIEL:** And did not provide us the

23 information regarding it at that time.

24 **THE COURT:** Okay. Mr. McCabe, we've got to cut --

25 cut off for it somewhere and we're -- we're at



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

176

1 least gonna cut it off there.

2 **MS. McDANIEL:** Thank you.

3 **THE COURT:** I'm going to sustain that objection.

4 **Q:** Is Mr. Starkey compliant with all the tax
5 records?

6 **A:** No.

7 **Q:** All right.

8 **MR. McCABE:** No further questions, Your Honor.

9 **MS. STRZELCZYK - CROSS-EXAMINATION BY MS. McDANIEL:**

10 **Q:** All right. Good morning. It's my
11 understanding that you're testimony is that
12 when you contacted Mr. Starkey to return the
13 license that was initially issued, you said
14 with an incorrect date, tell me about that
15 conversation.

16 **A:** I contacted him to let him know that when he
17 went into I believe it was the Greenville DOR
18 Office they issued him a license with the
19 incorrect start date on it, and if he could
20 please bring that license back into the
21 Department to get the correct issue date
22 applied on the license.

23 **Q:** Okay. And did Mr. Starkey come in and turn
24 that in?

25 **A:** He did.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

177

- 1 Q: Did he come personally and turn that in?
- 2 A: I believe so.
- 3 Q: Okay. And did he say no, I'm not going to turn
- 4 it in, I -- you're -- you're crazy, I've got my
- 5 license? Did he object in any way?
- 6 A: Other than it taking him a few days to do it,
- 7 no.
- 8 Q: Okay. And how long, do you know -- when did he
- 9 return that back in?
- 10 A: I actually left him a couple voice mails ---
- 11 Q: Uh-huh.
- 12 A: --- and called him quite a few times till he
- 13 finally called me back.
- 14 Q: Uh-huh.
- 15 A: But it had been at least two to three days
- 16 before he went in to actually get it corrected.
- 17 Q: Okay. But he did bring it in ---
- 18 A: He did.
- 19 Q: --- voluntarily? Okay. And you testified
- 20 regarding the Sunday sales license, Mr. Starkey
- 21 did obtain that license, correct?
- 22 A: Eventually he did, yes.
- 23 Q: Okay. And do you know the date of that?
- 24 A: I don't recall.
- 25 Q: Would it have been in October?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

178

- 1 A: I believe it was probably October of 2019.
- 2 Q: Okay. So it was after this proceeding was
- 3 already initiated, it was after you had alleged
- 4 that he was selling without a license, correct?
- 5 A: Correct.
- 6 Q: And it was after you'd already alleged that he
- 7 was not of good moral character, correct?
- 8 A: I didn't allege that.
- 9 Q: Well, I'm sor- -- I apologize. The Department
- 10 in the determination?
- 11 A: I did not see the determination.
- 12 Q: Okay. And who issu- -- how is the Sunday sales
- 13 license issued?
- 14 A: They would fill out a form, bring the form into
- 15 the Department, we would make sure they're
- 16 compliant with all tax laws at that time, and
- 17 any violations they may have on record, and
- 18 then we would issue them the LOP.
- 19 Q: Okay. So considering all of that, the LOP was
- 20 issued, correct?
- 21 A: It was.
- 22 Q: And doesn't that also require a finding of good
- 23 moral character to be issued an LOP?
- 24 A: Yes.
- 25 Q: Thank you. No further questions. Oh, perhaps

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

179

1 one question.

2 **THE COURT:** Re-direct?

3 **MR. McCABE:** Thank you, Your Honor.

4 **MS. STRZELCZYK - REDIRECT EXAMINATION BY MR. McCABE:**

5 Q: Did the Department feel it was appropriate to
6 not issue a license when the question of the
7 applicant's moral character was in front of the
8 Court, was to be determined?

9 A: I'm sorry, say that again.

10 Q: Did the Department feel it was appropriate to
11 not issue a license when the applicant's moral
12 -- the applicant's moral character was in
13 question -- was in litigation at that point?

14 A: No. We -- well, we wouldn't -- because there's
15 been no deter- -- there's -- there's not an
16 outcome to that case, it would not for -- we
17 wouldn't be able to not give him a license
18 until of course we're here today.

19 Q: So it's your testimony that because the issue
20 had not been determined, we -- the Department
21 is required?

22 A: If we didn't have any other reason as far as
23 tax compliance, yes.

24 Q: All right. And at that time was the Department
25 aware of the tax issues?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

180

1 **MS. McDANIEL:** Objection, Your Honor.

2 **THE COURT:** I want him to ask that question a little
3 differently because I -- Mr. McCabe, you've
4 asked about tax issues.

5 **MR. McCABE:** Yes, Your Honor.

6 **THE COURT:** Let's be more specific. What tax issues
7 ---

8 **MR. McCABE:** All right,

9 **THE COURT:** --- are you asking about? Don't answer,
10 ma'am. Just ask her what ---

11 **MR. McCABE:** Okay.

12 **Q:** My question is, at that time did anyone look to
13 see that Mr. Starkey had complied with the
14 admission tax requirements?

15 **MS. McDANIEL:** And, Your Honor, that's what I'll
16 object to, Your Honor.

17 **THE COURT:** Okay. I'll sustain the objection.

18 **Q:** Was there anything at the time he came in and
19 applied for the LOP, was there anything that
20 was in his file that would have stopped the
21 Department from issuing the license?

22 **A:** From issuing the LOP?

23 **Q:** I'm sorry. Yes, for issuing the LOP.

24 **A:** No.

25 **MR. McCABE:** No further questions, Your Honor.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

181

1 **THE COURT:** Anything else?

2 **MS. McDANIEL:** I have no further questions, Your
3 Honor.

4 **THE COURT:** Ma'am, you can go to your seat.

5 **MR. McCABE:** At this time, Your Honor, we would call
6 Special Agent Keith Dorman to the stand.

7 **COURT REPORTER:** Do you solemnly swear the following
8 testimony you're about to give will be the
9 truth, the whole truth and nothing but the
10 truth so help you God?

11 **MR. DORMAN:** Yes, sir.

12 **AGENT KEITH DORMAN,** having been duly sworn, testifies
13 as follows:

14 **AGENT DORMAN - DIRECT EXAMINATION BY MR. McCABE:**

15 Q: Morning Keith, could you please state your name
16 for the record?

17 A: Yes, sir. Keith Dorman.

18 Q: All right. And where are you employed?

19 A: SLED, South Carolina Law Enforcement Division.

20 Q: And what are your job roles?

21 A: Primarily Alcohol Enforcement Unit within SLED.

22 Q: All right. And how long had you been in this
23 position?

24 A: Six years.

25 Q: All right. What did you do before taking this



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 position with SLED?

2 A: I was in Accounts Management.

3 Q: Okay. What areas of the State are you
4 responsible for?

5 A: Well, the whole state but primarily Greenville,
6 Pickens and Oconee Counties.

7 Q: All right. And do your job duties require you
8 to conduct compliance inspections of locations
9 within those counties?

10 A: Yes, sir.

11 Q: All right. How many inspections do you conduct
12 a month?

13 A: Minimum of 75.

14 Q: All right.

15 A: 75 licenses.

16 Q: Okay. So, 75 licenses. And what types of
17 things are you looking [sic] when you conduct
18 an inspection?

19 A: It varied between location. For a restaurant
20 purposes we're looking for -- just for example
21 it's not limited to, but size of liquor
22 bottles, where alcohol is being purchased, both
23 beer and liquor, the restaurant requirements to
24 maintain your business at that place, just to
25 name a few.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

183

- 1 Q: Okay. And on February 28th, 2019, did you
2 conduct an undercover -- or did SLED conduct an
3 undercover investigation of the business
4 located at 101 Sloan Street, Clemson, South
5 Carolina?
- 6 A: Yes, sir.
- 7 Q: And what is the name of this business?
- 8 A: Study Hall.
- 9 Q: All right.
- 10 A: LLC.
- 11 Q: Why did you conduct an undercover investigation
12 of this business?
- 13 A: I received information from a wholesaler in
14 that beer district that this place or that this
15 location, they weren't gonna deliver alcohol to
16 due to their license expiring.
- 17 Q: Okay. Did you confirm with the South Carolina
18 Department of Revenue whether or not this
19 location had a valid license to sale beer, wine
20 and alcohol?
- 21 A: Yes, sir.
- 22 Q: All right. And who did you confirm that with?
- 23 A: Ms. Strzelczyk with Dr- -- Department of
24 Revenue.
- 25 Q: So what was the result of this investigation?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

184

- 1 A: Well, the beer was purchased at the location
2 without a license being -- being valid, and the
3 -- all the alcohol was seized as a result of
4 the investigation.
- 5 Q: Okay. Did you place the results of this
6 investigation into a report?
- 7 A: Yes, sir.
- 8 Q: All right. Let me have you take a look at what
9 we've marked here as Petitioner's Exhibit
10 Number 8. Do you recognize that document?
- 11 A: Yes, sir.
- 12 Q: And what is it?
- 13 A: The report that I typed after -- after the
14 events unfolded.
- 15 Q: All right. As the author of this -- this
16 document, do you have knowledge of this
17 investigation?
- 18 A: Yes, sir.
- 19 Q: All right. And is it normal procedure for SLED
20 to document the results of an investigation?
- 21 A: Yes, sir.
- 22 Q: And is it normal practice for SLED to keep
23 records of their investigations in the ordinary
24 course of business?
- 25 A: Yes, sir.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: And are you authorized to testify as a Records
2 Custodian for SLED?
3 A: Yes, sir.
4 MR. McCABE: Your Honor, at this time I would offer
5 Exhibit 8 into evidence.
6 THE COURT: Ms. McDaniel?
7 MS. McDANIEL: If you could point me to which
8 document you're looking at. Is it ---
9 THE COURT: Exhibit 8, I'm not sure what ---
10 MS. McDANIEL: Well, it's -- mine ---
11 MR. McCABE: It's the SLED ---
12 MS. McDANIEL: --- aren't marked, sorry. Which one
13 is Exhibit 8?
14 MR. McCABE: February 28th.
15 MS. McDANIEL: So you have -- are these the -- these
16 are the ---
17 MR. McCABE: This is October 13th.
18 MS. McDANIEL: Okay. So we're talking about ---
19 MR. McCABE: This one. Yep.
20 MS. McDANIEL: The one dated March 7th, 2019?
21 MR. McCABE: Correct.
22 MS. McDANIEL: Okay.
23 MR. McCABE: For the investigation on February 20 --
24 -
25 MS. McDANIEL: All right. And it's 40 pages long?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

186

1 Is that the correct one?

2 **MR. McCABE:** Yes -- yes, ma'am.

3 **MS. McDANIEL:** Okay. Your Honor, I -- we don't have
4 any objection to this coming in.

5 **THE COURT:** Okay. Without objection, Exhibit 8 is
6 admitted.

7 **(Petitioner's Exhibit Number 8 was introduced into**
8 **the record at this time.)** /

9 Q: Could you look at page -- what I believe is
10 page 8 of this Exhibit?

11 A: Okay.

12 Q: And what is that you're looking at?

13 A: A letter that was sent to the licensees stating
14 that all sales of beer, wine and/or liquor must
15 cease until you've reneed- -- received your
16 renewed license.

17 Q: Okay. And who presented you with this
18 document?

19 A: Alvin Dark, who was the manager at the time.

20 Q: So is it your testimony that the manager of the
21 location had this letter in his possession at
22 the time SLED made the arrest?

23 A: He presented this letter to me, yes, sir, on
24 the evening that we were in there and -- and
25 made the sale. Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

187

1 Q: Okay. Did Mr. Dark provide you with any other
2 documentation?
3 A: Yes, sir.
4 Q: All right. Let's look at page number 30 of
5 Exhibit 8.
6 A: All right.
7 Q: And what is that document?
8 A: Patrick, do you mind if I take this clip off?
9 Q: No, go -- please, go right ahead. Probably
10 make it a little bit easier to get there.
11 A: All right.
12 Q: What is that on page 30?
13 A: This is a sales report from December the 1st
14 going through the month of December -- December
15 the 1st through the 31st of 2018.
16 Q: All right. Under the heading of beer, what was
17 the total amount of beer sales for the month --
18 for the month of December.
19 A: \$6,730.
20 Q: All right. And under the heading of liquor,
21 what was the total amount of liquor sales for
22 the month of December?
23 A: \$18,371.59.
24 Q: Okay. If you do some rough math, what does
25 that make, just an estimate, the total amount

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

188

- 1 of alcohol sales for December?
- 2 A: Well excluding wine, which would have been
- 3 1875, 20 -- about \$25,000 and some change.
- 4 Q: Okay. And do you know what date Study Hall's
- 5 license and permit expired?
- 6 A: Their biannual permit expired November the
- 7 30th, 2018.
- 8 Q: All right. There's a signature on that
- 9 document, who's signature is that?
- 10 A: Mr. Dark's, Alvin Dark's.
- 11 Q: Okay. And why did he sign that document?
- 12 A: He -- he voluntarily provided it to me and I
- 13 wanted to make sure that I explained to him,
- 14 you know, this is -- you know, this is why
- 15 you're signing this document, that we're not
- 16 taking it from you, you know, by any sort of
- 17 order or anything like that.
- 18 Q: Right.
- 19 A: He voluntarily provided it for me so I -- I
- 20 wanted to make sure he initialed it.
- 21 Q: Okay. Could you look at page number 31 of
- 22 Exhibit 8?
- 23 A: Okay.
- 24 Q: Once you get there, what is that document?
- 25 A: Another sales report for the month of January,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

189

- 1 January 1st through the 31st, 2019.
- 2 Q: Okay. And under the heading of beer, what was
- 3 the total amount of beer sales in the month of
- 4 January?
- 5 A: \$14,000 -- or \$14,588.36.
- 6 Q: All right. And under the heading of liquor,
- 7 what would the total amount of liquor sold in
- 8 the month of January?
- 9 A: 4- -- \$43,144.90.
- 10 Q: And is there a heading for wine there as well?
- 11 A: Yes, sir.
- 12 Q: What is that amount?
- 13 A: \$30.
- 14 Q: All right. Guess wine wasn't a big seller that
- 15 month. What does that make the total amount
- 16 for alcohol sales in January?
- 17 A: Roughly \$57,700, something like that.
- 18 Q: Okay. Was this document signed by Mr. Dark?
- 19 A: Yes, sir.
- 20 Q: All right. And let's look at page 32 of
- 21 Exhibit 8. What is this document?
- 22 A: Again, it's another sales report for the month
- 23 of February, the 1st through the 28th of 2019.
- 24 Q: All right. And under the heading of beer, what
- 25 was the total amount of beer sold for February?



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

- 1 A: \$10,910.50.
- 2 Q: And under the heading of liquor, what was the
3 total amount of liquor sold for February?
- 4 A: 36,000 -- \$36,993.45.
- 5 Q: Okay. What about wine, was there any heading
6 for wine?
- 7 A: \$3.75.
- 8 Q: Okay. So quick math, what does that make the
9 total sales for alcohol in February?
- 10 A: 40- -- 47,000 almost 48,000.
- 11 Q: Okay. So the records show that -- or do the
12 records show that Study Hall conducted alcohol
13 sales for January -- for December, January and
14 February without a license?
- 15 A: Yes, sir.
- 16 Q: All right. Did -- upon this investigation, did
17 SLED petition the Court for a search warrant?
- 18 A: Yes, sir.
- 19 Q: An- -- and why did that occur?
- 20 A: The -- the location at that point to me, at
21 least being an investigator, wasn't licensed,
22 therefore as far as our inspection powers went
23 I felt like that would've been a safe bet for
24 me just to have -- make sure we have that
25 search warrant in place.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

191

- 1 Q: All right. And what did that search warrant
2 allow you to do?
- 3 A: Search the business for contraband beer --
4 beer, wine and liquor.
- 5 Q: And when you discovered the contraband, what --
6 what happened?
- 7 A: It was seized.
- 8 Q: Okay. Is this the only times that SLED has
9 found Study Hall operating without a license?
- 10 A: No, sir.
- 11 Q: When else did we find -- did SLED find Study
12 Hall operating without a license?
- 13 A: They were operating without a local option
14 permit about -- don't know exact time that I
15 found out about it but I received a -- a -- a
16 phone call from the Police Chief of Clemson.
- 17 Q: All right. And what was the result of this
18 investigation?
- 19 A: We issued a violation for the sale of liquor
20 during restricted hours.
- 21 Q: All right. And did you place the results of
22 this investigation into a report?
- 23 A: Yes, sir.
- 24 Q: All right. Let me have you look at what we've
25 marked as Exhibit Number 9. If you could take



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

192

- 1 a look at this. This one is dated October
2 14th, 2018.
- 3 A: Okay.
- 4 Q: Okay. What is this document?
- 5 A: The document is a report that I had typed up
6 after the events unfolded.
- 7 Q: Okay. And is it normal procedure for SLED to
8 document the results of an investigation?
- 9 A: Yes, sir.
- 10 Q: And who was the author of this document?
- 11 A: I was.
- 12 Q: All right. And as the author do you have
13 knowledge of the investigation?
- 14 A: Yes, sir.
- 15 Q: And what does this document indicate?
- 16 A: Essentially that a sale of liquor was made
17 during the restricted hours on Sunday, I guess
18 that would have been Sunday the 14th, would --
19 would have been the date or it may have been
20 the 13th, I'm sorry.
- 21 Q: Okay. And is it normal procedure for SLED
22 Agents to document the results of these
23 investigations?
- 24 A: Yes, sir.
- 25 Q: All right. And is it normal practice for SLED

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

193

1 to keep these records in the ordinary course of
2 business?

3 A: Yes, sir.

4 Q: And are you authorized to testify as a Records
5 Custodian for SLED?

6 A: Yes, sir.

7 Q: All right.

8 MR. McCABE: Your Honor, at this time I would offer
9 Exhibit Number 9 into evidence.

10 MS. McDANIEL: Your Honor, we simply reiterate our
11 objection that this is outside the scope of the
12 determination.

13 MR. McCABE: Your Honor, if I may. The
14 determination was that Mr. Starkey is not of
15 good fit moral character. That was the
16 determination. These are all facts that go
17 into that determination.

18 THE COURT: What's the date of that document?

19 A: The date that it was typed, Your Honor?

20 THE COURT: Well ---

21 MS. McDANIEL: Is there a ---

22 THE COURT: --- the date of the Sunday sale.

23 A: It's October the 13th.

24 THE COURT: October?

25 A: And I'm sure it -- brought up but I -- I'm --



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

194

1 the 13th is Saturday, I put -- it's just a
2 typo. So -- but it'd have been October the
3 13th the violation was issued.

4 **THE COURT:** Okay. I -- I'm gonna allow that because
5 of the -- the issue is how obedient is he to
6 the law as -- in so far as that impacts that,
7 the date issue, I think that it's relevant for
8 us today as a -- in a de novo hearing so I'm
9 gonna allow it. So, that's admitted over your
10 objection.

11 **MS. McDANIEL:** Thank you, Your Honor.

12 **(Petitioner's Exhibit Number 9 was introduced into**
13 **the record at this time.)**

14 **Q:** Exhibit Number 9, does it mention anything
15 about cover charge?

16 **A:** Yes, sir.

17 **Q:** Okay. And what does that indicate?

18 **A:** The Agent that I had sent in to -- to purchase
19 the liquor paid a -- a cover charge of \$10 to
20 enter Study Hall.

21 **Q:** All right. Have there been any other
22 violations at Study Hall?

23 **A:** Yes, sir.

24 **Q:** And when was that?

25 **A:** I don't know the exact month, I know it was in



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

195

1 2017.

2 Q: Okay. And what were the results of that
3 investigation?

4 A: We sent a confidential informant -- an underage
5 confidential informant into Study Hall that was
6 under the age of 21 and they purchased -- and
7 without looking at the report I don't remember
8 exactly what it was, but they purchased sort of
9 alcohol beverage at Study Hall on that date.

10 Q: Okay. And when SLED uses an underage
11 cooperating individual, do these individuals
12 use fake ID's?

13 A: No, sir.

14 Q: Do they engage in any type of trickery, are
15 they -- are they -- are they allowed to lie if
16 asked their true age?

17 A: No, sir.

18 Q: All right. What are they instructed about if
19 they're asked their age?

20 A: If they're asked their age we tell them to tell
21 them their ages, their real age.

22 Q: All right.

23 MR. McCABE: Your Honor, if I could have one moment?

24 THE COURT: Yes, sir.

25 MR. McCABE: No further questions, Your Honor.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

196

1 **THE COURT:** All right. Ms. McDaniel.

2 **AGENT DORMAN - CROSS-EXAMINATION BY MS. McDANIEL:**

3 Q: Good morning, Agent Dorman. I'm Kathleen
4 McDaniel representing Study Hall. Thanks for
5 being here today. What has been your
6 interaction with Mr. Starkey since he opened
7 Study Hall?

8 A: Well, we've had -- I mean, we've had many --
9 we've been in there just to pop in say hello,
10 check- -- check the bar out, that type of
11 thing. Of course we've also had times when
12 we've dealt with him as far as the
13 administrative stuff goes. I've never -- as
14 you and I have talked, I've never had any -- as
15 far as negative experiences go, he hasn't
16 cussed law enforcement out and said get out of
17 my bar or anything of that nature. So the
18 interactions that he and I've had -- he and I
19 have had face to face have been positive as far
20 as vibes go.

21 Q: When you have asked him for information has he
22 always provided it?

23 A: Yes, ma'am.

24 Q: Do you feel like he's ever tried to hide
25 anything from you?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

197

- 1 A: No, ma'am.
- 2 Q: Has he always been cooperative with any
3 information that you requested?
- 4 A: Yes, ma'am.
- 5 Q: Okay. When -- let's say on the night of
6 February 28th, were you present during the
7 undercover operation?
- 8 A: Yes, ma'am.
- 9 Q: Okay. And was Mr. Starkey at that property?
- 10 A: On that night?
- 11 Q: Uh-huh.
- 12 A: No, ma'am.
- 13 Q: Okay. Did you get in touch with him when you
14 were getting ready to -- when you found out
15 that there had been the sale?
- 16 A: I'm -- did I get in touch him that night?
- 17 Q: Uh-huh.
- 18 A: Yes, ma'am.
- 19 Q: Okay. And what -- how did you get in touch
20 with him?
- 21 A: Cell phoned him, he wasn't -- he wasn't there
22 so we called him.
- 23 Q: Okay. So you called Mr. Starkey to let him
24 know what's going on?
- 25 A: Yeah. And -- and it may have been the manager,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

198

1 I believe the manager called him that night ---
2 Q: Okay.
3 A: --- as far as what initiated the whole -- the
4 whole process.
5 Q: Okay.
6 A: Yes, ma'am.
7 Q: And then he called you right back, is that
8 correct?
9 A: I -- I believe so, yes, ma'am.
10 Q: Okay. But -- but you and he talked back on
11 that night, is that correct?
12 A: Yes, ma'am. Yes, ma'am.
13 Q: Okay. All right. And if he -- was he
14 cooperative ---
15 A: Yes, ma'am.
16 Q: --- with you during that investigation? When
17 you requested the information about the beer
18 sales, the alcohol sales, did Mis- -- you --
19 Mr. Alvin Dark ---
20 A: Yes, ma'am.
21 Q: --- signed that, but are you aware that he
22 contacted Mr. Starkey first to get permission
23 to release that information?
24 A: I don't recall the timeline of events, when he
25 provided that to me. I do know that we were in



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

199

1 the office of -- of Study Hall and an
2 unspecified period of time had passed, I don't
3 remember if it was 30 minutes or an hour, there
4 was a lot going on that night.

5 Q: Okay.

6 A: Yes, ma'am.

7 Q: Mr. McCabe asked you about the document that is
8 shown -- let's see, which page is it? I
9 believe it's page 8 of Exhibit 8.

10 A: Okay. Yes, ma'am.

11 Q: Okay. Who provided you this document?

12 A: I believe Mr. Dark provided it to me. And it
13 was af- -- I don't know -- can't remember if it
14 was on-premise or -- or what, but Mr. Dark
15 provided it to me.

16 Q: So you think it might not actually have been
17 on-premises, is that right?

18 A: I don't -- I can't recall.

19 Q: Okay.

20 A: I don't recall. I tell -- I took a picture
21 'cause I didn't want to do anything with an
22 original copy ---

23 Q: Uh-huh.

24 A: --- that -- you know.

25 Q: But it's your testimony that this might not



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

200

1 actually have been on-premises, is that
2 correct?

3 A: Well, I know that that's me holding the -- the
4 letter. I mean, that's my hand and I took it
5 with my phone.

6 Q: I'm being unclear about that. I'm sorry.

7 A: That's okay.

8 Q: That it wasn't originally, that Mr. Dark went
9 and got it somewhere?

10 A: Yes, ma'am.

11 Q: Okay. Okay.

12 A: Yeah. Well, as opposed to ...

13 Q: Okay.

14 A: No, ma'am.

15 Q: All right. Since the undercover operation on
16 the night of February 28th, have you had any
17 further conversations with Mr. Starkey?

18 A: I mean, we've -- we've talked, yes, ma'am.

19 Q: Uh-huh.

20 A: Both in person and -- and on the phone, sure.

21 Q: Okay. And what has been his demeanor regarding
22 the -- the sale, the February 28th sale?

23 A: Again, it hasn't been negative ---

24 Q: Okay.

25 A: --- if that's what you're asking. He hasn't



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

201

1 been ugly to me, and I'm only gonna speak for
2 myself, but I haven't had any -- any negative
3 dealings in person or on the phone with him.
4 Q: Uh-huh.
5 A: No, ma'am.
6 Q: And how does Study Hall compare in size to the
7 other bars at Clemson?
8 A: Now, I don't know an exact number but it's just
9 a fairly large -- large bar in Clemson as far
10 as compared to some of the other ones.
11 Q: Is it one of the largest?
12 A: In the downtown area I would say so.
13 Q: Okay. And how often are you in there?
14 A: In Study Hall?
15 Q: Uh-huh.
16 A: It varies. I don't know, there's not a --
17 there's not a set time but it varies. I mean,
18 I've been in there ---
19 Q: Is it once a week, is it once a month?
20 A: It -- I don't put a set time on anything. I
21 would say probably depending on the -- the time
22 of year and if school was in and all that as
23 far as the student's being downtown, once a
24 month, once every -- every two months unless I
25 have a reason to go in there otherwise.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

202

- 1 Q: All right. And in that time you've issued the
2 one underage citations?
- 3 A: At the time of February 28th?
- 4 Q: Uh-huh.
- 5 A: The one prior, yes, ma'am.
- 6 Q: And that was in 2017, correct?
- 7 A: Yes, ma'am.
- 8 Q: And there were none issued before that or after
9 that ---
- 10 A: Not by me as far as administrative violations.
- 11 Q: Okay. All right. If -- it's my understanding
12 that page -- let's see here. Yeah, let's look
13 at page 37 of Exhibit 8. Is this an arrest
14 warrant?
- 15 A: Yes, ma'am.
- 16 Q: Okay. And is this an arrest warrant that you
17 issued to Mr. Starkey?
- 18 A: Well, I -- I was the -- the affiant on the
19 warrant, I didn't serve my own warrant.
- 20 Q: Okay. Why did you issue an'awes- -- an arrest
21 warrant?
- 22 A: The parameters of one of the -- the statutes
23 that I'd issued would- -- would've had to go on
24 a warrant as well as the fact that he wasn't in
25 town that evening, and I didn't feel -- I



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

203

1 didn't want to write on a blue ticket something
2 that wasn't -- that didn't happen that evening.

3 Q: Okay.

4 A: Yes, ma'am.

5 Q: And so if Mr. Starkey had been in town, you
6 would have issued a -- a ticket instead of an
7 arrest warrant, is that correct?

8 A: Well, for the unlawful sale of beer a ticket
9 would have been issued and ---

10 Q: Okay.

11 A: --- unlawful storage of liquor would have gone
12 on the warrant.

13 Q: Okay. So there would have just been the -- the
14 ticket for that unlawful sale of beer? Not --
15 not an arrest warrant?

16 A: Normally if -- if -- if that's already on, a
17 ticket would be issued.

18 Q: Okay. Very good. All right. Let me -- let me
19 double check and see if I have any other
20 questions to ask of you. No further questions,
21 thank you.

22 **MR. McCABE:** Redirect real quick.

23 **AGENT DORMAN - REDIRECT EXAMINATION BY MR. McCABE:**

24 Q: Just to clarify, beer and alcohol -- are -- are
25 beer and alcohol treated differently under the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

204

1 statute?

2 A: Beer and?

3 Q: Beer and alcoholic liquors, are they treated

4 differently under the statute?

5 A: Yes, sir.

6 Q: All right. And the penalty for -- well, I

7 guess my question is can you explain why

8 there's a difference with a warrant being

9 issued for the liquor sales versus a ticket for

10 the beer sales?

11 A: The penal- ---

12 Q: Can you clarify that?

13 A: --- the penalties -- the penalties imposed or

14 potential penalties that could be imposed by a

15 judge and the time -- I guess this time of a

16 sentence that -- time would be served for some

17 reason or something like that are different for

18 the two statutes.

19 Q: But it is your testimony that both were issued

20 on that evening?

21 A: Arrest warrants, yes, sir; both were issued,

22 yes, sir.

23 Q: All right. And it's your testimony that Mr.

24 Starkey's been polite and compliant with you

25 wh- -- when you've spoken with him?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

205

1 A: Yes, sir.

2 Q: But has Mr. Starkey complied with the law?

3 A: No, sir.

4 Q: All right.

5 MR. McCABE: No further questions, Your Honor.

6 THE COURT: Mr. Dorman ---

7 A: Thank you

8 THE COURT: --- you can step down.

9 MR. McCABE: Your Honor, we just have -- just one

10 second real quick.

11 THE COURT: Sure.

12 MR. McCABE: We just have one final witness, Your

13 Honor. We would call Police Chief Dixon to the

14 stand.

15 COURT REPORTER: Do you solemnly swear the following

16 testimony you're about to give will be the

17 truth, the whole truth and nothing but the

18 truth so help you God?

19 CHIEF DIXON: I do.

20 COURT REPORTER: Thank you, sir.

21 CHIEF JIMMY DIXON, having been duly sworn, testifies

22 as follows:

23 CHIEF DIXON - DIRECT EXAMINATION BY MR. McCABE:

24 Q: Good morning, sir. Thank you for coming.

25 A: Morning.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

206

- 1 Q: Could you please state your name for the
2 record.
- 3 A: Jimmy Dixon.
- 4 Q: All right. And who is your employer?
5 A: City of Clemson.
- 6 Q: And what is your position with the City of
7 Clemson?
- 8 A: I am the Chief of Police for the Clemson Police
9 Department .
- 10 Q: All right. And how long have you served as the
11 Police Chief?
- 12 A: 17 years.
- 13 Q: All right. How many establishments that serve
14 alcohol are in the City of Clemson?
- 15 A: That have -- on-premises or all establishments?
- 16 Q: I'm sorry. On-premises.
- 17 A: On-premises we have approximately 40.
- 18 Q: All right. Are they located within a close
19 proximity to each other? Or is there an area
20 that -- is there an area that has a -- a close
21 or numerous establishments near -- a particular
22 area in the city that has a -- a number of
23 establishments in close proximity?
- 24 A: Yes, sir. Our downtown business district.
- 25 Q: Okay. And are you familiar with the business

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

207

1 located at 101 Sloan Street?

2 A: Yes, sir.

3 Q: All right. And are you aware of how many times

4 Study Hall had been cited for operating without

5 the appropriate license?

6 A: Only from the information that I received from

7 Agent Star- -- on excuse me, from Agent Dorman.

8 Q: Okay. Let's talk about the first violation in

9 March, did your officers assist with the SLED

10 investigation into the sale without a license?

11 A: Yes, sir. We have a detective that is assigned

12 to narcotics and alcohol violations.

13 Q: Right. And did your officers assist with the

14 seizure of the contraband alcohol?

15 A: Yes, sir. Several of 'em did.

16 Q: All right. How many hours were expended

17 seizing and documenting that -- that

18 contraband?

19 A: All total before it finally left our location

20 probably close to 35 or 40.

21 Q: All right. And when did it leave your

22 location?

23 A: I'm not sure, sir.

24 Q: Okay. Do you know where it went?

25 A: Agent Dorman picked it up and took it to

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

208

1 wherever their facility is.

2 Q: Okay. Did the -- the owners of Study Hall
3 reach out to the police department following
4 the seizure of the contraband alcohol?

5 A: They did not reach out to the police
6 department, they reached out to Detective
7 Brown.

8 Q: Okay. What were your thoughts when you saw
9 that Study Hall had reopened so shortly after
10 they had been closed by the seizure of all the
11 alcohol?

12 A: I was mad.

13 Q: And can you explain why you were mad?

14 A: Simply because I felt like the Department of
15 Revenue as well as Mr. Starkey himself had just
16 made a mockery -- a mockery of law
17 enforcement.

18 Q: Could you expand a little bit further on that?

19 A: We spent countless hours because we have 16 on-
20 premise locations within our downtown business
21 district. Those 16 locations are within a one
22 square mile radius and all directly across the
23 street from campus. We know that we've got
24 underage people who are gonna go downtown. We
25 spend countless hours trying to make sure that



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

209

1 all of our bars operate, as we call it, off of
2 the same sheet of music as well as operate
3 within the parameters and the regulations of
4 the Department of Revenue.

5 Q: Okay. Did your Department assist with the
6 investigation into the LOP violation in
7 October?

8 A: Yes, sir.

9 Q: All right. And what role did they -- did they
10 assist or how did they assist in that role?

11 A: Anytime that Agent Dorman comes into the city
12 he sets up an operation in conjunction with
13 Detective Brown and they in turn go out and do
14 alcohol compliance checks.

15 Q: All right. Did you contact the Department of
16 Revenue after the LOP violation occurred?

17 A: I did, sir.

18 Q: And how did you contact the Department?

19 A: By letter.

20 Q: All right. And what was the purpose of that
21 letter?

22 A: To say what is it gonna take to get this man's
23 attention.

24 Q: Okay.

25 MS. McDANIEL: And Your Honor, I will simply just



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

210

1 continue my objection to the LOP issue coming
2 in so that we don't waive that. I believe ---

3 **THE COURT:** Okay.

4 **MS. McDANIEL:** --- that it's beyond the scope of the
5 determination.

6 **THE COURT:** I'm not sure that's an effective way to
7 preserve your objection.

8 **MS. McDANIEL:** Okay.

9 **THE COURT:** I think you need to make it every time.

10 **MS. McDANIEL:** Okay.

11 **Q:** So you wrote -- it's your testimony you wrote
12 ---

13 **THE COURT:** Overruled this time.

14 **Q:** You wrote a letter to the Department. Do you
15 feel that monetary fines have an impact on
16 establishments like Study Hall or
17 establishments in the Clemson area in that --
18 that entertainment district, do you feel that
19 monetary fines have an effect?

20 **A:** Not on any of 'em, no, sir.

21 **Q:** And why not?

22 **A:** Seven Saturdays out of the year we're the
23 fourth largest city in the state, and I can
24 guarantee you whatever amount of fine that they
25 were gonna levy on 'em they gonna make it up on



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

211

1 that Saturday.

2 Q: All right. Are you aware of Mr. Starkey's

3 history of operating an alcohol establishment

4 in Georgia?

5 A: Somewhat. Yes, sir.

6 Q: All right. Does Mr. Starkey's prior history

7 cause you concern?

8 A: It did, which is why we met with him prior to

9 him opening up.

10 Q: Okay. And what is Mr. Starkey's reputation in

11 the local community?

12 A: Starkey himself? Has a fine reputation.

13 Q: All right. What about Mr. Starkey's business?

14 A: It's the place for high schoolers to go and

15 gang bang a bar.

16 Q: Okay. Do Mr. Starkey's repeated violation of

17 the South Carolina Alcohol Laws cause you

18 concern?

19 A: Absolutely, sir.

20 Q: And based on your personal perceptions, in your

21 opinion, your interactions with Mr. Starkey, do

22 you feel that Mr. Starkey is fit to hold an

23 alcohol license in the State of South Carolina?

24 A: No, I do not.

25 MR. McCABE: No further questions, Your Honor.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

212

1 CHIEF DIXON - CROSS-EXAMINATION BY MS. McDANIEL:

2 Q: Chief Dixon, I just have a few questions for
3 you. When you contacted DOR about your
4 concerns about Mr. Starkey, were you informed
5 that you could file a protest?

6 A: I sent 'em a letter ---

7 Q: Uh-huh.

8 A: --- I did not call 'em.

9 Q: All right. And did you receive an email or di-
10 -- weren't you informed that you could file a
11 protest concerning Mr. Starkey, a formal threat
12 protest?

13 A: I'm not sure if I was or not. I knew that
14 these cases were gonna be coming up so ---

15 Q: All right.

16 A: --- I wouldn't have.

17 Q: Are you aware of what a Alcohol License Protest
18 Form is?

19 A: No, ma'am. I'm not.

20 Q: Have you not ever participated in the renewal
21 of any alcohol licenses for the locations in
22 your jurisdiction?

23 A: No, ma'am. I have not.

24 Q: Okay. Did you -- so you did not file any sort
25 of form ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

213

- 1 A: No, ma'am. I did not.
- 2 Q: ---- of protest with dr- -- DOR?
- 3 A: No, ma'am.
- 4 Q: Okay. Tell me about your meeting with Mr.
- 5 Starkey prior to him opening up.
- 6 A: Prior to him opening up on September the 25th,
- 7 2014 my phone was vibrating off of my side,
- 8 getting phone calls from people in Statesboro
- 9 I think is where it was, and telling me that
- 10 Mr. Starkey was opening up a bar in the city
- 11 and I should not allow him to open it up.
- 12 Q: Okay.
- 13 A: And after -- I was trying to -- you go how do
- 14 you know the specific date, it's the date that
- 15 my third granddaughter was born. So I'm trying
- 16 to get to my granddaughter being born and I'm
- 17 having to answer phone calls.
- 18 Q: Uh-huh.
- 19 A: Shortly thereafter I met with Mr. Starkey and
- 20 said look -- and he tried to show me a video,
- 21 I did not want to see the video. I said I
- 22 don't want to get into it, it's all under
- 23 litigation. I said I just want to inform you
- 24 I hope you can make a million dollars down
- 25 there, we just want you to do it the way that

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

214

1 DOR tells you to do it and the way the laws and
2 regulations tell you to do it.

3 Q: So was Mr. Starkey forthcoming with you about
4 what happened?

5 A: He wanted to be but I wouldn't let him be.

6 Q: Okay. So he attempted to show you the video of
7 what happened?

8 A: That's correct.

9 Q: He attempted to tell you what happened so that
10 you would know, correct?

11 A: He did.

12 Q: And you refused to let him tell you?

13 A: Yes, ma'am. Because it was all under
14 litigation.

15 Q: Okay. And at that time did you have concerns
16 about what had happened in Statesboro -- did
17 you report any of that to the Department of
18 Revenue?

19 A: No, I did not.

20 Q: And why not?

21 A: I quite frankly did not think to.

22 Q: Okay. But as the Chief Law Enforcement Officer
23 in your town, now if you had serious concerns
24 about an alcohol license being issued shouldn't
25 you have let DOR know about that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

215

1 A: I'm -- in the way you put it, yeah.

2 Q: Don't think I have anymore questions for you
3 but let me be sure. Nope, no further
4 questions. Thank you.

5 THE COURT: Mr. McCabe?

6 MR. McCABE: Yes, Your Honor.

7 THE COURT: Redirect.

8 CHIEF DIXON - REDIRECT EXAMINATION BY MR. McCABE:

9 Q: Chief, you -- do you have concerns about Mr.
10 Starkey's operation in the City of Clemson?

11 A: Yes, sir.

12 Q: Does Mr. Starkey's operation, the way that he
13 operates his business, does it make it
14 difficult for law enforcement?

15 A: Yes, sir.

16 Q: Can you explain why it makes it difficult for
17 law enforcement?

18 A: Because ---

19 MS. McDANIEL: Objection, Your Honor. This is
20 beyond the scope of my cross-examination.

21 THE COURT: All right. You asked him about meeting
22 with Mr. Starkey before opening.

23 MS. McDANIEL: Okay.

24 THE COURT: And if -- and you asked him if he was
25 cooperative.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

216

1 **MS. McDANIEL:** Uh-huh. In -- in providing
2 information about what happened in Statesboro.
3 **THE COURT:** Right. And now Mr. McCabe is asking ---
4 **MR. McCABE:** I'm asking him if Mr. Starkey's
5 behavior makes it difficult.
6 **THE COURT:** I'm gonna allow that question. So, I'm
7 gonna overrule that objection.
8 **MS. McDANIEL:** Thank you, Your Honor.
9 **Q:** Does Mr. Starkey's behavior in his operation
10 make it difficult for the -- for law
11 enforcement?
12 **A:** Yes, sir. It does.
13 **Q:** And can you explain why?
14 **A:** Sure. Because if he's continued to allow to
15 operate outside the boundaries of what the
16 regulations say and only have to pay a fine or
17 not pay a fine, what recourse do we have for
18 any of the others when we're going down and
19 trying to conduct compliance checks and
20 enforcement checks?
21 **A:** Thank you
22 **MR. McCABE:** No further questions, Your Honor.
23 **THE COURT:** And he's -- he's already said fines
24 don't work so I don't think he's added much to
25 that. Okay. All right, Chief. You -- you're

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

217

1 -- return to your seat, thank you, sir ---
2 A: Thank you
3 **THE COURT:** --- for coming down.
4 **MR. McCABE:** Your Honor, that's all the witnesses
5 that the Department has today.
6 **THE COURT:** All right. Ms. McDaniel?
7 **MS. McDANIEL:** Yes, Your Honor? Your Honor, I -- I
8 will tell you our first witness is Mr. Starkey
9 and he will probably take quite some time. I'm
10 happy for us to go do lunch, let's see it's
11 12:15, if we want to take a lunch break.
12 **THE COURT:** Well, thank you for -- for doing that.
13 I -- I have to confess I don't care much about
14 lunch but I do care about people being able to
15 feed meters.
16 **MS. McDANIEL:** Uh-huh.
17 **THE COURT:** And generally speaking, this -- we're at
18 a two hour meter area so we need to go feed --
19 feed meters, we're a lit- -- hurry, please.
20 We'll be back -- what do you say for lunch ---
21 **MS. McDANIEL:** Forty ---
22 **THE COURT:** --- about an hour and a half?
23 **MS. McDANIEL:** Oh, sure an hour and a half is fine,
24 Your Honor. .
25 **MR. McCABE:** That's fine, Your Honor.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

218

1 THE COURT: All right. So it is 12:00 -- getting
2 different times up here, I think the official
3 time is 12:13 so let's be back let's say 1:30
4 -- 1:40, let's say 1:40.

5 (Off the Record from 12:14 p.m. until 1:40 p.m.)

6 THE COURT: We're back on the record in South
7 Carolina Department of Revenue versus Study
8 Hall, LLC. Case Number 19-ALJ-17-0269. Ms.
9 McDaniel, I believe it's your turn.

10 MR. MCDANIEL: Thank you, Your Honor. We call as
11 our first witness Mr. Jon Starkey.

12 COURT REPORTER: Do you solemnly swear the testimony
13 you're about to give is the truth, the whole
14 truth and nothing but the truth?

15 MR. STARKEY: Yes, sir.

16 JONATHON STARKEY, having been duly sworn, testifies
17 as follows:

18 MR. STARKEY - DIRECT EXAMINATION BY MS. MCDANIEL:

19 Q: Good afternoon, Mr. Starkey. If you want some
20 water there's some right here. Mr. Starkey,
21 you know, obviously this hearing today is in
22 regard to your alcohol license for the Study
23 Hall Bar in Clinton, South Carolina. When did
24 you open Study Hall?

25 A: 2000 -- it's been four years. 2017.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

219

1 Q: Okay. Do you remember getting a conditional
2 license in 2016?
3 A: It's been four years; it's my fourth football
4 season, ---
5 Q: Okay.
6 A: --- so.
7 Q: All right. And what I will show you is what
8 has been marked as Exhibit 1. If you will take
9 a look at that. Is that your application --
10 your initial application for an alcohol
11 license?
12 A: Yes, ma'am.
13 Q: Okay. And what is the stamped date on that?
14 A: The stamped is 12/1/16 -- well that's the
15 signature date. Where's the stamped date at?
16 Q: The -- where it's -- just the date of the --
17 yes, there you go.
18 A: December 2014.
19 Q: Okay.
20 A: I mean, it's hard to read right there.
21 Q: Okay. That's fine. That's fine. But that is
22 your application; is that correct?
23 A: Yes.
24 Q: We would ask to put that into the record, Your
25 Honor, as evidence.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

220

1 **THE COURT:** Mr. McCabe?
2 **Q:** As Exhibit 1.
3 **MR. MCCABE:** Which copy are we looking at here?
4 **MR. MCDANIEL:** The 2016 -- the one we marked as
5 Exhibit 1.
6 **MR. MCCABE:** Okay. Your Honor, I would object.
7 This is an ABL renewal form. The copy that I
8 have.
9 **MR. MCDANIEL:** Oh, I apologize. It is a renewal
10 form. There you go.
11 **MR. MCCABE:** So this is not the original?
12 **Q:** It is a -- it is the renewal form, Your Honor.
13 Is that -- my apologies. Mr. Starkey is that
14 your renewal form of that date?
15 **A:** Yes. Yes, ma'am.
16 **Q:** Okay.
17 **MR. MCCABE:** I'm sorry. What's the date now?
18 **A:** It was December 1st, 2016.
19 **Q:** Yes.
20 **MR. MCCABE:** No objection, Your Honor.
21 **THE COURT:** All right. Without objection.
22 **MR. MCDANIEL:** Thank you, Your Honor.
23 **THE COURT:** Respondent's Exhibit 1 is admitted.
24 **MR. MCDANIEL:** Okay. And I apologize for giving you
25 that out of order.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

221

1 (Respondent's Exhibit Number 1 was introduced into
2 the record at this time.)

3 Q: So, Jon, in 2016 -- December of 2016 you were
4 getting your license renewed; is that correct?

5 A: Yes, ma'am.

6 Q: And so when did you first get the license? Was
7 it during the summer of 2016?

8 A: It was right before -- right before football
9 season started.

10 Q: Okay. So it would have been?

11 A: So in August I guess.

12 Q: Okay. Of 2016; is that correct?

13 A: Yes.

14 Q: Okay. Prior to getting your license in 2016
15 what procedure did you go through to obtain
16 that license?

17 A: Just the necessary paperwork that had to be
18 filled out with the Department of Revenue for
19 South Carolina.

20 Q: Okay. And did you meet with any of the -- any
21 agent of the Department of Revenue to complete
22 that paperwork?

23 A: Yeah, it was Jason Stone.

24 Q: Okay.

25 A: The Greenville office.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

222

1 Q: And what did -- what did you do with Mr. Stone?

2 A: I just -- he was kind of the one that was --
3 that area to walk me through and everything if
4 I had any questions or anything with my
5 license.

6 Q: Okay.

7 A: To get it all of it filled out correctly so I
8 complied.

9 Q: Uh-huh. And did he ever come out to the Study
10 Hall location?

11 A: Yes, ma'am. He came out three times I think.

12 Q: Okay. And what did you all do when he came
13 out?

14 A: Well each time I had put an application because
15 I think they expired.

16 Q: Uh-huh.

17 A: And so we would a lot of times we were walkin'
18 it off. There was a church down the street so
19 we had to walk it off and just make sure they
20 could get a alcohol permit.

21 Q: Okay. Your Honor, can you hear Mr. Starkey?
22 I think he's speaking sort of low. Are you?

23 **THE COURT:** I can but it wouldn't ---

24 **MR. MCDANIEL:** Okay.

25 **THE COURT:** --- bother me if he spoke a little



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

223

1 louder.

2 **MR. MCDANIEL:** Okay.

3 Q: And, Mr. Starkey, if you would speak up a
4 little bit.

5 A: That's fine.

6 Q: That would be -- so that everyone can hear.
7 And during the time that you met with Mr. Stone
8 did you tell him about the incident that
9 occurred in Statesboro?

10 A: Yes, ma'am.

11 Q: What did you tell him?

12 A: I told him basically about the -- basically
13 what happened with Michael there.

14 **MR. MCCABE:** Your Honor ---

15 Q: Uh-huh.

16 **MR. MCCABE:** --- I'd object. He's testifying as to
17 what someone else said.

18 **MR. MCCABE:** No, he's testifying as to what he said
19 to someone else.

20 **MR. MCDANIEL:** Yes, Your Honor, that's correct.

21 **MR. MCCABE:** Maybe I misheard him.

22 **THE COURT:** He said what he told Mr. Stone.

23 **MR. MCCABE:** Okay.

24 Q: So what did you disclose to Mr. Stone about the
25 incident in Statesboro?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

224

- 1 A: Just the incident and in general what happened.
- 2 Q: Okay. And did he ask you -- did you tell him
- 3 that Mr. Gatto had died?
- 4 A: Yes.
- 5 Q: Okay. And did you tell him that you had
- 6 voluntarily surrendered your license in
- 7 Georgia?
- 8 A: Yes.
- 9 Q: Did he ask you any further questions about
- 10 that?
- 11 A: No.
- 12 Q: Okay. Have you continued to work with Mr.
- 13 Stone on renewing your licence?
- 14 A: I have, yes.
- 15 Q: Okay. How does the size of your bar compare to
- 16 the other bars in Clemson?
- 17 A: I don't know the square footage across the
- 18 street but I'd say probably one of the biggest
- 19 if not the ---
- 20 Q: Okay.
- 21 A: --- the biggest. I don't know their square
- 22 footage.
- 23 Q: Uh-huh. Okay. Let's talk about the -- your
- 24 attempted renewal in 2018, December of 2018.
- 25 A: Okay.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

225

1 Q: So when did you go to renew your alcohol
2 license?

3 A: December 7th.

4 Q: Of?

5 A: In the Greenville office, of 2018.

6 Q: Okay. And where did you go?

7 A: To the Greenville location for the Department
8 of Revenue.

9 Q: And where did you go inside?

10 A: Oh, I thought -- it's the third floor. I went
11 to the Department of Revenue just whatever
12 floor they are on. I think it's the third
13 floor.

14 Q: Is there sort of a counter with a window?

15 A: Yeah, there's a counter and I think there's --
16 don't quote me, but two -- two or three window
17 slots you can talk to somebody.

18 Q: Okay. And when you went to the window what did
19 you provide to the person sitting there?

20 A: Provided my renewal application and then -- and
21 slid it to her and then she did basically some
22 research ---

23 Q: Uh-huh.

24 A: --- she slipped me something back with two
25 things on it with two things on it. One was



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

226

1 insurance and one was taxes.

2 Q: Uh-huh.

3 A: On the insurance I had corrected before I ever

4 left there. She didn't give me a new sheet

5 that said that but I did correct the insurance

6 that day.

7 Q: Okay.

8 A: And actually an e-mail showing that.

9 Q: Okay. Well let's take a look. I think we have

10 a copy of that letter. It should be -- oh,

11 your right, that's it. Okay. Let's take a

12 look at Exhibit 7.

13 A: Okay.

14 Q: Petitioner's Exhibit 7. Can you tell me what

15 that letter is?

16 A: It's the renewal notice of denial.

17 Q: Okay. And what's the date on that?

18 A: That date is December 7th, 2018.

19 Q: Okay. And when you read that letter now do you

20 see that it says that you must cease sales?

21 A: Yes, ma'am.

22 Q: Okay. At the time that you received that

23 letter did you see that?

24 A: No, I didn't really read the letter. I was

25 talking to her through the window.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

227

- 1 Q: Okay.
- 2 A: And when I got the insurance stuff to her
3 'cause I had to send it over three times 'cause
4 she wanted it to read at the bottom of her
5 occurrence.
- 6 Q: Uh-huh.
- 7 A: So I got that to her. That took a little while
8 just getting my insurance agent on the phone.
9 I had insurance, it just took a little while to
10 get it how she perfectly wanted it to read.
- 11 Q: Okay.
- 12 A: So when I handed that to her I said, so now I
13 am -- what else do I got to do. I said -- I
14 gave her my check with that as well and she
15 said you have 90 days to get me the rest of
16 this information.
- 17 Q: Uh-huh.
- 18 A: And so when she said that I didn't read this
19 letter.
- 20 Q: Okay.
- 21 A: And so I thought I had 90 days from the date of
22 December 7th to get basically the tax stuff
23 returned to her.
- 24 Q: Okay. And so it was your understanding that
25 you had 90 days to get the tax information to

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

228

1 her but you did -- did you understand that you
2 couldn't operate during that time?
3 A: No, ma'am.
4 Q: Okay. While you were there you mentioned that
5 there are two issues. One income tax returns?
6 A: Uh-huh.
7 Q: And then two, liability insurance?
8 A: Correct. That was corrected that day.
9 Q: Okay. And tell us how that got -- the issue of
10 insurance, how did that corrected that day?
11 A: I had insurance. I just didn't have to be
12 bring a copy with me ---
13 Q: Okay.
14 A: So I had to call Phyllis and basically get her
15 to send me a copy.
16 Q: And who is Phyllis?
17 A: Phyllis is my insurance ---
18 Q: Okay.
19 A: --- I guess agent.
20 Q: Uh-huh. And so what did Phyllis do?
21 A: She basically sent it over to me and then it
22 wasn't -- I guess the bottom right corner she
23 wanted the -- the Department of Revenue wanted
24 to say per occurrence and the she -- I guess
25 put per occurrence ---

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

229

1 Q: Uh-huh.

2 A: --- and then she wanted them to say for each
3 occurrence, per occurrence. I don't know. It
4 took three times and finally Phyllis got me the
5 right one and I submitted the e-mail to the
6 Department of Revenue right then when I was
7 standing there.

8 Q: Okay. And so what you were providing to the
9 Department of Revenue at that time that was the
10 Declaration page ---

11 A: Yes.

12 Q: --- on your insurance? Okay. So you got that
13 issue cleared up immediately. When did you get
14 your -- the tax returns issue cleared up?

15 A: We worked on it after this, and then when
16 everything came in with Keith Dorman and all
17 that came to light I had it done that following
18 week.

19 Q: Okay. And so who did you work with to get your
20 tax returns?

21 A: My CPA.

22 Q: Okay. And so you have a regular CPA that is
23 your regular CPA?

24 A: Yes, ma'am.

25 Q: And who is that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

230

- 1 A: Art. I don't Art's last name.
- 2 Q: Okay. Would it be Thompkins?
- 3 A: Yeah. I mean, yeah.
- 4 Q: Okay.
- 5 A: I just didn't want to say it if I was wrong.
- 6 Q: Okay. All right. And so when you left the
- 7 Department of Revenue on December 7th it was
- 8 your understanding that it was okay for you to
- 9 continue selling beer, wine and liquor,
- 10 correct?
- 11 A: Yes, ma'am.
- 12 Q: Okay. While you were in operation following
- 13 December 7th, did you collect revenue for
- 14 alcohol sales?
- 15 A: Yes, ma'am.
- 16 Q: Okay. And did you remit income sales tax --
- 17 I'm sorry, not income sales tax, sales tax to
- 18 the Department of Revenue for those sales?
- 19 A: Yes, ma'am.
- 20 Q: And did you did that how often?
- 21 A: Every month.
- 22 Q: Every month?
- 23 A: And hospitality tax.
- 24 Q: Okay. And for the hospitality tax, how much is
- 25 that?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

231

1 A: It's two percent of all my sales.
2 Q: Okay. And who did you ---
3 A: It was City ---
4 Q: --- who did you remit that payment to?
5 A: --- City of Clemson.
6 Q: Okay. And so you were operating just as you've
7 always operated, correct?
8 A: Yes, ma'am.
9 Q: Okay. Remitting your taxes, doing everything
10 that you thought you were supposed to do,
11 correct?
12 A: Yes, ma'am.
13 Q: Okay. During this period did you have any
14 lapse in insurance coverage?
15 A: No, ma'am.
16 Q: Where did you keep that letter?
17 A: At my house.
18 Q: And in the meantime did you still have the 2000
19 -- the previous alcohol license posted in your
20 facility?
21 A: Yes, ma'am.
22 Q: Okay. Did you ever take that down?
23 A: No, ma'am.
24 Q: Okay. Did you ever replace it with that
25 letter?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

232

- 1 A: No, ma'am.
- 2 Q: Okay. And where do you keep the alcohol
3 license in your business?
- 4 A: Sunday sales is right when you walk into the
5 door.
- 6 Q: Uh-huh.
- 7 A: To the left, kind of if you look up at it, and
8 then the other ones are up next to the
9 bathroom. There just wasn't enough room to put
10 the all in one location.
- 11 Q: But they're visible to anyone who would be in
12 the building, correct?
- 13 A: Yes, ma'am.
- 14 Q: Okay. Did you try to hide those licenses?
- 15 A: No, ma'am.
- 16 Q: Okay. When you submitted the check to DOR for
17 the renewal did you submit that on December
18 7th?
- 19 A: Yes, ma'am.
- 20 Q: And did DOR cash that check immediately?
- 21 A: Yes, ma'am. Two days later or three days
22 later.
- 23 Q: All right. Did DOR cash your -- accept your
24 payments for sales taxes?
- 25 A: Yes, ma'am.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

233

1 Q: During the December to February period?

2 A: Yes, ma'am.

3 Q: Okay. And did the City of Clemson accept your
4 hospitality tax payments from December to
5 February?

6 A: Yes, ma'am.

7 Q: During the period from December 7th to February
8 28th, are you aware of any SLED officers or
9 police officers or anyone coming in to the bar
10 at anytime before February 28th?

11 A: Yes, ma'am.

12 Q: Are they in there fairly regularly?

13 A: Yes, ma'am.

14 Q: Okay. So there have been people in there who
15 would recognize the out of date license,
16 correct?

17 A: Yes, ma'am.

18 Q: Did anyone bring that to your attention?

19 A: No, ma'am.

20 Q: Let's take a look at Exhibit 1. If you'll turn
21 to page 51.

22 **THE COURT:** Just for clarification, you're referring
23 to Petitioner's 1?

24 **MR. MCDANIEL:** Petitioner's Exhibit 1. Yes, Your
25 Honor.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

234

- 1 Q: All right. And have you got page 51?
- 2 A: Yes, ma'am.
- 3 Q: Okay. So there has been some testimony about
- 4 when DOR obtained information about the
- 5 undercover unlicensed sales matter that was
- 6 reported to DOR, and then DOR requested that
- 7 you send back the license that had been
- 8 originally issued to you, correct?
- 9 A: Yes, ma'am.
- 10 Q: All right. And at the bottom of that letter
- 11 does it state that you were contacted on March
- 12 11th and returned the license on March 12th?
- 13 A: Yes, ma'am.
- 14 Q: Okay. And is that accurate?
- 15 A: Yes.
- 16 Q: Okay. So you returned the license the day
- 17 after it was requested by DOR; is that correct?
- 18 A: For the wrong date, yes.
- 19 Q: Okay. And did you express any concern about
- 20 that? Did you fuss about it? Did -- or did
- 21 you simply comply with what DOR asked you to
- 22 do?
- 23 A: I complied and returned it and got a new
- 24 license.
- 25 Q: Okay. All right. Let's talk -- turn now to

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

235

1 February 28th, the day of the sale.

2 A: Okay.

3 Q: Where were you on that date?

4 A: I was in Georgia.

5 Q: Okay. So you were not in Clemson; is that

6 right?

7 A: No, ma'am.

8 Q: All right. How did you find out that Agent

9 Dorman and -- had come into the facility and

10 issued a arrest warrant?

11 A: A phone call from my general manager.

12 Q: Okay. And speak up a little bit.

13 A: A phone call from my general manager.

14 Q: All right. And who was that?

15 A: Alvin Dark.

16 Q: That was -- that's Mr. Dark that we've seen his

17 name?

18 A: Correct.

19 Q: Okay.

20 A: Yes.

21 Q: All right. And what -- and Mr. Dark what did

22 he tell you?

23 A: He just told me that SLED was in there and they

24 basically were shutting us down ---

25 Q: Okay.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

236

1 A: --- due to not having a current alcohol
2 license.
3 Q: And what did you do?
4 A: I thought -- I told Alvin, I said we have one.
5 We have 90 days from December 7th ---
6 Q: Uh-huh.
7 A: --- to get the compliance and Art should have
8 -- had my taxes back and I'm gonna grab them
9 when I get back.
10 Q: Uh-huh. Okay. And so did you direct Mr. Dark
11 to go pick anything up to demonstrate that you
12 had the license?
13 A: I thought I had one at the restaurant itself
14 but I couldn't -- he couldn't find it there in
15 the file cabinet ---
16 Q: Uh-huh.
17 A: --- so I directed him to go to the house which
18 I don't know if it was Tate Brown or Keith that
19 gave him permission to leave.
20 Q: Uh-huh.
21 A: He had to get permission to leave to go to the
22 house to pick up the piece of paper.
23 Q: Uh-huh. Okay. And when -- what piece of paper
24 did he pick up?
25 A: Exhibit 7.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

237

1 Q: And Exhibit 7 you thought that that was ---
2 A: The renewal notice, yeah.
3 Q: --- and you thought that that was the ---
4 A: The 90 days.
5 Q: Giving you 90 days to operate; is that correct?
6 A: Yeah.
7 Q: Okay. And so did you -- once Mr. Dark gave
8 that to Agent Dorman ---
9 A: Yes.
10 Q: --- what happened?
11 A: Agent Dorman -- like I said I don't know who
12 let him go to the house ---
13 Q: Uh-huh.
14 A: --- but Agent Dorman told me this is not a 90
15 day extension. I think it was a -- and don't
16 quote me exactly what his words were but it
17 wasn't basically -- it didn't count to be able
18 to sell beer, wine and liquor.
19 Q: Okay.
20 A: So.
21 Q: And was that the first -- was that your -- when
22 you became aware that you did not have the
23 license ---
24 A: Yes, ma'am.
25 Q: --- that you thought you had?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

238

- 1 A: Yes.
- 2 Q: Okay. All right. Did you give Mr. Dark
3 permission to print out the sales information
4 for Agent Dorman?
- 5 A: Yes.
- 6 Q: And did you stop sellin' alcohol after you
7 received -- after that incident?
- 8 A: Yes.
- 9 Q: Okay. Let's see. All right. Let's talk about
10 Statesboro. So we know that that occurred in
11 2014, correct?
- 12 A: Yes.
- 13 Q: All right. Had you already begun working on
14 developing Study Hall when the incident with
15 Mr. Gatto occurred?
- 16 A: Yes, ma'am. Probably about a year into it.
17 Maybe a little over.
- 18 Q: Okay. And how long -- when did you open Study
19 Hall? Oh, not Study Hall. I'm sorry. Rude
20 Rudy's?
- 21 A: 2004. I want to say January 2004.
- 22 Q: Okay. So you had operated from 2004 to 2014,
23 correct?
- 24 A: Yes, ma'am.
- 25 Q: Had there ever been any other significant

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

239

1 incident at that location?

2 A: There was two lawsuits but neither one -- were

3 battery ---

4 Q: Uh-huh.

5 A: --- they were both -- one was -- was a slip and

6 fall when the bouncer went to grab somebody ---

7 Q: Uh-huh.

8 A: --- and they both fell.

9 Q: Uh-huh.

10 A: And then there was one where a kid was gettin'

11 jumped ---

12 Q: Uh-huh.

13 A: --- and one of the bouncers flung another guy

14 off and he ended up breaking his collar bone.

15 Q: Okay.

16 A: But no -- there was no -- and there was videos

17 from both and there was no direct hits or

18 punches or ...

19 Q: Okay. What -- did you ever receive any

20 criminal citations for those?

21 A: No, ma'am.

22 Q: Did you ever receive any administrative

23 citations for those?

24 A: No, ma'am.

25 Q: Okay. So the gentleman who hit Mr. Gatto, Mr.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

240

1 Spencer, correct?

2 A: Yes.

3 Q: Was he an employee of Rude Rudy's?

4 A: He was.

5 Q: Okay. Was he on duty working when the incident

6 occurred?

7 A: No.

8 Q: When Mr. Gatto was hit, what happened after

9 that? Did anyone call the police or call an

10 ambulance?

11 A: My -- the two bouncers that were on called the

12 ambulance, yes, after they got him outside.

13 Q: Okay. And so you ---

14 **MR. McCABE:** Your Honor, I bring an objection. He's

15 testified that he was not there in -- when this

16 occurred. So how is he able to testify what

17 the bouncers -- what the bouncers did after the

18 assault?

19 **MR. MCDANIEL:** Well, I think that might -- the

20 objection might be too late.

21 **THE COURT:** I'm agreeing with you. I think you're -

22 - you should have popped up a little bit

23 quicker. He's already answered the question

24 now, but I understand -- I understand your

25 objection.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

241

1 MR. McCABE: Right. Thank you, Your Honor.

2 THE COURT: And -- okay.

3 Q: Okay. So when you came to open Study Hall in
4 Clemson you testified that you talked to Mr.
5 Stone, the DOR agent, about the incident; is
6 that correct?

7 A: Yes.

8 Q: Who else did you tell about it?

9 A: I went and actually requested a meeting with
10 the Chief of Police and I think he -- him and
11 Tate Brown were in there and the Captain might
12 have been in there. I don't -- I'm not sure
13 about that. Just to let them know what had
14 happened.

15 Q: Uh-huh.

16 A: I didn't want them to hear anything from
17 anybody else besides me.

18 Q: Okay. And when you said the Chief of Police,
19 is that Chief Dixon ---

20 A: Chief Dixon.

21 Q: --- that was here before?

22 A: Yes. Yes. Chief Dixon.

23 Q: Okay. And did you attempt to show him the
24 video of what had happened?

25 A: I did.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

242

- 1 Q: And why did you do that?
- 2 A: Just to let them make their own opinion of the
3 situation.
- 4 Q: Okay. And did he refuse?
- 5 A: Yes.
- 6 Q: Okay. All right. Going back to the Statesboro
7 incident, after Mr. Gatto was killed did you
8 operate after that? Did Rude Rudy's open after
9 that?
- 10 A: I think two more times, maybe two to three more
11 times and then we were -- I had talked to Wes,
12 my counsel down there, and we just decided to
13 go ahead and basically terminate Rude Rudy's.
- 14 Q: Okay. All right. Did the State of Georgia
15 ever attempt to revoke your alcohol license?
- 16 A: No, ma'am.
- 17 Q: Okay. Did they ever suspend it?
- 18 A: No, ma'am.
- 19 Q: Okay. Had you ever had any type of
20 administrative action with the Department of
21 Revenue or Georgia alcohol licensing?
- 22 A: No, ma'am.
- 23 Q: Okay. Did anyone file a lawsuit against you
24 for the incident that occurred at Rude Rudy's?
- 25 A: No, ma'am.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

243

- 1 Q: Okay. Have you ever been found liable for
2 anything?
- 3 A: No, ma'am.
- 4 Q: Okay. You did enter into an agreement with the
5 City of Statesboro; is that correct?
- 6 A: Yes.
- 7 Q: And what was the outcome of that agreement?
- 8 A: Well basically I would not apply for a alcohol
9 license ever again.
- 10 Q: Okay. And was that any sort of admission of
11 guilt on your part?
- 12 A: No, ma'am.
- 13 Q: Okay. Have you ever been arrested for anything
14 prior to February 28th?
- 15 A: No.
- 16 Q: Have you ever been charged with anything?
- 17 A: No.
- 18 Q: What is the current status of that criminal
19 charge?
- 20 A: For the one I got from ---
- 21 Q: Uh-huh.
- 22 A: --- SLED?
- 23 Q: Uh-huh.
- 24 A: It's ongoing as of right now.
- 25 Q: Okay.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

244

- 1 A: I -- yeah.
- 2 Q: Have you applied for PTI?
- 3 A: I did apply for PTI, yes.
- 4 Q: Okay. Have you paid the application fee?
- 5 A: I have, yes.
- 6 Q: All right. And you understand that if you're
- 7 accepted into the PTI program that it would
- 8 require a significant amount of community
- 9 service?
- 10 A: Yes.
- 11 Q: And are you ready, willing and able to conduct
- 12 that community service?
- 13 A: Yes.
- 14 Q: Okay. Since opening Study Hall what actions
- 15 have you taken to protect the life and safety
- 16 of the -- your customers?
- 17 A: There's multiple steps. I've got
- 18 breathalyzers. I do ID reader. I bought two
- 19 ID readers.
- 20 Q: Uh-huh. And now let me go back to the
- 21 breathalyzers. Who do you use the
- 22 breathalyzers one?
- 23 A: My staff if I feel they've been drinking.
- 24 Q: Okay. And then for the card readers, what --
- 25 how do you use those?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

245

- 1 A: With the patrons that are trying to get in to
2 make sure they're over 21 years old.
- 3 Q: Okay. Are the card readers equipped to
4 identify fake ID's?
- 5 A: They say they are.
- 6 Q: Okay.
- 7 A: I don't think they prevent all fake ID's.
- 8 Q: Uh-huh.
- 9 A: Even talkin' to Keith Dorman and all Tate ---
- 10 Q: Uh-huh.
- 11 A: --- and they seem to say that, you know, ones
12 can get by.
- 13 Q: Okay. And when you say Tate, who is Tate?
- 14 A: Tate Brown.
- 15 Q: And what is his position?
- 16 A: I think alcohol and drugs for the City of
17 Clemson.
- 18 Q: Okay. So he's a police officer for Clemson.
- 19 A: Yes, sir. I mean, yes, ma'am. Sorry.
- 20 Q: That's fine. Okay. So you have the
21 Breathalyzer that you use for your staff. You
22 have the ID readers to prevent as many fake
23 ID's as you can. What other -- have you -- on
24 game days how do you manage crowd control?
- 25 A: I put gates. So when I talked to Chief Dixon

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

246

1 a long time ago he said half of the sidewalk
2 has to be open for patrons.

3 **MR. McCABE:** Your Honor, I make an objection. He's
4 talking as to what Chief Dixon has testified to
5 or has said.

6 **THE COURT:** Okay. I agree.

7 **MR. MCDANIEL:** All right.

8 **THE COURT:** Now that one you get -- got to quick
9 enough.

10 **MR. MCDANIEL:** Fair enough.

11 **THE COURT:** So, Mr. Starkey, please limit your
12 response to what you've done or said, not what
13 you've heard from other people.

14 **A:** Yes, sir.

15 **Q:** So what have you done to have better crowd
16 management on game days?

17 **A:** Crowd control gates.

18 **Q:** Uh-huh.

19 **A:** Down the sidewalk.

20 **Q:** Uh-huh.

21 **A:** And more employees on to basically regulate the
22 sidewalk in the entrance and exits.

23 **Q:** Okay. And when you say the entrances and the
24 exits, is that inside the going -- leaving from
25 the building? Coming and leaving the building,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

247

1 is that correct?

2 A: That's both. Yes, ma'am.

3 Q: Okay. And so you say you have extra people.

4 What do those people do?

5 A: Basically make sure the doorways are basically

6 free of people if there God forbid was ---

7 Q: Uh-huh.

8 A: --- an emergency of some sort that ---

9 Q: Uh-huh.

10 A: --- they can get in and out.

11 Q: Uh-huh. Okay. Did you install a sprinkler

12 system?

13 A: Yes, ma'am.

14 Q: And was there a special inspection for that?

15 A: There was a special inspection. Yes, ma'am.

16 Q: All right. And is that something that was

17 required of you?

18 A: No.

19 **MR. McCABE:** Your Honor, I'd make an objection as to

20 the relevancy of the sprinkler system. We're

21 here to discuss the culpability of Mr.

22 Starkey's character, and I'm not sure that a

23 sprinkler system has any relevance.

24 **THE COURT:** Well, I'm going to allow the question,

25 Mr. McCabe, because I suspect there's a



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

248

1 connection here.

2 MR. MCDANIEL: Uh-huh.

3 THE COURT: --- and I'm going to give her a little
4 leeway there.

5 MR. McCABE: Thank you, Your Honor.

6 THE COURT: Overruled for now.

7 Q: Okay. Are your staff allowed to drink on the
8 job?

9 A: No, not at all.

10 Q: Okay. Whenever you -- are there laws regarding
11 promotions or games that you can do as a bar?

12 A: Yes.

13 Q: Okay. And you're aware of those laws?

14 A: Yes.

15 Q: Okay. Whenever you want to do some sort of
16 special promotion or a game what do you do to
17 make sure that you're in compliance with those
18 laws?

19 A: I'll either read up on it or I personally call
20 Keith Dorman and Tate Brown before and ask them
21 if my special are okay or what we're doing is
22 okay.

23 Q: Uh-huh. Okay. Have you equipped the bouncers
24 at your front door with any type of special
25 equipment?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

249

- 1 A: I have. So all my staff down there has
2 basically walkie talkie ear pieces and the
3 front door guys have body cameras on them.
- 4 Q: Okay. How do you keep track of the number of
5 people coming in and going out?
- 6 A: We use clickers. We have a total of --
7 counting the front door we have a total of five
8 exit -- four exits.
- 9 Q: Uh-huh.
- 10 A: And so the guys keep basically if you leave out
11 the other doors are exists only; the front door
12 is an entrance and exit.
- 13 Q: Uh-huh.
- 14 A: And they basically deduct from who's leavin'
15 with the walkie talkies to find out how many
16 have left compare to how many have entered the
17 building.
- 18 Q: Okay. And why is it important for you to keep
19 track of how many people are in the building.
- 20 A: For -- because of our fire code.
- 21 Q: Okay. And so you're aware of the fire code and
22 what it requires, correct?
- 23 A: Yes, ma'am.
- 24 Q: And so you are using the clickers and the crowd
25 control to make sure that you're in compliance

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

250

1 with the fire code, correct?

2 A: Yes, ma'am.

3 Q: Okay. In terms of staying in compliance with

4 the City's ordinances and requirements how do

5 you maintain communication with the City

6 police?

7 A: As far as what do you mean by that?

8 Q: Do you have any meetings with them?

9 A: We have a yearly meeting.

10 Q: Uh-huh.

11 A: Yes. We've had a yearly meeting.

12 Q: And do you attend that meeting?

13 A: I have not missed one yet. Yes.

14 Q: Okay. And what is discussed at that meeting?

15 A: Pretty much it's right before football season.

16 Q: Uh-huh.

17 A: They discuss -- it's not just me, it's pretty

18 much all the bar owners and employees and

19 managers. And they come, basically, and they

20 give us kind of the gist of what they expect

21 from us ---

22 Q: Uh-huh.

23 A: --- and if we need help, where to get it from

24 and kind of remind us of the laws in general.

25 Q: And when you attend those meetings do you

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

251

- 1 participate? Do you have questions?
- 2 A: Yeah, I mean, sometimes.
- 3 Q: Okay. And do you take -- is it just you that
- 4 goes or do other staff members go with you?
- 5 A: All my staff goes.
- 6 Q: Okay. Are you aware of any type of gang
- 7 problems in Clemson?
- 8 A: Yes. Yes, ma'am.
- 9 Q: Okay. And would that -- is gang activity is
- 10 that against the law?
- 11 A: Against the law as far as gang activity, I
- 12 mean.
- 13 Q: Well does that cause you concern that there
- 14 could be criminal activity associated with gang
- 15 activity?
- 16 A: Yes, ma'am.
- 17 Q: Okay. And what steps have you taken to prevent
- 18 gang activity or other criminal or other
- 19 criminal activity on your property?
- 20 A: We have a dress code at the front door and
- 21 sometimes we do a college ID upon request
- 22 sometimes depending on the crowds that are out.
- 23 Q: Okay. Have you put anybody on trespass notice?
- 24 A: Yes, multiple.
- 25 Q: Okay. Let's take a look at that. I may not



1 have -- okay, yeah. Let's see.

2 **MS. McDANIEL:** Didn't I give you a copy of that,
3 Patrick?

4 **MR. McCABE:** Yes.

5 **Q:** Okay. Good. Let's see. I don't want to get
6 the Exhibit wrong if we've already marked it.
7 I don't have -- let's see. Where are my marked
8 Exhibits? Can we take a second and show the
9 court reporter and see if we've already marked
10 this?

11 **THE COURT:** Yes, ma'am.

12 **(Off the Record Discussion)**

13 **Q:** Mr. Starkey, I just handed you a packet of
14 documents. Can you tell me what those
15 documents are?

16 **A:** Clemson Police Department. It's basically a
17 trespassing notice.

18 **Q:** Okay. And so when would a trespass notice be
19 issued?

20 **A:** When I -- I guess when I management requests
21 somebody to not come in the building.

22 **Q:** Okay. And how to you obtain a trespass notice?

23 **A:** You call the Clemson Police Department and
24 basically notify them that you need an officer
25 down there and then who they -- who you want



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

253

1 off the property.

2 Q: And so the officer comes down and you all
3 produce this trespass notice; is that correct?

4 A: Yes, ma'am.

5 Q: Okay. And are these true and accurate copies
6 of trespass notices that you have issued --
7 have had issued for your property?

8 A: Yes, ma'am.

9 Q: Okay. Your Honor, we would request that these
10 be entered into evidence as Exhibit 7 for
11 Respondent.

12 **MR. MCCABE:** Your Honor, we would object as to
13 hearsay. Also these documents have not been
14 authenticated by anyone from Clemson Police
15 Department. The Complainant on this is Devon
16 Bradford. Mr. Bradford I don't believe is here
17 to testify as to these documents that he
18 signed. Mr. Starkey's signature is contained
19 nowhere on these documents, and they have not
20 said that these are business records or any of
21 the other exceptions to hearsay, Your Honor.

22 **MR. MCDANIEL:** Your Honor, Mr. Starkey just
23 testified to the process by which these were
24 produced and that they were produced at his
25 request in conjunction with the police



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

254

1 department. He's testified that he recognized
2 them as trespass notices that he was aware of
3 having been issued.

4 **MR. MCCABE:** Your Honor, Mr. Starkey's signature is
5 nowhere on these documents.

6 **THE COURT:** Okay. I'm not going to admit those but
7 he can testify that he's ---

8 **MR. MCDANIEL:** Sure.

9 **THE COURT:** --- had them issued ---

10 **MR. MCDANIEL:** Sure.

11 **THE COURT:** --- and if he knows how many he's had
12 issued he can testify to that.

13 **MR. MCDANIEL:** Okay.

14 **MR. MCCABE:** Thank you, Your Honor.

15 **MR. MCDANIEL:** All right.

16 **THE COURT:** But the documents themselves I'm not
17 going to admit.

18 **MR. MCDANIEL:** Thank you, Your Honor.

19 **Q:** I want to make sure that we don't have any
20 duplicates here.

21 **A:** I think there are some duplicates.

22 **Q:** Yeah. All right. There you go. All right,
23 Mr. Starkey. So looking at these trespass
24 notices, how many of these are there?

25 **A:** Nine.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

255

- 1 Q: Okay. And tell me again why you would have a
2 trespass notice issued to someone?
- 3 A: Depending on the -- if they're just, I guess,
4 basically a hazard to the establishment.
- 5 Q: Uh-huh.
- 6 A: It could cause issues or problems.
- 7 Q: Uh-huh. And if someone who has been issued a
8 trespass notice comes into the establishment
9 what do you do?
- 10 A: If we have a -- well they're not supposed to
11 come in, but if we do find them and we do call
12 the cops while they're in there they will be
13 arrested immediately.
- 14 Q: Okay. And what is the purpose of trying to
15 keep people who have cause problems in the past
16 out?
- 17 A: I just don't want a repeat of something tragic
18 to happen like what happened in Statesboro,
19 Georgia.
- 20 Q: Uh-huh. Okay. All right. On the issue of the
21 renewal, you missed the deadline. There's no
22 dispute of that. What are you going to do in
23 the future to avoid missing deadlines again?
- 24 A: We have basically all the -- printed up a
25 sheet. It sits right next to the office chair.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

256

1 I have another sheet at the house in my office
2 and basically all the dates of when these
3 licenses expire.

4 Q: Okay. And where will you put that information?

5 A: In -- it's already in my phone and it's also in
6 my -- and it's on my desk at the house and it's
7 literally taped onto the wall in Study Hall
8 next to the desk.

9 Q: Okay. Okay. And will you work with your CPA
10 to make sure that you meet those deadlines?

11 A: Yes, ma'am.

12 Q: Have you ever been accused of any type of
13 fraud?

14 A: No, ma'am.

15 Q: Ever accused of any type of deceit?

16 A: No, ma'am.

17 Q: Have you ever been accused of writing a bad
18 check?

19 A: No, ma'am.

20 Q: Excuse me. When you renewed your license for
21 -- in December 7th -- on December 7th when you
22 went to renew your license for beer and wine
23 sales and liquor-by-the-drink sales what did
24 you think was going to happen with your Sunday
25 sales license?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

257

1 A: I thought I'd renew all my licenses at the same
2 time.
3 Q: Okay. Did you obtain all of the licenses at
4 the same time?
5 A: No, ma'am.
6 Q: Okay. But you thought that the renewal was at
7 the same time?
8 A: I figured I do the same that I did before when
9 I originally opened the business. I wanted to
10 do the same thing.
11 Q: Okay.
12 A: The same licenses.
13 Q: Okay. Did you -- were you aware that you were
14 selling alcohol on a Sunday without a license?
15 A: No, ma'am. Not at all.
16 Q: Okay. So in the future if you get a letter
17 saying that you must cease sales what will you
18 do?
19 A: Stop selling immediately. Figure out the issue
20 and correct it.
21 Q: Okay. And would this be worth putting your
22 business in jeopardy for?
23 A: No, ma'am.
24 Q: Okay. And can you explain that a little bit?
25 A: I mean, it -- I guess to explain it is one of

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

258

1 those things that I -- there's certain things
2 I thought and I should have read up on more and
3 I didn't.

4 Q: Uh-huh.

5 A: And I just won't make that mistake twice. I
6 realize how the Department of South Carolina
7 operates and I realize my licenses -- I mean,
8 'cause your liquor license is bi-yearly but
9 then your Sunday sales are only per year ---

10 Q: Uh-huh.

11 A: --- so I -- you know, certain stuff that I
12 definitely, you know, realize now: all the
13 licenses and when they're due.

14 Q: Okay. All right. In terms of further making
15 sure that you provide a safe location, what do
16 you have your -- do you have your staff sign
17 any documents ---

18 A: Yes. They ---

19 Q: --- during the hiring process?

20 A: Yes, ma'am.

21 Q: Let me let you take a look at these. It's two
22 separate documents. All right. And what are
23 those two documents that we're looking at
24 there?

25 A: Employee requirements and guidelines.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

259

1 Basically if you do work there it kind of gives
2 you the layout of what I expect from you.

3 Q: Okay.

4 A: And then the other one is basically for the
5 bouncers to read over and for the floor staff
6 and security to read over and know exactly what
7 I expect of them as well.

8 Q: Uh-huh. Well let's take a look first at the
9 document that has the Study Hall logo on it?

10 A: Okay.

11 Q: Okay. And what does that state as a
12 requirement of your bouncers?

13 A: Basically to follow these guidelines or they'll
14 be let go.

15 Q: Okay. Is this a document that you prepared?

16 A: Yes.

17 Q: Okay. And is this the template that you
18 provide to each of your bouncers that you
19 require them to sign?

20 A: Yes.

21 Q: Okay.

22 **MS. McDANIEL:** Your Honor, we would ask that this be
23 admitted into evidence.

24 **THE COURT:** Mr. McCabe?

25 **MR. MCCABE:** Your Honor, we -- I'm sorry, Your



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

260

1 Honor.

2 **THE COURT:** Go ahead.

3 **MR. MCCABE:** We bring an objection as to hearsay.
4 This document is not signed nor dated. It's
5 not a business record that's kept in the
6 ordinary course of business. This is a blank
7 document. This has not been kept in the
8 ordinary course of business. This -- I would
9 agree that a signed copy by employees, yes;
10 that is clearly a business record. This is a
11 plain piece of paper that is not kept in the
12 ordinary course of business.

13 **MS. MCDANIEL:** Your Honor, this is simply the
14 documentation of the requirements that my
15 client, you know, provides to his staff members
16 to make sure that they are nonviolent.

17 **THE COURT:** Did he prepare those documents?

18 A: Yes.

19 Q: Did you prepare this document?

20 A: Yes.

21 **MS. MCDANIEL:** Yes.

22 **THE COURT:** And they -- and he uses them in his
23 business?

24 A: Yes.

25 **THE COURT:** All right. I'm going to allow those.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

261

1 MR. MCCABE: Thank you, Your Honor.

2 THE COURT: What the -- we got a number for those?

3 MS. MCDANIEL: I believe this will be Exhibit 8 --
4 they're already marked. They're marked as
5 Exhibit 5 and 4.

6 THE COURT: Okay. Respondent's Exhibit 4 and 5?

7 MS. MCDANIEL: Uh-huh.

8 Q: All right. So, Mr. ---

9 THE COURT: Admitted over objection.

10 (Respondent's Exhibit Number 4 and 5 were introduced
11 into the record at this time.)

12 Q: Mr. Starkey, the document that is for your
13 bouncers can you tell me how it explains to
14 them they're supposed to diffuse problems?

15 A: Just in -- basically it states that, you know,
16 a member of the security of Study Hall, their
17 job is to maintain a safe and fun environment,
18 and basically if they get hot-headed or
19 something like that dealing with intoxicated
20 people, if it -- get somebody else like another
21 bouncer to help you and take yourself out of
22 the situation ---

23 Q: Uh-huh.

24 A: --- or remove yourself totally and figure
25 another situation out.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

262

1 Q: And does it warn them that if they become
2 violent then they'll be subject to disciplinary
3 action?
4 A: They'll be -- yes, they'll be let go.
5 Q: Okay. So when you say they'll be let you you
6 would fire someone for that?
7 A: Yes, ma'am.
8 Q: Okay. And is that the case all the time when
9 they're working and not working?
10 A: Yes, ma'am.
11 Q: Okay. Now let's take a look at the other
12 document?
13 A: Yeah. Is that 4?
14 A: Yes. Number 4. Uh-huh. And is that a
15 document that you prepared?
16 A: Yes, ma'am.
17 Q: All right. And what does it state as the --
18 does it provide that there could be
19 Breathalyzer tests?
20 A: Yes, ma'am.
21 Q: Okay. And do you have each of your employees
22 sign that?
23 A: Yes, ma'am.
24 Q: Okay. What is your participation in the
25 community at large? Do you make donations to

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

263

1 events in the community?

2 A: I have in the past, yes, ma'am.

3 Q: Okay. Have you done anything for a police

4 raffle?

5 A: Yes. I used to do the golf tournament.

6 Q: Okay. And have you donated to the Rotary Club?

7 A: I have.

8 Q: Are there donations that you make just to

9 individuals?

10 A: Yes. I've donated, yeah.

11 Q: Okay. Tell us more about that.

12 A: Just sororities and fraternities who've come up

13 and they'll do fund raisers and stuff like

14 that. Most of the time we just give them a

15 donation.

16 Q: Okay. And how about just members of the public

17 that you meet out and about?

18 A: Yeah. I've done that as well. Yes, ma'am.

19 Q: Okay. Can you tell us more about that?

20 A: It just depends on the situation. I do stuff

21 for the -- for some of the Sheriff's department

22 in Seneca.

23 Q: Uh-huh.

24 A: I don't know exactly what it is. I don't

25 really ask for any tax returns or anything for

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

264

1 it, so.

2 Q: Okay.

3 A: But I can get that stuff if you need it.

4 Q: Okay. How about donating like food to people

5 or bicycles? Have you done that in the past?

6 A: I have for different families. Yes, ma'am.

7 Q: Okay. And how did that come to pass?

8 A: Just different people I've come across. You

9 know, got to know through people or through

10 other people in the community and that are kind

11 of down on their luck.

12 Q: And what do you do?

13 A: I just bought different stuff from video games

14 to bicycles to turkey dinners ---

15 Q: Uh-huh.

16 A: --- I mean, or turkeys. I mean, just different

17 stuff.

18 Q: Okay. Do you have a pet?

19 A: I do, yes.

20 Q: What kind of pet do you have?

21 A: A dog.

22 Q: And do you have a regular veterinarian?

23 A: I do. Clemson Veterinary.

24 Q: Do you make any donations to the veterinarian?

25 A: I have, yes, in the past.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

265

1 Q: Such as?

2 A: They do like a kitty thing for cats and stuff

3 like that. Most of the time they hit me up

4 when I'm in there for takin' my dog into the

5 vet, so.

6 Q: Okay. All right. And do you track those

7 donations in any way?

8 A: I don't, no.

9 Q: I'm sorry?

10 A: No, ma'am.

11 Q: Okay. And why not?

12 A: I -- for the hundred dollars -- I don't know.

13 Just for money -- I'm not lookin' for anything

14 out it.

15 Q: Okay.

16 A: So, I guess.

17 Q: All right. Okay. I think that's all the

18 questions. Let me check with my co-counsel,

19 make sure I haven't forgotten to ask you

20 anything. So we did hear testimony earlier

21 that there had been one ticket since you've

22 been open for underage drinking, correct?

23 A: Yes, ma'am.

24 Q: All right. And what did you do when you found

25 out that one of your staff members had sold to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

266

1 an underage person?

2 A: We -- I had to let him go.

3 Q: I'm sorry?

4 A: I let him go.

5 Q: Okay.

6 A: Yeah.

7 Q: So you fired that person?

8 A: Yes, ma'am.

9 Q: Okay. And is that the standard that you would
10 do anytime you found that -- that someone had
11 sold to someone underage?

12 A: Yes, ma'am.

13 Q: Okay. All right. No further questions. If
14 you'll answer any questions Mr. McCabe might
15 have.

16 **MR. STARKEY - CROSS-EXAMINATION BY MR. MCCABE:**

17 Q: Mr. Starkey, where do you reside?

18 A: In Clemson, South Carolina.

19 Q: Okay. And how long have you lived there?

20 A: I was building a place. I think I got a place
21 at the Clemson Towers in 2013 or '14. '13. I
22 don't know the exact date.

23 Q: Okay. And is restaurant owner the only thing
24 you do for a living? Any side jobs, anything
25 like that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

267

- 1 A: I do construction here and there but just for
2 -- just myself and my friends.
- 3 Q: Okay. So you do have some type of supplemental
4 employment?
- 5 A: No. I mean, I just do it to help out.
- 6 Q: Oh, just to help out?
- 7 A: Right.
- 8 Q: Okay. Well I have a question. There was some
9 testimony that there were some tax issues that
10 needed to be resolved before your license was
11 approved. Isn't it true that you've reported
12 no taxable income in this State since 2016?
- 13 A: Yes, ma'am -- yes, sir.
- 14 Q: Okay. How do you explain that?
- 15 A: My family. My family's helped me out
16 tremendously.
- 17 Q: So your family's providing you money to be able
18 to give these donations to?
- 19 A: Well, I mean, I would say that no they don't
20 give me that money.
- 21 Q: Okay. Where's that money come from?
- 22 A: Out of my business.
- 23 Q: Oh, that's coming out of the business?
- 24 A: Yes. Yeah.
- 25 Q: But you're not reporting any taxable income; is

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

268

1 that correct?

2 A: I guess -- I mean, yes.

3 Q: Okay. Since 2016?

4 A: Yes?

5 Q: Okay. Does Study Hall charge cover charges?

6 A: Well we have in the past, yes, sir.

7 Q: You have in the past?

8 A: Yes.

9 Q: Okay. How long have you been doing that?

10 **MS. MCDANIEL:** Objection, Your Honor. This goes to
11 the -- to the extent that it goes to taxation
12 on cover charge we object because that's
13 outside the scope of this hearing.

14 **MR. MCCABE:** Your Honor, I would say that she opened
15 the door to taxes in her examination. She
16 asked that if he was compliant with all of his
17 taxes. I'm simply inquiring.

18 **THE COURT:** You know what I'm going to allow that.

19 **MS. MCDANIEL:** Your Honor, if I may, the tax issue
20 is what was in the notice of -- the denial
21 notice and it went to income taxes not to
22 admission taxes. That's a completely separate
23 tax issue outside the scope of this
24 determination. We did not open the door to
25 that.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

269

1 **MR. MCCABE:** Your Honor, if I may ---
2 **THE COURT:** You're right about that. That's where I
3 drew ---
4 **MR. MCCABE:** If I may ---
5 **THE COURT:** --- the line wasn't it. What's the --
6 repeat your question?
7 **MR. MCCABE:** I asked if he -- if he -- how long has
8 he been charging a cover charge.
9 **THE COURT:** All right. That ---
10 **MR. MCCABE:** And, Your Honor, if I may, one of the
11 requirements to have a license is that all
12 taxes are compliant. I believe their testimony
13 she asked him -- and I may have to have it read
14 back maybe I misunderstood -- but she said all
15 of your taxes are compliant. That would mean
16 that he is in good standing with the Department
17 of Revenue and we have information that that is
18 not the case.
19 **MS. MCDANIEL:** Your Honor, the question was
20 specifically about his personal income taxes
21 related to getting the license issued.
22 **THE COURT:** You know, Ms. McDaniel, I don't think
23 you restricted the question that way.
24 **MS. MCDANIEL:** Your Honor, it was limited ---
25 **THE COURT:** I think you asked about ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

270

1 MS. MCDANIEL: --- I'm sorry.
2 THE COURT: Let's get him to read it back.
3 MS. MCDANIEL: Okay.
4 THE COURT: That was one of your last two or three
5 questions.
6 (Testimony was read back.)
7 THE COURT: Are we back on the record?
8 COURT REPORTER: Yes, sir, we're back on the record.
9 THE COURT: All right. I'm not sure we can talk
10 about taxes and claim that we're not talking
11 about all taxes.
12 MS. MCDANIEL: Your Honor, I limited it
13 specifically.
14 THE COURT: I understand.
15 MS. MCDANIEL: And ---
16 THE COURT: I see what you're trying to do ---
17 MS. MCDANIEL: Yeah.
18 THE COURT: --- and I understand what you thought
19 you'd done.
20 MS. MCDANIEL: Right. This opens up -- if this
21 opens the door then it is a completely separate
22 issue that we had no notice of. Mr. McCabe had
23 the information on Friday and never produced it
24 to us.
25 THE COURT: All right. I understand that, and I'm -

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

271

1 - Mr. McCabe, I believe this morning I kind of
2 put a line out there on the -- on the
3 admissions tax. I understand what you're
4 saying.

5 **MR. MCCABE:** Yes, Your Honor.

6 **THE COURT:** I understand that being current with
7 your taxes is an issue for the -- a requirement
8 for the license.

9 **MR. MCCABE:** Right.

10 **THE COURT:** The problem is you've got to show that
11 he owes that tax.

12 **MR. MCCABE:** Well, Your Honor, if they would've
13 asked those questions ---

14 **THE COURT:** And that's -- I don't think that's in
15 this case.

16 **MR. MCCABE:** Correct. But I think if asking those
17 questions we can make it aware -- make the
18 Court aware that he has charged Study -- he has
19 charged a cover charge. The statute clearly
20 indicates that there is a five percent tax on
21 that that he is to remit -- collect and remit
22 to the Department. We're not looking for
23 criminal charges or anything else ---

24 **THE COURT:** I understand that.

25 **MR. MCCABE:** --- just the acknowledgment that he has



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

272

1 not -- once again, not complied with the
2 letter of the law. It's a continuing -- it's
3 a continuing sequence.

4 **MS. MCDANIEL:** But it's not something that we are
5 able to even respond to because they're -- they
6 could be wrong and we don't know that. And we
7 have ---

8 **THE COURT:** Well, I mean, you can always ask him the
9 question.

10 **MS. MCDANIEL:** Well, that is ---

11 **THE COURT:** What he -- what his people at the door
12 are doing?

13 **MS. MCDANIEL:** Your Honor, I believe you've already
14 ruled that this is beyond the scope of what
15 this determination was about.

16 **THE COURT:** I agree. I mean, really we're here with
17 what is perhaps an issue that's not before the
18 Court at this time.

19 **MS. MCDANIEL:** Uh-huh.

20 **THE COURT:** And I ---

21 **MR. MCCABE:** I would disagree, Your Honor.

22 **THE COURT:** I understand.

23 **MR. MCCABE:** Suitability means ---

24 **THE COURT:** I understand that.

25 **MR. MCCABE:** --- he's in ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

273

1 THE COURT: I understand that, but I ---
2 MR. MCCABE: --- strict compliance.
3 THE COURT: I understand that.
4 MR. MCCABE: According to the Court.
5 THE COURT: But ---
6 MR. MCCABE: And we have evidence that that is not
7 occurring.
8 THE COURT: The problem is ---
9 MR. MCCABE: I mean, his own testimony is that they
10 ta- -- that they collect cover charges.
11 THE COURT: Well, you can ask him that.
12 MR. MCCABE: Well I already -- I did and he
13 answered.
14 MS. MCDANIEL: But, Your Honor, yes, and he answered
15 but it can't go beyond that because it cannot
16 become an issue in this case as to whether he
17 complied with, you know, paying taxes on that.
18 MR. MCCABE: Your Honor ---
19 MS. MCDANIEL: You've already ruled on that.
20 MR. MCCABE: I would argue that I'm asking him if
21 he's compliant with the statutes that are
22 available to public knowledge. It's a yes or
23 a no question.
24 MS. MCDANIEL: But that's not at issue in this case.
25 That was not part of the ---



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 MR. MCCABE: Your Honor, the determination ---
2 MS. MCDANIEL: --- Agency's determination.
3 MR. MCCABE: --- the determination said Mr. Starkey
4 is not fit moral character. It did not say not
5 fit moral character because of A, B, C or D.
6 MS. MCDANIEL: Yes, it did.
7 MR. MCCABE: It said ---
8 MS. MCDANIEL: It said not fit moral character ---
9 MR. MCCABE: No, 'ma'am.
10 MS. MCDANIEL: --- because ---
11 MR. MCCABE: You're incorrect.
12 THE COURT: One at a time.
13 MR. MCCABE: All right. But you read the
14 determination, it does not say that. It does
15 not say because of A, B, C and D. Those are
16 all facts in the determination. But the
17 determination itself says we find that he is
18 not of good moral character. Now we have
19 recently received evidence that there is
20 another factor that needs to be considered
21 before this Court.
22 MS. MCDANIEL: That you did not turn over.
23 THE COURT: I'd be glad to dismiss this case and
24 send it back for you to revise your
25 determination.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

275

1 **MR. MCCABE:** Either -- Your Honor, I mean, if that's
2 the case, but, I mean, we'll have to bring
3 everybody back in to testify. I don't think
4 that's necessary. But what I'm saying is that
5 if we were going to have a determination of
6 suitability and fitness, it needs a complete
7 examination, a de novo examination. All I'm
8 asking you is if ---

9 **MS. MCDANIEL:** Your Honor, I'd have to be aware ---

10 **MR. MCCABE:** --- he's compliant with the statute.

11 **THE COURT:** And I agree. Mr. McCabe, I'm -- I
12 really sympathize with your argument here. The
13 problem is we go to court with a particular
14 issue. We let everybody know what the issues
15 are, and if we're going to change those issues
16 in midstream then he's entitled to some notice
17 of that ahead of time. And I'll be glad to
18 send this back let y'all redo your
19 determination and have another go at him with
20 that in it. And you could do that anyway.

21 **MR. MCCABE:** Well, yeah, absolutely.

22 **THE COURT:** But I don't believe you can bring it in
23 to this case this late in the game.

24 **MS. MCDANIEL:** Thank you, Your Honor.

25 **MR. MCCABE:** All right. Could I have one moment,



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Your Honor?

2 THE COURT: Yes, sir.

3 MR. MCCABE: All right, Your Honor. If the Court
4 finds that we're not able ask him questions
5 then we'll just issue a new determination at a
6 later time as to -- as to that issue.

7 THE COURT: Yeah, as to that issue. If you -- and
8 you can certainly do -- do an audit and
9 determine what ---

10 MR. MCCABE: Correct.

11 THE COURT: --- if anything he owes ---

12 MR. MCCABE: Your Honor, you'd be correct.

13 THE COURT: --- for those taxes.

14 MR. MCCABE: Correct. But I would like it on the
15 record that he has admitted -- his testimony is
16 that he does collect cover charges.

17 THE COURT: I think he ha- ---

18 MS. MCDANIEL: That's his testimony ---

19 THE COURT: I think he said something of that sort.

20 MS. MCDANIEL: I mean, I'm not going to deny that
21 that was his testimony.

22 MR. MCCABE: Okay.

23 THE COURT: All right.

24 MR. MCCABE: All right. Thank you, Your Honor.

25 THE COURT: Back to your cross-examination.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

277

1 Q: Yeah, thank you. Could you look at Exhibit 8
2 for me, please?

3 A: Is that the orange or brown statement? Orange
4 right here?

5 Q: It would be the orange.

6 A: Yes, sir.

7 Q: Number 8.

8 A: Okay.

9 Q: I'm sorry, Number 7. Number 7. So looking at
10 Number 7, can you read that sentence that's in
11 bold print?

12 A: You must cease all sales of beer, wine and
13 liquor until you receive your renewed license.

14 Q: Could you look at page 2 of that Exhibit?
15 Could you read what's in bold print there?

16 A: It's all the same.

17 Q: Could you please read it?

18 A: The whole thing or what's it ---

19 Q: The bold print.

20 MS. MCDANIEL: I believe the dif ---

21 A: I don't see bold print on here, sir. I see
22 that bold print right there on that one but I
23 don't see the same on here.

24 Q: Could you read that line, please?

25 A: Yeah. You must cease all sales of beer, wine

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

278

1 and liquor until you receive your new license.

2 Q: Is there any ambiguity in that statement?

3 A: No, sir.

4 Q: No confusion in that statement?

5 A: No, sir.

6 Q: But it's your testimony that somebody told you

7 -- did you say that somebody told you that were

8 okay or did -- you thought you were okay?

9 A: I thought I was okay. Yes.

10 Q: Okay. And where -- why would you think that?

11 A: When I got this handed from the window ---

12 Q: Uh-huh.

13 A: --- when I kept gettin' the insurance stuff ---

14 Q: Uh-huh.

15 A: --- and I gave her three different copies of

16 three different e-mails, and then when she slid

17 this out to me she said -- I said so -- I'm

18 just talkin' to her and she slides a piece of

19 paper out and I look at her and I said so what

20 does this mean? She said you have 90 days to

21 get the rest of that stuff that's on this

22 letter ---

23 Q: Uh-huh.

24 A: --- in compliance.

25 Q: Uh-huh.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

279

1 A: And that was it. I never read this letter, and
2 I'm not denying that.
3 Q: Okay.
4 A: So.
5 Q: So this was just on your own mis- ---
6 A: Well, I guess me talking to her, yes.
7 Q: Okay.
8 A: The woman in the window.
9 Q: But did she tell you something contrary to what
10 was in that letter?
11 A: She just told me I had 90 days to get this --
12 this letter complete and then basically get --
13 basically whatever I had to get that was along
14 here line item-wise get it complete and get it
15 back to her at 90 days.
16 Q: Okay. But did she tell you that you could
17 operate?
18 A: She didn't say that one way or another.
19 Q: Okay. Did you get the name of that employee?
20 A: I did not. No, sir.
21 Q: Did you think maybe to get anything in writing
22 from her that said you had 90 days?
23 A: No, sir.
24 Q: Okay. So it's just your testimony that that's
25 what occurred?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

280

- 1 A: Yes, sir.
- 2 Q: Okay. So isn't it true that for three months
3 you continued to sell alcohol without a
4 license?
- 5 A: Yes, sir.
- 6 Q: All right. Isn't it true that you did that
7 because you couldn't sell -- you could not
8 survive, your business could not survive
9 without selling alcohol?
- 10 A: No, sir.
- 11 Q: So your business could survive without selling
12 alcohol?
- 13 A: I'm not -- I mean, but that's not why I did it
14 though. I was just ---
- 15 Q: Okay, but I'm asking you -- so that's not why
16 you did it? So why did you continue to sell
17 alcohol without a license?
- 18 A: Because I thought I had 90 days from when I got
19 this letter.
- 20 Q: Okay. Well you did pretty well for yourself
21 though, didn't you? Three months, \$130,000?
- 22 A: Yeah.
- 23 Q: Without a license. So after your business was
24 raided and all the alcohol was seized, you went
25 at that point and then made sure all your

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

281

1 paperwork was complete and then got your
2 license?
3 A: Yes, sir.
4 Q: So it was only after SLED came in and seized
5 all your alcohol?
6 A: I mean, we were preparing for this the whole
7 time with Art, my CPA.
8 Q: Oh, so you were preparing for it but it just
9 happened that the seizure occurred and then
10 shortly thereafter.
11 A: I was -- had 90 days from the day -- yes, I was
12 still going off of that date.
13 Q: Can you show me on there where it says you have
14 90 days?
15 A: It doesn't say that.
16 Q: Okay. So that was just your own ---
17 A: It's from what she told me and I think it is --
18 it is accurate that you do have 90 days I think
19 from the letter. After you get the letter I
20 think you do have 90 days.
21 Q: Actually you have 90 days to protest the
22 decision of the Department.
23 A: Okay. So 90 days just -- okay.
24 Q: So this isn't the first time your business was
25 found operating without a license, isn't it?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

282

- 1 A: At this time, yes.
- 2 Q: That's the first time?
- 3 A: Yes.
- 4 Q: Is that the only time that that's happened that
- 5 you've admitted operating without a license?
- 6 A: No, the Sunday sales ---
- 7 Q: The Sunday sales ---
- 8 A: --- yeah.
- 9 Q: Okay. Isn't it true that your business was
- 10 selling on Sunday without a license for almost
- 11 two years?
- 12 A: Yes, sir.
- 13 Q: All right. Isn't it true that by not
- 14 purchasing the single LOP that you saved
- 15 \$19,000? If they're \$200 a permit and there's
- 16 95, it'd be \$19,000, correct?
- 17 A: I'd have -- I'd have to look at that on a piece
- 18 of paper.
- 19 Q: So that's not \$19,000?
- 20 A: No, no.
- 21 Q: Would you like me to add it up for you? I
- 22 mean, I can get you a piece of paper if you'd
- 23 like?
- 24 A: That's fine. Yeah.
- 25 Q: Here's a pen.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

283

1 A: Okay. What are you saying for 24 months times
2 two; is that what you're saying, or what are
3 you ---

4 Q: No, there was 95 Sundays.

5 A: 95 Sundays. Okay. What are you saying it is?

6 Q: Well I'm asking you, is that 18,000?

7 A: Well, I mean, I'm guessin' you've already done
8 it, so.

9 Q: Yes, your right. I have.

10 A: Okay. So then I guess it's 18,000.

11 Q: Okay. So, thank you.

12 A: Uh-huh.

13 Q: All right. So you saved \$18,000, correct?

14 A: Yes, sir.

15 Q: Pretty good for somebody who makes zero income
16 in this state that has to rely on family to get
17 by. That's your testimony, right?

18 A: Yes, sir.

19 Q: Let's talk about your personal income tax real
20 quick. Your Honor, I believe that the door was
21 opened to personal income tax; is that correct?

22 **THE COURT:** Yes, sir.

23 Q: Okay. Do you owe -- do you currently owe
24 personal income tax to the State of South
25 Carolina?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

284

1 A: Yes, sir.

2 Q: You do? How much?

3 A: Ball park I think it's about between 30 and 40

4 grand.

5 Q: So 30 or \$40,000 ---

6 A: Yes.

7 Q: --- you owe the Department of Revenue?

8 A: Yes, sir.

9 Q: You on a payment plan right now?

10 A: Yes, sir.

11 Q: Okay. So you're making payments on that but

12 that's a pretty large amount.

13 A: Yeah.

14 Q: How'd you get that amount?

15 A: How'd I get that amount?

16 Q: Yeah, how did that amount get that high?

17 A: From not paying taxes.

18 Q: From -- oh, from not paying taxes?

19 A: Yes.

20 Q: Okay. Isn't it true that the City of

21 Statesboro had scheduled an administrative

22 hearing to revoke your license?

23 A: Yes, sir.

24 Q: All right. Isn't it true that you surrendered

25 your license in order to avoid a revocation?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

285

- 1 A: Yes, sir.
- 2 Q: All right. Are you aware that if your license
- 3 was revoked in Georgia you would not be able to
- 4 obtain a license in South Carolina?
- 5 A: Yes, sir.
- 6 Q: So you knew that?
- 7 A: Yes, sir.
- 8 Q: So it was better just to surrender to save your
- 9 business here in South Carolina?
- 10 A: Yes, sir.
- 11 Q: Isn't it true that as part of the settlement
- 12 agreement that you personally are prevented
- 13 from ever opening a business in the City of
- 14 Statesboro? An alcohol establishment?
- 15 A: Alcohol establishment. Yes, sir.
- 16 Q: Okay. Is that true?
- 17 A: Yes, sir.
- 18 Q: Okay. What's the minimum age to gain entrance
- 19 into Study Hall?
- 20 A: It depends on what time of day it is.
- 21 Q: Okay. Can you explain that, please?
- 22 A: So most time at about 8:00 or 9:00 o'clock at
- 23 night we go 21 and up.
- 24 Q: Okay.
- 25 A: But a lot of places during the day are most of



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

286

1 the time all ages.

2 Q: Okay. So you've heard testimony earlier today
3 that SLED agents don't use -- or, excuse me --
4 underage cooperating individuals or under
5 covers -- don't use false ID's, alright? They
6 use their ID. So can you explain how an
7 individual -- or isn't it true -- let's do this
8 this way -- isn't it true that a underage
9 individual was able to get into your
10 establishment and purchase an alcoholic
11 beverage?

12 A: Yes, sir.

13 Q: Okay. Isn't it true that you were ultimately
14 responsible to ensure that Study Hall complied
15 with the various statutes and regulations?

16 A: Yes, sir.

17 Q: Isn't it true that you failed to ensure that
18 Study Hall has had the appropriate alcohol
19 licenses on two separate occasions?

20 A: Yes, sir.

21 Q: Isn't it true -- I can't ask that -- isn't it
22 true that Study Hall has failed to adhere to
23 the alcohol license of South Carolina?

24 A: Yes, sir.

25 Q: All right. Give me one second here. So have



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

287

1 you look at -- I think this is Exhibit Number
2 4 or Number 5. It's your employer requirement
3 and guidelines.

4 A: Okay.

5 Q: Now if I remember your testimony you said your
6 employees are not allowed to drink, correct?

7 A: Yes, sir.

8 Q: All right. Can you tell me why on that
9 guideline it says, hey, you can have a drink.
10 In fact it says if you want to take a shot with
11 a friend for birthday or something of that sort
12 then you need approval by management. Even
13 then you cannot get drunk or drink enough to
14 have your judgment or cognitive abilities
15 impaired? Does it say that?

16 A: Yes, sir.

17 Q: So you do allow employees to drink?

18 A: Yes, sir.

19 Q: All right. And isn't it true that in Rude
20 Rudy's an employee drinking, maybe off duty,
21 maybe on duty, but an employee drinking led to
22 the death of Michael Gatto?

23 A: I don't know about led to the death of him. I
24 mean, if he was drinkin' or not drinkin' it
25 could have been the same outcome.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

288

1 Q: So -- all right. Was he -- was Grant Spencer
2 drinking?
3 A: I was not there but I heard he was, yes.
4 Q: All right. And how old was he?
5 A: I heard 20 years old.
6 Q: All right. And he was an employee of yours,
7 right?
8 A: Yes.
9 Q: And let me ask you about these employee
10 guidelines. Did you have something similar to
11 this?
12 A: No, I did not have any of this in place.
13 Q: You did not have anything similar to this ---
14 A: Not -- not this sheet.
15 Q: Not this sheet?
16 A: No.
17 Q: But you do have these same guidelines -- would
18 you -- so there -- you didn't testify in a
19 wrongful death suit that ---
20 A: I had guidelines, not these same guideline.
21 Q: No, sir. You're not letting me finish.
22 A: Okay.
23 Q: Did you have guidelines such as these as about
24 not allowing employees to drink, not allowing
25 violence, those types of things, did you have

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

289

1 those in place at Rude Rudy's?

2 A: I don't recall the exact contract but we did

3 have something in place; yes, sir.

4 Q: So you had something would you say similar to

5 this?

6 A: I would say similar to that, yes.

7 Q: And that didn't stop Michael Gatto from being

8 killed, did it?

9 A: No, it did not.

10 Q: All right. No further questions, Your Honor.

11 **MS. MCDANIEL:** Just a few follow-up.

12 **THE COURT:** Redirect.

13 **MR. STARKEY - REDIRECT EXAMINATION BY MS. MCDANIEL:**

14 Q: Just a few follow-up questions, Your Honor.

15 Mr. Starkey, have you obtained a Sunday sales

16 license now?

17 A: Yes, ma'am.

18 Q: And when did you obtain that?

19 A: When after the incident I found out we did not

20 have one.

21 Q: Okay. And for what time period did you obtain

22 that license?

23 A: I don't know the exact date on that.

24 Q: Was it a year, was it a year and a half, was it

25 two ---



- 1 A: I paid for the rest of this year and all of
2 next year.
- 3 Q: And how much was that?
- 4 A: I don't recall the exact amount.
- 5 Q: Was it \$19,000?
- 6 A: No, I think it was like 3,050. I don't -- you
7 can't quote me on that.
- 8 Q: Okay. And I believe there was testimony
9 previously that an annual Sunday sales license
10 about 3,000; does that sound about right?
- 11 A: Yes.
- 12 Q: Not 19,000, correct?
- 13 A: Correct.
- 14 Q: 19,000 would be an unfair extrapolation,
15 correct?
- 16 A: I guess.
- 17 Q: Okay. On the -- your personal income tax you
18 said that you're on a payment plan, and how
19 long have you been on that payment plan?
- 20 A: I don't know the exact amount of time but a
21 little over a year.
- 22 Q: Has there been any claim that you haven't
23 complied with that payment plan?
- 24 A: No, ma'am.
- 25 Q: Okay. And do you intend to comply with it?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

291

1 A: Yes, ma'am.

2 Q: Okay. You testified that the settlement
3 agreement said that you would not have another
4 alcohol establishment in the Statesboro; is
5 that correct?

6 A: Yes, ma'am.

7 Q: Okay. What about the rest of Georgia? Is
8 there anything limiting you from having a
9 alcohol license in the rest of Georgia?

10 A: No, ma'am.

11 Q: Okay. So, Mr. Starkey, if you could please
12 read for me number 9 on Respondent's Exhibit 4?

13 A: All employees are subject to random
14 Breathalyzer request if management has any
15 inkling that you have been drinking. Zero
16 tolerance policy. If you blow anything, even
17 a .01, you will be immediately asked to leave
18 without your pay, tips and fired. If you want
19 a shot with a friend for a birthday or some --
20 or something of that sort it needs to be
21 approved by management. Even then you cannot
22 get drunk or drink enough to have your judgment
23 or cognitive abilities impaired.

24 Q: So is it correct to say that the only way that
25 an employee could have even a shot would be by



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

292

1 special permission ---

2 A: Right, .

3 Q: --- of the management, correct?

4 A: Yes, ma'am.

5 Q: Okay. And they still could not become

6 impaired, correct?

7 A: Yes, ma'am.

8 Q: Okay. On the -- there was a question about the

9 90 day period. Did you -- what was your

10 understanding of the purpose of the 90 days?

11 A: I thought it was 90 days to get basically my

12 stuff prepared to basically turn in to them and

13 then my license would be granted 'cause they

14 already cashed my check.

15 Q: Okay. And did you comply with the requirements

16 of that letter within 90 days?

17 A: Yes, ma'am.

18 Q: No further questions.

19 **MR. MCCABE:** Mr. Starkey ---

20 **MS. MCDANIEL:** Okay.

21 **MR. MCCABE:** I'm sorry. Were you ---

22 **MS. MCDANIEL:** Oh, no, I'm done.

23 **MR. STARKEY - RECROSS-EXAMINATION BY MR. MCCABE:**

24 Q: This 90 days requirement, is that just

25 something you made up?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

293

1 A: No. It's what the person in the window told me
2 at the DOR.

3 Q: That's your testimony but there's nobody to
4 verify that, is there?

5 A: No. No, sir.

6 Q: All right. No further questions, Your Honor.

7 **MR. STARKEY - REDIRECT EXAMINATION BY MS. MCDANIEL:**

8 Q: One last question. Is there anyone here that
9 would contest that it's 90 days from the DOR.

10 **THE COURT:** I don't know that he knows that.

11 Q: Well has anyone contested that ---

12 A: No.

13 Q: --- any witness?

14 A: No.

15 Q: Okay. No further questions, Your Honor. All
16 right. Mr. Starkey, unless the Judge has
17 anything else?

18 **THE COURT:** No, I dare not. Mr. Starkey, you can
19 return to your seat.

20 **THE COURT:** Ms. McDaniël, do you have another
21 witness?

22 **MS. MCDANIEL:** Yes, Your Honor. We call Wes
23 Taulbee.

24 **COURT REPORTER:** Do you solemnly swear the following
25 testimony you're about to give will be the

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

294

1 truth, the whole truth and nothing but the
2 truth so help you God?

3 **MR. TAULBEE:** I do.

4 **WESLEY TAULBEE**, having been duly sworn, testifies as
5 follows:

6 **COURT REPORTER:** Please state and spell your full
7 name.

8 A: Wesley Taulbee. W-E-S-L-E-Y T-A-U-L-B-E-E.

9 **MR. TAULBEE - DIRECT EXAMINATION BY MS. McDANIEL:**

10 Q: Good afternoon, Mr. Taulbee. Just a few
11 questions for you. What is your relationship
12 to John Starkey?

13 A: I'm an attorney in Statesboro, Georgia, and I
14 have known Mr. Starkey professionally and a
15 little bit personally since probably 2003 or
16 2004.

17 Q: Okay. And did you assist Mr. Starkey in
18 obtaining an alcohol license for Rude Rudy's?

19 A: I did.

20 Q: And during -- when did that alco- -- when was
21 that alcohol license first obtained?

22 A: I think it was in late 2003 or early 2004.

23 Q: Uh-huh.

24 A: It was when he first applied to open Rude
25 Rudy's and -- and start the establishment. And



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

295

1 the City at that time was -- was reluctant to
2 grant alcohol licenses in that College Plaza
3 location, and Mr. Starkey came to me to see if
4 we could help -- help that process and -- and
5 ultimately he was issued his license and opened
6 the business I think in early -- late 2003
7 early 2004.

8 Q: Okay. And was he continuously licensed from
9 that time period up until 2014?

10 A: He was.

11 Q: Okay. And during -- that was -- that would be
12 about ten years, correct?

13 A: Yes, ma'am.

14 Q: During that ten year period did Statesboro or
15 any other governmental authority attempt to
16 impose any suspension of Mr. Starkey's alcohol
17 license?

18 A: Not that I'm aware of.

19 Q: Okay. Was there any attempted revocation
20 before February of 2014?

21 A: No, ma'am.

22 Q: Do you have any information that would lead the
23 -- did the State of Georgia express any
24 administrative concerns regarding Mr. Starkey's
25 alcohol license?

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

296

- 1 A: No, ma'am.
- 2 Q: Okay. Did you assist Mr. Starkey -- did you
3 represent Mr. Starkey in regards to dealing
4 with the City following the death of Mr. Gatto?
- 5 A: I did. And I will say -- when I say that he
6 had nothing -- nothing I was involved in.
- 7 Q: Uh-huh.
- 8 A: I mean, I don't know, it's possible that there
9 was underage sale or something that was handled
10 ---
- 11 Q: Uh-huh.
- 12 A: --- without any sort of suspension or
13 something. I believe that if it had been
14 anything major he would have contacted me but
15 I am not aware of anything.
- 16 Q: Certainly.
- 17 A: I was made aware very early on when Mr. Gatto
18 was killed, and -- and did ---
- 19 Q: Uh-huh.
- 20 A: --- represent Mr. Starkey and Rude Rudy's in
21 connection with, you know, that -- that
22 incident sort of, at least initially.
- 23 Q: And the -- Mr. Starkey's surrender of his
24 Statesboro Alcohol License, was that something
25 that the City also had to agree to, was that

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

297

1 part of lar -- a settlement agreement?

2 A: It was. Essentially -- when it happened,

3 obviously it was a horrible tragedy. I mean

4 everybody was trying to figure out how to

5 address it. The -- the City sort of came in

6 and -- and under the ordinance it was one of

7 these things where if you had one -- you know,

8 they could only do so much to a business owner

9 with a first offense, and then second offense

10 they could do a little more, and with a third

11 offense they could do a little more. And Mr.

12 Starkey had not had any offenses in that time

13 frame. You know, they came in and sort of

14 were taking the position of, you know, if one

15 person bought three drinks that same night that

16 that was three different violations and

17 ultimately, you know, sort of were piling on

18 the violations. And -- and -- and ultimately

19 we just got together with the City and said

20 look, you know, if -- if -- if you no longer

21 want us there and no longer want Mr. Starkey

22 here, he's got something else he's working on

23 anyway. His plan was to ultimately move to

24 Clemson full-time and permanently, and so we

25 said, you know, rather than us fighting this in



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 court and everything else, what if we agreed to
2 voluntarily surrender the license here in
3 Statesboro. The City was amenable to that and
4 so we reached that agreement and -- and that
5 was about it.

6 Q: Okay. But had the City wanted to it could've
7 pursued other actions against Mr. Starkey,
8 correct?

9 A: Certainly. And they could've proceeded with --
10 I mean, they allowed us to, as part of this
11 agreement, for him to actually surrender the
12 license.

13 Q: Uh-huh.

14 A: I mean they could have proceeded with, you
15 know, a suspension or hearing or whatever they
16 wanted to. It's not a case of where we were
17 able to unilaterally avoid anything. It was --
18 it was an agreement reached between both sides.

19 Q: Okay. Following the death of Mr. Gatto, how
20 quickly was that settled and reached?

21 A: Well, very quickly. I mean, it -- it -- I
22 guess it was tied less to -- within a very
23 short period of time, I -- I think maybe Mr.
24 Starkey and them were open a couple of times
25 after that and then voluntarily closed. Then



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

299

1 there was a letter I believe that came from two
2 councilmen that had called the -- they called
3 a special hearing, and basically, you know,
4 once we got that letter we sort of reached out
5 to the City; and I don't remember the exact
6 date of it but it was all -- it was all within
7 a matter of weeks.

8 Q: Okay. And during the time that you have known
9 Mr. Starkey, how would you describe his moral
10 character?

11 A: I think Mr. Starkey has, from everything I have
12 seen, has good moral character and I think as
13 a general rule has not had a problem with --
14 with the -- the people in the community where
15 he has -- has owned the bar either in -- in,
16 you know, in Statesboro up until certainly that
17 -- the Gatto incident. And then I don't -- I'm
18 not aware of in Clemson, obviously.

19 Q: Okay. And is Mr. Starkey -- has he always been
20 honest with you?

21 A: With me, yeah.

22 Q: Okay. Do you ever think -- have you ever
23 gotten the sense that he was trying to hide
24 anything from you?

25 A: No. He's always been very straightforward



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

300

1 including accepting responsibility. I mean, I
2 -- I will say he's not always dotting I's and
3 crossing T's.

4 Q: Uh-huh.

5 A: It would not surprise me at the same time when
6 he does do a real good job of it. I haven't
7 seen him make the same mistake twice and ---

8 Q: Uh-huh.

9 A: --- and I think where his focus is in terms of
10 -- of cooperating with law enforcement and --
11 and trying to run a -- a good establishment,
12 you know, I guess to the extent a bar can be a
13 good establishment, and opinions may differ ---

14 Q: Uh-huh.

15 A: --- but I think he -- I have always felt like
16 he is very much on the up and up with that and
17 has done a good job with it.

18 Q: Okay. Has he ever been less than forthcoming
19 with you about any issues that he had?

20 A: Not that I'm aware of.

21 Q: All right. No further questions.

22 A: Thank you.

23 **THE COURT:** Mr. McCabe?

24 **MR. McCABE:** Yes, just a couple questions.

25 **MR. TAULBEE - CROSS-EXAMINATION BY MR. McCABE:**



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

301

- 1 Q: With the representation in -- in Statesboro,
2 Mr. Starkey paid you to represent him, correct?
- 3 A: I -- yes. And that -- yes, I think so. I'm
4 not a hundred percent sure that -- that I ever
5 sent him a bill and it got paid. It was
6 relatively short but -- but yes, in theory he
7 paid me. I've not gone back and checked my
8 bill. But I would've been hired and was his
9 counsel.
- 10 Q: You were his counsel ---
- 11 A: Yes. I was his, yes, correct.
- 12 Q: So as his counsel, of course you are obligated
13 to zealously represent him and his interest,
14 correct?
- 15 A: In that incident yes, I tried to.
- 16 Q: Okay. And he called you as a witness today,
17 correct?
- 18 A: I -- he called -- yes, actually his counsel
19 called to ask about that incident and I told
20 them that I would be willing to drive up here
21 and testify if they thought ---
- 22 Q: Okay.
- 23 A: --- it'd be helpful.
- 24 Q: So why -- you wouldn't really -- maybe we'll
25 come back to that. But -- but they asked you

**CREEL COURT REPORTING, INC.**1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

302

1 to come up and -- and to testify, is that
2 correct?

3 A: They did ask me if I would come up, yes.

4 Q: Okay. Were you aware that Mr. Starkey was
5 operating without a license?

6 A: I was not.

7 Q: Were you aware that Mr. Starkey was operating
8 without a local option permit?

9 A: I was not.

10 Q: All right. Wouldn't you agree that compliance
11 with the law, is it an important factor in
12 determining fitness and suitability to sell
13 alcohol?

14 A: I would agree with that as a statement. Yes,
15 sir.

16 Q: All right.

17 **MR. McCABE:** No further questions, Your Honor.

18 **MS. McDANIEL:** No further questions, Your Honor. If
19 we could release Mr. Taulbee?

20 **THE COURT:** I think we can probably do that.

21 A: May I be excused, Your Honor?

22 **THE COURT:** We need some lawyers in South Carolina
23 but we'll have to let you go.

24 A: Listen, y'all are well served, Your Honor. I
25 appreciate it. I'm gonna go make a basketball



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

303

1 game.

2 **THE COURT:** Good luck.

3 **MS. McDANIEL:** All right. And, Your Honor, we'll
4 call our last witness, Chris Cartee.

5 **COURT REPORTER:** Do you solemnly swear the following
6 testimony you're about to give will be the
7 truth, the whole truth and nothing but the
8 truth so help you God?

9 **MR. CARTEE:** I do.

10 **CHRIS CARTEE,** having been duly sworn, testifies as
11 follows:

12 **COURT REPORTER:** Thank you, sir. Please state and
13 spell you name.

14 A: Chris Cartee. C-A-R-T-E-E.

15 **MR. CARTEE - DIRECT EXAMINATION BY MS. McDANIEL:**

16 Q: All right. Good afternoon, Mr. Cartee.

17 A: Good afternoon.

18 Q: What is your position with the City of Clemson?

19 A: I am the City Fire Marshall and Arson
20 Investigator.

21 Q: Okay. And what sort of interactions have you
22 had with Mr. Starkey since he -- well, let me
23 ask you this. How long have you been with the
24 City of Clemson?

25 A: I've been with the City now a little bit around



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

304

1 two years.

2 Q: Okay. And in those two years, what have been
3 your interactions with Mr. Starkey?

4 A: I am in control of the fire and life safety
5 issues with all the City.

6 Q: Uh-huh.

7 A: So my interaction with Mr. Starkey has been a
8 -- a life safety issue point just making sure
9 that his bar is safe and adequate to our
10 demeanor and fire code.

11 Q: Okay. What has been the -- when you deal with
12 Mr. Starkey, what has been your impression of
13 him as a person?

14 A: Him and his staff, as far as on the fire side
15 is concerned, have been very professional and
16 they have took care of anything that I have
17 asked them to do.

18 Q: Okay. Has Mr. Starkey always been honest with
19 you?

20 A: To my knowledge, yes.

21 Q: Okay. Do you have any indication that he's
22 ever tried to hide anything from you?

23 A: No.

24 Q: Okay. And is it your opinion, based on your
25 knowledge of the fire code, is Mr. Starkey in



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

305

1 compliance with the -- all portions of the fire
2 code?

3 A: At this current date he is compliant with all
4 fire code laws.

5 Q: Okay. So what has Mr. Starkey done to improve
6 the safety for his customers that you're aware
7 of?

8 A: I think during our annual meeting ---

9 **MR. McCABE:** Your -- Your Honor, I -- I would -- I --
10 - I would object to that, it's irrelevant.
11 She's gone a little bit on about the life
12 safety. No one's made the allegation that Mr.
13 Starkey's business is unsafe or he's putting
14 his residents in any type of overcrowding or
15 that the building's unsafe from the fire
16 aspect. And that this gentleman here is a Fire
17 Inspector, which -- which is great, but that
18 aspect of whether or not he's compliant with
19 the fire code, that really has no relevance as
20 to -- to his fitness to be able to sell
21 alcohol.

22 **MS. McDANIEL:** Your Honor, the case law regarding
23 good moral character, a part of that is your
24 ability to know right and wrong, your ability
25 to follow the law, and the ability to follow



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

306

1 the fire code, to understand the fire code, and
2 do what it takes to maintain an establishment
3 that's in compliance with that, goes to that
4 understanding of right and wrong and how to
5 comply with the law.

6 **THE COURT:** It is connected, just barely.

7 **MS. McDANIEL:** Okay.

8 **MR. McCABE:** Thank you, Your Honor.

9 **THE COURT:** We -- we -- we let 'em talk about the --
10 the sprinkler system so I guess we need to find
11 out why he has to have those.

12 **MS. McDANIEL:** Okay.

13 **Q:** So, Mr. Cartee, what additional things has Mr.
14 Starkey done to improve the safety to protect
15 the lives of his customers?

16 **A:** He added in cattle gates, that he spoke about
17 earlier ---

18 **Q:** Uh-huh.

19 **A:** --- in his testimony, to keep the crowd kinda
20 contained to his area. He has also added the
21 counters that we call the clickers at the ---

22 **Q:** Uh-huh.

23 **A:** --- door to keep occupant content.

24 **Q:** Uh-huh.

25 **A:** And he has overall done his annual inspections



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

307

1 to make sure that life safety is took care of.
2 He has also upped his staff, I'm not sure how
3 many people but he did up his staff for me.
4 Q: Okay. And you said he upped his staff for you?
5 A: Yes, ma'am.
6 Q: What do you mean by that?
7 A: We kinda come to the agreement that he needed
8 more staff to be able to handle his crowd ---
9 Q: Uh-huh.
10 A: --- and I think he was very compliant on that
11 and did add some -- couple of guys.
12 Q: So as the Fire Marshall you requested that he
13 take additional steps and he complied with
14 that, is that correct?
15 A: Correct.
16 Q: Okay. Do you regularly visit the bars in
17 Clemson?
18 A: Yes.
19 Q: As part of your job?
20 A: Yes. Yes, as part of my job I do regular
21 visits.
22 Q: Okay. And -- and can you tell us about how you
23 do that?
24 A: Most of the time, my heavy times that we hit
25 those, is during ball game season.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

308

1 Q: Uh-huh.

2 A: We will have our annual alcohol meeting and
3 then every Friday I go around to each
4 individual bar that is downtown and we make
5 sure we do a face-to-face with either Mr.
6 Starkey or the Staff Manager and make sure that
7 we have a game plan for that night and have a
8 kinda wrap our heads around the crowd that
9 we're expecting for that kinda game.

10 Q: Okay. And do you go to the bar as part of your
11 job during the game or during the times ---

12 A: The only time I work during the game is if I'm
13 called if there's a problem, but I do work the
14 night before a game ---

15 Q: Oh, okay.

16 A: --- when we have the big crowd.

17 Q: Okay. So it's the night before when you have
18 the big crowd?

19 A: Correct.

20 Q: Okay. And what do you do the night before when
21 you're working?

22 A: We do crowd control. I'm -- I'm in and out of
23 both of the bars, interact with every bar down
24 there and we make sure that we don't go over
25 occupancy.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

309

- 1 Q: Okay. And if you have an issue with occupancy
2 in that evening, how has Mr. Starkey responded?
- 3 A: His crew has been very professional, they
4 correct the issue if we have come up on one.
- 5 Q: Okay. How does Study Hall compare in size to
6 the other bars in town?
- 7 A: He is one of the larger bars in town.
- 8 Q: Uh-huh.
- 9 A: I can't tell 'ya off the top of my head the
10 occupant load but he is probably within the top
11 three one of the largest.
- 12 Q: Okay. Let's see. Would you say that Mr.
13 Starkey has the ability to understand what the
14 fire code requires?
- 15 A: Yes.
- 16 Q: Okay. And from your experience, does he comply
17 with the fire code?
- 18 A: Yes.
- 19 Q: Do you believe that Mr. Starkey has the ability
20 to distinguish between right and wrong?
- 21 A: In -- in my ability I believe that he does.
- 22 Q: Okay. And has Mr. Starkey always been honest
23 with you?
- 24 A: To my knowledge.
- 25 Q: Okay. Do you have any indication that he's

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

310

1 ever been deceitful or tried to hide anything
2 from you?

3 A: Not on the fire code side.

4 Q: Okay. And has he -- well, I asked you about
5 the ... Okay. No further questions. Well,
6 let me -- let me take that back. Do you
7 believe that Mr. Starkey is of good moral
8 character?

9 A: Yes.

10 Q: Okay. Thank you.

11 **MR. CARTEE - CROSS-EXAMINATION BY MR. McCABE:**

12 Q: Couple of questions real quick. You were asked
13 if he'd been deceitful or -- or anything when
14 you -- you had spoken with him and you said not
15 on the fire code side.

16 A: Yes, sir.

17 Q: Do you care to explain? Is there -- has he
18 been deceitful in other means?

19 A: I have no answer to that 'cause I'm not on that
20 side.

21 Q: You're not on that side?

22 A: No, sir.

23 Q: So just -- you can only speak the fire code?

24 A: Can only speak to the fire codes.

25 Q: Okay. Are you familiar with any of the alcohol



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

311

1 licensing requirements?

2 A: No, sir.

3 Q: All right. And are you -- are you aware that

4 Mr. Starkey was operating without a -- a

5 license?

6 A: No, sir.

7 Q: Were you aware that Mr. Starkey was operating

8 without a local option permit?

9 A: No, sir.

10 Q: Would you agree that compliance means complying

11 with all the laws, not just some of them?

12 A: I agree.

13 Q: So -- all right. Is the job -- well, let me

14 ask you, the job of -- of a Fire Marshall, what

15 are those traditional job roles that you do?

16 A: Anything pertaining to fire and life safety.

17 Q: Okay. Is determining the moral character of an

18 individual fall within that realm?

19 A: I would say yes.

20 Q: Could you explain?

21 A: I believe moral character in a -- in a

22 individual should be outgoing on anything that

23 he does.

24 Q: Okay. Is there anywhere in the fire code that

25 allows you to shut down a business because of

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

312

1 someone's poor moral character?

2 A: No, sir.

3 Q: So there's nothing in the fire code about moral

4 character whatsoever?

5 A: No, sir.

6 Q: All right.

7 **MR. McCABE:** No further questions, Your Honor.

8 **MS. McDANIEL:** No further questions, Your Honor.

9 And if we can, Ms. Cartee -- Mr. Cartee could

10 be released.

11 **THE COURT:** All right.

12 **MR. McCABE:** Thank you, Your Honor, yes.

13 **THE COURT:** No restrictions, Mr. Cartee.

14 A: Thank you, sir.

15 **THE COURT:** Not only leave the chair you can go

16 wherever you want to.

17 A: All right. Appreciate you.

18 **MS. McDANIEL:** Your Honor, that was our last

19 witness. We rest our case.

20 **THE COURT:** All right. Mr. McCabe, do you have any

21 rebuttal witnesses?

22 **MR. McCABE:** No, Your Honor. I think we're prepared

23 for closing.

24 **THE COURT:** All right. Do you need -- parties need

25 a couple of minutes to prepare for that or ---

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

313

1 MR. McCABE: I would just ask for a minute to be
2 able to get the -- the overhead screens up
3 again just to for the Power Point.

4 MS. McDANIEL: No objections, Your Honor.

5 THE COURT: All right. We'll take a -- a brief
6 couple of minutes in place.

7 MR. McCABE: Thank you, Your Honor.

8 (Off the Record from 3:27 p.m. until 3:28 p.m.)

9 PETITIONER'S CLOSING STATEMENT:

10 MR. McCABE: I believe we're ready, Your Honor.

11 THE COURT: All right.

12 MR. McCABE: Yes, Your Honor. Just briefly in
13 closing, just a summary of the testimony. We
14 had Deputy Chief Bryan from the Statesboro
15 Police Department. He testified that Mr.
16 Starkey's establishment was well know for
17 allowing underage indivul- -- individuals to
18 consume alcohol. That -- he also testified
19 that underage consumption contributed to the
20 death of Michael Gatto, and he also testified
21 that Mr. Starkey agreed to a lifetime ban from
22 operating an alcohol establishment in
23 Statesboro, and he testified that he feels that
24 Mr. Starkey should not hold a license. We had
25 the testimony of Katherine Gatto, she said that



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

314

1 Mr. Starkey denied responsibility and made no
2 attempts to rehabilitate his character by
3 apologizing and that she feels that Mr. Starkey
4 should also not hold a license. We had the
5 testimony of the ABL Su- -- Supervisor who
6 testified that DOR was aware [sic] of Mr.
7 Starkey's history in Georgia and the DOR was
8 also unaware that Mr. Starkey was arrested for
9 selling without a license. We had the
10 testimony of SLED Special Agent Keith Dor- --
11 Dorman, he said that Study Hall was operating
12 without an alcohol license and he testified
13 that Study Hall was operating without a local
14 option permit. We have the testimony of Chief
15 Dixon from Clemson Police Department, he said
16 that Study Hall's disregard for the law makes
17 it difficult to police the entertainment
18 district of Clemson, and he also testified that
19 Mr. Starkey should not be able to hold an
20 alcohol license. So when determining good
21 moral character, this Court has said that an
22 attitude of strict adherence to the applicable
23 alcohol related laws on the part of the
24 applicants for permits and license is a
25 critical consideration in finding that an

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

315

1 applicant is of good moral character and is a
2 fit person to sell beer and wine. We've got
3 our case cites there. Mr. Starkey and the
4 Study Hall have repeatedly failed to adhere to
5 the alcohol laws of South Carolina and should
6 no longer be able to hold a license and permit.
7 In South Carolina, the sale of alcohol is a
8 privilege not a right. Since 1943 the South
9 Carolina Supreme Court has held that the sale
10 of alcohol, as I said, is a privilege not a
11 right. In Feldman versus Tax Commission they
12 said that liquor licenses are neither contracts
13 nor rights of property, they are mere permits,
14 issued or granted in the exercise of the police
15 power of the State to do what otherwise would
16 be unlawful to do so; and to be enjoyed only so
17 long as the restriction and the conditions
18 governing their continuance are complied with.
19 So in closing, Your Honor, we're asking for
20 three things: we're asking for the cancellation
21 of the Study Hall's on-premises beer and wine
22 permit, cancellation of the restaurant liquor-
23 by-the-drink license, and, Your Honor, we are
24 also seeking an order to sell the contraband
25 alcohol seized pursuant to South Carolina Code

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

316

1 61-6-4310. Thank you, Your Honor.

2 **RESPONDENT'S CLOSING STATEMENT:**

3 **MS. McDANIEL:** Your Honor.

4 **THE COURT:** Yes, ma'am.

5 **MS. McDANIEL:** The testimony that you've heard today
6 from Mr. Starkey clearly demonstrates that his
7 failure to obtain the licenses during the
8 December 7th to the March 7th period was a
9 misunderstanding on his part. He has taken
10 responsibility for that. He vowed that he had
11 done everything that he needed to do to get
12 those license and he does have the licenses
13 now. The issue that this comes down to is
14 whether or not Mr. Starkey is of good moral
15 character sufficient to have an alcohol license
16 in state. And I would direct the Court's
17 attention to a relatively recent case on this
18 issue, Columbia Wing Shack versus DOR. This is
19 a -- a rather comprehensive opinion issued by
20 Administrative Law Judge of Judge Lenski in
21 2018, the Docket Number is 18-ALJ-17-0194. And
22 the reason I bring this Court's attention to
23 this is simply because it provides a -- a
24 really good overview of how a Court views good
25 moral character and what the factors are in



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

317

1 determining that to the extent that there is a
2 -- a true rubric for determinating that.
3 Citing 48-CJS, Intoxicating Liquors, Section
4 171, this order states, accordingly, moral
5 character is used in a statute of
6 qualifications required for liquor license
7 holders means not only the ability to
8 distinguish between right and wrong but the
9 character to observe the difference, the
10 observance of the rules of right conduct, and
11 conduct which indicates and establishes
12 qualities generally acceptable to the populous
13 for positions of trust and confidence. It goes
14 on to say that you should -- let's see. So,
15 Your Honor, what we are trying to demonstrate
16 here is that Mr. Starkey is of good moral
17 character. He does not deny that he made a
18 mistake in regard to the renewal of his
19 licenses for the two on-premise consumption
20 licenses and as well for the Sunday sales
21 license. He has rectified those. The -- it's
22 no excuse, but the explanation for that
23 misunderstanding is his communication with the
24 DOR agent at the window when he went to renew
25 his license. He did not read the piece of

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

318

1 paper. He admits that, but it was his
2 understanding based on their conversation that
3 he had 90 days to get everything straightened
4 out and that during that period he could
5 operate. Had he known, he would never have put
6 his business in jeopardy over, you know,
7 obtaining this license. He's a -- been in the
8 bar business since 2004 at -- you know, at
9 least since 2004, he understands the importance
10 of have an alcohol license. This was an
11 oversight on his part, it was an inadvertent
12 mistake and it certainly does not rise to the
13 level of demonstrating that he has a poor moral
14 character. Your Honor, you've heard testimony
15 from Mr. Starkey's attorney, who represented
16 him in the matter in Statesboro. And of
17 course, you know, that was a tragic incident,
18 but that occurred in 2014. Mr. Starkey
19 disclosed that information to the Department of
20 Revenue agent who assisted him with getting
21 licensed in the first place in Clemson and he
22 disclosed it to Chief Dixon at the Clemson
23 Univer- -- at -- for the City of Clemson
24 Police. He has not tried to hide that the
25 incident happened, in fact he has been more

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

319

1 than forthcoming to the extent that Chief Dixon
2 said that he refused to listen to some of the
3 information that Mr. Starkey was trying to
4 provide to him. So, there was no finding of
5 liability against Mr. Starkey or against Rude
6 Rudy's. The only person who was issued -- who
7 was arrested in that incident was unfortunately
8 the gentleman who hit Mr. Gatto and did in fact
9 kill him. Mr. Starkey voluntarily surrendered
10 that license with the agreement of the City of
11 Statesboro. The State -- City of Statesboro
12 didn't pursue any further proceedings against
13 him on that matter. And because this was known
14 to DOR and to the City of Clemson long ago
15 prior to Mr. Starkey even getting his first
16 license to sell at Study Hall this is something
17 that is not even particularly relevant to this
18 hearing, but if they had known about -- if they
19 had believed this was an issue concerning his
20 moral character -- affecting his moral
21 character, it would have come up before now in
22 his original licensing or this renewal; and it
23 was not a basis to deny the renewal of his
24 license at all. Mr Cartee -- Chief Cartee --
25 Fire Chief Cartee -- Fire Marshall Cartee

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

320

1 testified that Mr. Starkey understands laws and
2 how laws work and he understands the difference
3 between right and wrong. He understands the
4 importance of compliance with fire code, which
5 is a law, and that he is a -- that Mr. Starkey
6 is, in his opinion, of good moral character.
7 Mr. Taulbee also testified that Mr. Starkey has
8 always been honest with him, forthright,
9 similar to how Mr. Starkey has always been with
10 the Department of Revenue and with the Fire
11 Chief -- with the Police Chief, forthcoming
12 about any information that might even have a
13 negative affect on him. And Mr. Taulbee also
14 testified that he believes that Mr. Starkey is
15 of good moral character. Mr. Starkey and Mr --
16 Mr. Cartee and Mr. Taulbee actually know Mr.
17 Starkey personally. Ms. Gatto's testimony
18 about what she thinks about him, she doesn't
19 know him personally, she only knows what
20 happened to her son. So, her testimony should
21 not have the same weight. Mr. Starkey has
22 taken responsibility for the sales without a
23 license. He has applied to enter into the PTI
24 Program. He will -- if he is accepted into
25 that program he will comply with all the

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

321

1 requirements, conducting community service to
2 make restitution to the community for that
3 unlicensed sale. So, Your Honor, Mr. Starkey
4 -- all this comes down to is, is Mr. Starkey of
5 good moral character. And to this, no one has
6 provided any testimony that would indicate that
7 he is dishonest, deceitful, that he has ever
8 committed any act of fraud and that he has not
9 lied on any application. In the cases where
10 licenses have been revoked on the basis of poor
11 moral character, two key ones are where the
12 licensee was selling drugs and committing food
13 stamp fraud at the location, and another, the
14 licensee lied about ownership on their
15 application for their license. There's no
16 indication here that Mr. Starkey lied about
17 anything. He has not committed a fraud against
18 anyone. He simply misunderstood what was
19 required of him, and as soon as he realized
20 the -- well, within the 90 day period that he
21 thought that he was required to comply with, he
22 did comply and he did get a license.
23 Unfortunately there was a sale, an unlicensed
24 sale in the intervening period. But, Your
25 Honor, again, that was an inadvertent mistake;

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

322

1 he though he was licensed. And we certainly do
2 not think that that sale or the Sunday sales,
3 those do not rise to the level of indicating
4 that he has poor moral character. So in
5 closing, Mr. Starkey is honest, forthright and
6 is of good moral character and his license
7 should not be revoked. Thank you.

8 **MR. McCABE:** Just for clarification, Your Honor.
9 We're not seeking to revoke his license, we're
10 seeking a cancellation.

11 **MS. McDANIEL:** Cancellation.

12 **MR. McCABE:** Just so the Court's aware of that.

13 **THE COURT:** What's the difference?

14 **MR. McCABE:** Well, I mean, if you're -- if you're
15 asking me, the -- basically with a revocation
16 there of course is the five year probation that
17 goes on to the license holder, that they're not
18 able to reapply for five years. Cancellation
19 is basically at that point that the license
20 should've never been issued at the -- at the
21 point of when the license was issued, the
22 Department has testified that they were unaware
23 of these violations. And based upon that at
24 that time, being unaware of the violation, if
25 we had known of the violations, the Department



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

323

1 would have just completely denied the
2 application for suitability and we would've
3 basically ended up back in front of the court.
4 But there is not any type of long lasting
5 restricting on the cancellation. It basically
6 terminates the license and then the applicant
7 would need to reapply at that point.

8 **MS. McDANIEL:** And, Your Honor, we would contend
9 that cancellation is inappropriate because if -
10 - the same standard they're attempting to apply
11 is lack of good moral character and Mr. Starkey
12 has demonstrated that he is of good moral
13 character.

14 **THE COURT:** Okay.

15 **MS. McDANIEL:** Thank you, Your Honor.

16 **DISPOSITION OF THE CASE:**

17 **THE COURT:** Yeah. It's -- I shouldn't preach to
18 y'all off the record or on the record either,
19 but I'd asked once for proposed orders from the
20 parties, and I was very disappointed in the
21 result because proposed orders were like ships
22 going in different directions and going to
23 different places. And it seems to me that what
24 the parties are asking for me to do this
25 evening, we're close to the afternoon, is very



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

324

1 similar to that. Mr. McCabe wants me to
2 pretend this fellow never got a license. Ms.
3 McDaniel, you want me to act -- pretend that
4 he's had one all along and deserves to keep
5 one. And meanwhile we've got three months of
6 unlicensed sales which DOR should've known
7 about when he filed the first sales tax return.
8 So let me say that I am disappointed, Mr.
9 Starkey, in what you've allowed to happen to
10 yourself. Mr. McCabe, I'm a little bit
11 disappointed in what the -- what the Department
12 of Revenue doesn't seem to be able to keep
13 track of what it's -- what it's doing in its
14 different offices and its different divisions.
15 Now, I shouldn't have said that so let's
16 pretend -- let's cancel that and pretend I
17 didn't say it. But I'll try to figure out
18 something and I hope I will -- I probably will
19 not get that figured out between now and
20 Christmas but certainly I'll do it as quickly
21 as I can so we can start the fresh -- fresh in
22 the New Year.

23 **MR. McCABE:** Thank you, Your Honor.

24 **MS. McDANIEL:** Thank you, Your Honor.

25 **THE COURT:** Thank you ladies and gentlemen. We are



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

325

1 closed in our hearing.
2 (There being nothing further, the administrative
3 hearing concluded at 3:45 p.m.)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



CREEL COURT REPORTING, INC.

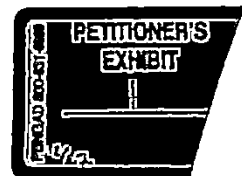
1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

326

DOR FILE
TABLE OF CONTENTS

Renewal Application – Study Hall LLC.....	1
SLED Report.....	7
SLED Record Check(s).....	47
DOR Denial Letter dated 12-07-18.....	49
DOR Notice of Intent to Cancel Letter dated 03-20-19.....	51
Protest to Denial Letter dated 06-18-19.....	54
DOR Department Determination dated 07-15-19.....	56
Request for Hearing	61
Notice of Assignment	69



1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal

ABL-565
(Rev. 06/13/18)
4278

Renew and pay online. Go to MyDORWAY.dor.sc.gov

Mail to: SCDOR, ABL Section, P.O. Box 125, Columbia, SC 29214-0907

Renewal Due Date: 30-Nov-2018

**Renewal Fee \$ 600

License Type PBW - On Premise Beer & Wine

Letter ID: L0007730751

Mailing Name and Address (Note any change of address to the right of old address)

STUDY HALL LLC
849 TIGER BLVD UNIT 403
CLEMSON SC 29631

S.C.
DEPT. OF REVENUE

DEC 07 2018

RECEIVED
GREENVILLE DISTRICT

File Number

320701852

FEIN/SSN

Retail Sales License (REQUIRED)

039191819

License Period Ending

30-Nov-2018

Account Information

Owner/Corporate Name/Sole Proprietor: STUDY HALL LLC

Trade Name (if applicable): STUDY HALL LLC

Email Address Starkey 30@mc.com

Business Address:
101 SLOAN ST
CLEMSON SC 29631-1434

Ownership Type: Limited Liability Company

County: Pickens

If there is a change in your location's address, check reason:

☐ Other - Explain: _____

☐ USPS changed address ☐ Moved location of business

Is the business open to sell alcoholic beverages (beer, wine, and/or liquor) for on premises consumption after 5PM? See §61-2-145(A).
☒ Yes ☐ No If "yes" provide a copy of your liability insurance.

I affirm that the above business meets the legal requirements under South Carolina law for the license or permit type for which this renewal is being filed. For a general summary of the qualifications and legal requirements for beer, wine, and alcoholic liquor permits and license, see Form ABL-975. Note: Beer, wine, and alcoholic liquors are governed by SC Code of Laws Title 61, Chapters 2, 4, and 6; Title 12, Chapters 21 and 33; Title 20, Chapter 7; and Title 33 Chapter 42. Regulations are found in Chapter 7 of the Code of Regulations. A copy of the SC Code of Laws and Regulations are available at dor.sc.gov.

☒ Yes ☐ No If "no" give details _____

Name(s) of Business Owner, Principals, Partners, Officers, Managers (REQUIRED) Attach additional documents if more space is needed

FEIN/SSN	Name/Title/General Partners	Home Address	% Ownership
	<u>Jonathan Carl Starkey</u>		<u>100%</u>

If a required principal is not listed, this application will be denied.

Have you, any partner, any principal, or any employee with day-to-day management responsibilities been convicted of a crime or had a license to sell beer, wine, or alcoholic liquors revoked or suspended in this state or any other state in the past two years?

☐ Yes ☒ No If "yes", give details: _____

Review and sign this application. Return it with the appropriate renewal fee. If this application with the appropriate fee is not received by the S.C. Department of Revenue prior to the expiration date of your license, you may be required to file an application for a new license. You must cease all sales of beer, wine, or liquor upon the expiration of your license, and may not resume sales until you receive your new license. Therefore, file your renewal application promptly.

*Note: For faster processing renew online at MyDORWAY.dor.sc.gov

I understand that a misstatement or concealment of fact in a renewal application is sufficient grounds for the revocation of the license or permit. Under penalties of perjury, I declare that I have read and understood this form and the information I have provided herein is true, correct, and complete.

[Signature]
Signature of applicant

Jon E. Starkey
Printed Name

Dec. 7, 18
Date

912-541-1529
Telephone number from 8 am to



001

JP:18739E:0388AS:0101N:04W:80086858800:0000009799

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal

ABL-565
(Rev. 08/13/18)
4278

Renew and pay online. Go to MyDORWAY.dor.sc.gov Mail to: SCDOR, ABL Section, P.O. Box 125, Columbia, SC 29214-0907		File Number 320701852
Renewal Due Date: 30-Nov-2018	**Renewal Fee \$ 1705	FEN/SSN [REDACTED]
License Type PLB - Business Liquor By the Drink	Letter ID: L0007697983	Retail Sales License (REQUIRED) 039191819
Mailing Name and Address (Note any change of address to the right of old address) STUDY HALL LLC 849 TIGER BLVD UNIT 403 CLEMSON SC 29631		License Period Ending 30-Nov-2018
Account Information		
Owner/Corporate Name/Sole Proprietor: STUDY HALL LLC		
Trade Name (If applicable): STUDY HALL LLC	Email Address: Starkey3@mc.com	
Business Address: 101 SLOAN ST CLEMSON SC 29631-1434	Ownership Type: Limited Liability Company	
County: Pickens		
If there is a change in your location's address, check reason: ☐ Other - Explain: _____ ☐ USPS changed address ☐ Moved location of business		
Is the business open to sell alcoholic beverages (beer, wine, and/or liquor) for on premises consumption after 5PM? See §61-2-145(A). ☒ Yes ☐ No If "yes" provide a copy of your liability insurance.		
I affirm that the above business meets the legal requirements under South Carolina law for the license or permit type for which this renewal is being filed. For a general summary of the qualifications and legal requirements for beer, wine, and alcoholic liquor permits and license, see Form ABL-975. Note: Beer, wine, and alcoholic liquors are governed by SC Code of Laws Title 61, Chapters 2, 4, and 6; Title 12, Chapters 21 and 33; Title 20, Chapter 7; and Title 33 Chapter 42. Regulations are found in Chapter 7 of the Code of Regulations. A copy of the SC Code of Laws and Regulations are available at dor.sc.gov . ☒ Yes ☐ No If "no" give details: _____		
Name(s) of Business Owner, Principals, Partners, Officers, Managers (REQUIRED) Attach additional documents if more space is needed		
FEN/SSN	Name/Title/General Partners	Home Address
[REDACTED]	Jonathan Earl Starkey	[REDACTED]
		% Ownership 100%

If a required principal is not listed, this application will be denied.

Have you, any partner, any principal, or any employee with day-to-day management responsibilities been convicted of a crime or had a license to sell beer, wine, or alcoholic liquors revoked or suspended in this state or any other state in the past two years?
☐ Yes ☒ No If "yes", give details: _____

Review and sign this application. Return it with the appropriate renewal fee. If this application with the appropriate fee is not received by the S.C. Department of Revenue prior to the expiration date of your license, you may be required to file an application for a new license. You must cease all sales of beer, wine, or liquor upon the expiration of your license, and may not resume sales until you receive your new license. Therefore, file your renewal application promptly.

*Note: For faster processing renew online at MyDORWAY.dor.sc.gov

I understand that a misstatement or concealment of fact in a renewal application is sufficient grounds for the revocation of the license or permit. Under penalties of perjury, I declare that I have read and understood this form and the information I have provided herein is true, correct, and complete.

Signature of applicant
Jon E. Starkey Printed Name
Dec-7, 18 Date
912-541-1529 Telephone number from 8 am to 5 pm



002

Study Hall File Number: 320701852
Name of Sole Proprietorship, Corporation, Partnership, LLC, etc. FE/SSN

Name Jethu Belegu
Home Address [REDACTED]
City [REDACTED]
Yr/Mo/Date of SC Residency October 2005 Date of Birth [REDACTED] -96
Social Security No. [REDACTED] Federal Employer Identification No. [REDACTED]
Principal/Type: (use above #1-12) 9 Percent of ownership 0

Have you as an individual, or as an organization in which you were a principal, had revoked or suspended in this state or any other state any license to sell beer, wine, or alcoholic liquors?
☐ Yes ☒ No If yes, attach explanation.

Have you been convicted of a crime in South Carolina or any other state?
☐ Yes ☒ No If yes, attach explanation.

DEPT. OF REVENUE

MAR 07 2006

SWORN to and subscribed before me this
16 day of March, year of 2006
Notary Public for South Carolina
My Commission Expires: Feb 5, 2008
Notary (L.S.) [Signature]
Notary (printed name) Robert A. Ramirez

This Consent and Waiver shall be effective as of the date set forth on the attached pages until revoked in writing by the ABL-946R completed by the applicant or a principal signing this Consent and Waiver, or until the applicable permit or license is terminated or revoked.

Jethu Belegu
Taxpayer's Signature

Name _____
Home Address _____
City _____ State _____ Zip _____
Yr/Mo/Date of SC Residency _____ Date of Birth _____

Social Security No. _____ Federal Employer Identification No. _____
Principal/Type: (use above #1-12) _____ Percent of ownership _____

Have you as an individual, or as an organization in which you were a principal, had revoked or suspended in this state or any other state any license to sell beer, wine, or alcoholic liquors?
☐ Yes ☐ No If yes, attach explanation.

Have you been convicted of a crime in South Carolina or any other state?
☐ Yes ☐ No If yes, attach explanation.

SWORN to and subscribed before me this
_____ day of _____, year of _____
Notary Public for _____
My Commission Expires: _____
Notary (L.S.) _____
Notary (printed name) _____

This Consent and Waiver shall be effective as of the date set forth on the attached pages until revoked in writing by the ABL-946R completed by the applicant or a principal signing this Consent and Waiver, or until the applicable permit or license is terminated or revoked.

Taxpayer's Signature

44221024

IF MORE THAN TWO PRINCIPALS, PLEASE SUBMIT AN ADDITIONAL ABL-946

003

330

378

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**VERIFICATION OF LAWFUL PRESENCE IN THE
UNITED STATES - APPLICANT AND PRINCIPALS**

ABL-920
(Rev. 5/13/13)
4302

STATE OF _____)	FOR INTERNAL USE ONLY Case Verification Number _____ Result _____
COUNTY OF _____)	

Pursuant to the provisions of S.C. Code Ann. Section 8-29-10, et seq. of the South Carolina Illegal Immigration Reform Act and Title 61 of South Carolina Code Ann. Sections, every principal that is an individual must submit the following information:

The undersigned Jettie Belegu of _____
(Print clearly First, Middle and Last name) (Home Address)
_____ being first duly sworn deposes and states as follows:
(City, State and Zip Code)

Name Change/ Alias: ☐ Yes ☒ No If yes, please list: _____

Check ONLY One Box: See reverse side for Instructions, Definitions, and Accepted Documents.

- ☒ I am a United States Citizen eighteen years of age or older.
☐ I am a Legal Permanent Resident eighteen years of age or older.
☐ I am a Qualified Alien under the Federal Immigration and Nationality Act, Public Law 82-44, eighteen years of age or older, and lawfully present in the United States.
☐ I am a Foreign Citizen, and resident of _____
 (Country of Residency)
 and reside at _____
 (Street Address) (City, State, and Zip Code)
☐ Other (Explain): _____

Date of Birth _____

Alien Registration Number _____

(MUST ATTACH COPY OF IMMIGRATION DOCUMENTS)

I UNDERSTAND AND ACKNOWLEDGE that any person who fails to execute this Affidavit will automatically be denied the license to which it applies; and further, that the representations made in this Affidavit shall apply throughout any license(s) or renewals issued; and further, that I shall have an affirmative duty to immediately advise the Department of Revenue in any change of my immigration or citizenship status. I, hereby, also understand and acknowledge that a person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit executed pursuant to South Carolina Code Section 8-29-10 entitled Verification of Lawful Presence shall in addition to other sanctions imposed by this state or the United States, be guilty of a felony and upon conviction must be fined and/or imprisoned for not more than 5 years (or both).

Under penalty of perjury and recognizing that I am subject to the criminal and civil penalties imposed by Title 12, of the South Carolina Code of Laws, I declare that I have examined this Affidavit and to the best of my knowledge and belief, it is true, correct and complete.

Jettie Belegu
Signature of Affiant

SWORN to and subscribed before me this
16 day of March, year of 2019
 Notary Public for SOUTH CAROLINA
 My Commission Expires: FEB 5, 2025
 Notary (L.S.) Christine J. Johnson
 Notary (printed name) Christine J. Johnson

REQUIRED: Fill out completely.

License Number: 320701852
 Business Name: Study Hall
 Contact Person: _____
 (Name)
 Contact Person Phone Number: () _____

43821024

004



SOUTH CAROLINA DEPARTMENT OF REVENUE

ABL-567
(Rev.
01-Feb-2018)
4282

PBW

ON PREMISE BEER & WINE

20

Owner Name and Mailing Address

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

Letter ID: L0009827565

LICENSE NO. 320701852-PBW
FILE NO. 320701852
DATE ISSUED: 03/07/19
STIPULATIONS: 0

Trade Name and Business Address

STUDY HALL LLC
101 SLOAN ST
CLEMSON SC 29631-1434

START DATE: 12/01/18
END DATE: 11/30/20

THIS LICENSE IS NOT TRANSFERABLE

***** You may not transfer this permit or license to another location or to another person. *****
If you sell all or a portion of your business, before the buyer can legally sell beer, wine, or liquor, you must first obtain his/her own permit or license. You are financially responsible for any violation of the law that take place by any person using your permit or license. You are also financially responsible for any damage to the premises caused by the buyer or anyone using your permit or license.

***** POST THIS IN A CONSPICUOUS PLACE *****

If you have any questions concerning this license, contact the South Carolina Department of Revenue ABL Section at 803-898-5864 or by mail at: SCDOR, ABL Section, P.O. Box 125, Columbia, SC 29214-0907.

You may not transfer this permit or license to another location or to another person. If you sell the business or change ownership, name, or business address, you must apply for a new ABL license.



RECEIVED
MAR 19 2019
SOUTH CAROLINA
BEVERAGE LICENSING

INSTRUCTIONS

This is your new license. Please fold on the above perforation marks and display in a conspicuous place.

Please visit dor.sc.gov to download and print the appropriate ABL sign(s), listed below, for the license type shown above and display alongside your license. A violation may be issued for failure to display the required sign(s).

- All Licenses: ABL-570
- Retail Liquor Stores: ABL-563, ABL-570, and ABL-578

If the business is closed, moved, or sold, you must return the original license immediately. To be refunded the 2nd year of the biennial license, the license must be received by the Department of Revenue with at least a full year (12 months) remaining on the biennial license.

005

ABL-567

(Rev. 01-Feb-2018)
4282

PLB

BUSINESS LIQUOR BY THE DRINK

20

Owner Name and Mailing Address

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

Letter ID: L0009794797

LICENSE NO. 320701852-PLB
FILE NO. 320701852
DATE ISSUED 03/07/19
STIPULATIONS: 0

Trade Name and Business Address

STUDY HALL LLC
101 SLOAN ST
CLEMSON SC 29631-1434

START DATE: 12/01/18
END DATE: 11/30/20

THIS LICENSE IS NOT TRANSFERABLE

You may not transfer this permit or license to another location or to another person.
If you sell all or a portion of your business, you must buy a new permit or license from the MDSU. You remain financially responsible for any violations of the law that occurred while you held the permit or license.

POST THIS IN A CONSPICUOUS PLACE

If you have any questions concerning this license, contact the South Carolina Department of Revenue, ABL Section at 803-898-5864 or by mail at: SCDOR, ABL Section, P.O. Box 126, Columbia, SC 29214-0907.

You may not transfer this permit or license to another location or to another person. If you sell the business or change ownership, name, or business address, you **MUST** apply for a new ABL license.



RECEIVED

MAR 19 1955

SOCCER ALCOHOLIC
BEVERAGE LICENSING

INSTRUCTIONS

This is your new license. Please fold on the above perforation marks and display in a conspicuous place.

Please visit dor.sc.gov to download and print the appropriate ABL sign(s) listed below, for the license type shown above and display alongside your license. A violation may be issued for failure to display the required sign(s).

- All Licenses: ABL-570
- Retail Liquor Stores: ABL-563, ABL-570, and ABL-578

If the business is closed, moved, or sold, you must return the original license immediately. To be refunded the 2nd year of the biennial license, the license must be received by the Department of Revenue with at least a full year (12 months) remaining on the biennial license.

006



South Carolina
Law Enforcement Division

Henry D. McMaster, Governor

Mark A. Keel, Chief

P.O. Box 21398
Columbia, South Carolina
29221-1398

Tel: (803) 737-9000

March 7, 2019

TO: Casefile 54-19-0307

From: Keith Dorman, Special Agent

Subject: Study Hall Restaurant and Bar
101 Sloan St.
Clemson, SC 29631

County: Pickens

RECEIVED

MAR 14 2019

SOUTH CAROLINA
ALCOHOLIC
BEVERAGE LICENSING

SUMMARY OF EVENT:

On Thursday, February 28, 2019, Special Agents (SA) Dorman, Benjamin and Phillips of the South Carolina Law Enforcement Division along with Detective Brown and other officers with the Clemson City Police Department, conducted an undercover alcohol operation at Study Hall Restaurant and Bar, located at the above address in the City of Clemson. An undercover SLED Agent entered the bar and purchased a 16 fl oz aluminum can of Bud Light beer.

NARRATIVE:

Prior to beginning the operation, SA Dorman verified through the South Carolina Department of Revenue that the Study Hall Restaurant and Bar did not have valid beer/wine and liquor licenses to sell alcoholic beverages. SA Dorman verified that Jonathan Starkey was the sole owner and principal of Study Hall Restaurant and Bar.

On February 28, 2019, Study Hall Restaurant and Bar was a business open to the public and operating without valid South Carolina Department of Revenue beer/wine and liquor licenses when SA Phillips entered at approximately 5:30pm. SA Phillips approached the bar and ordered a Bud Light from the bartender, later identified as Shelby Sheets. Ms. Sheets opened the beer and placed it in front of SA Phillips. At 5:33pm, SA Phillips paid \$3.75 for the 16 fl oz aluminum can of Bud Light beer, receiving \$6.72 in change and a receipt showing proof of purchase of the beer. SA Phillips collected a sample of the beer from the 16 fl oz aluminum can of Bud Light beer purchased and left Study Hall Restaurant and Bar, turning over the sample of Bud Light beer, receipt of purchase, and empty 16 fl oz aluminum Bud Light can to SA Dorman.



An Accredited Law Enforcement Agency



007

Following the purchase of beer, SA Dorman obtained a search warrant from Clemson Municipal Judge T. Daniel as a result of the illegal beer sale and liquor being stored in the place of business. After obtaining the signed search warrant, the warrant was served on Study Hall Restaurant and Bar. During the course of the investigation, SA Dorman was provided by manager, Alvin Dark, a letter from the South Carolina Department of Revenue dated December 7, 2018 and addressed to Jonathan Starkey, strictly stating in bold lettering, that the business must cease all sales of beer, wine, and/or liquor until the business received its renewed license.

Numerous cans of beer and bottles of liquor and wine were seized as a result of the search warrant and the items were documented, seized and are being held securely by the Clemson Police Department pending transport to SLED's evidence warehouse.

Due to the facts stated above, on March 1, 2019, SA Dorman obtained two arrest warrants for Jonathan Starkey; charging him with violating S.C. Code of Laws, § 61-4-560 Operation Without a Permit and §61-6-4060(A) Unlawful Storage of Liquor in a Place of Business.

The evidence purchased, consisting of the sample of beer from the can purchased, the 16 fl oz aluminum Bud Light can, receipt of purchase, and sales sheets voluntarily given by manager Alvin Dark from the months of December, January and February, are documented on SLED Seizure Report 29968-A.

END OF REPORT

RECEIVED

MAR 14 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

SA Keith Dorman

008

335

383

SLED Case #: 54-19-0907

RECEIVED

E003710

MAR 14 2019

Informant Control #: Asent Bvy

Lab File #: SCDOR ALCOHOLIC

CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL

CONFIDENTIAL FUND EXPENSE VOUCHER

Subject's Name: Study Hall Restaurant and Bar

Date of Expenditure: 2-28-19 County: Pickens, 39

Place of Expenditure: Study Hall Restaurant and Bar

Type of Investigation: Alcohol, Unlicensed Location

Voucher Amount: Three Dollars & ²⁵/₁₀₀ Dollars (\$) 3.25

Classification of Expenditures:

- ☐ CATEGORY A - Rental of space and equipment in connection with regular criminal investigations, both undercover and non-undercover.
- ☒ CATEGORY B - Purchases of evidence in regular criminal investigations. This includes the use of funds as a "flash roll".
- ☐ CATEGORY C - Undercover operational funds which are used by an agent to purchase those items necessary for the continuation of his undercover role during a criminal investigation.
- ☐ CATEGORY D - Other expenditures.

Amount Received: Ten Dollars & ¹⁰/₁₀₀ Dollars (\$) 10.00

I certify that I have received the above amount of monies to be utilized only for the purpose of evidence, that any unused funds shall be returned to the South Carolina State Law Enforcement Division upon demand and that misappropriation will render me liable for prosecution.

Name: Matthew Phillips (Print Name) Matthew Phillips (Signature)

Identification #: Asent Bvy Date: 2-28-19

Submitted By: Keith Dorman (Print Name) [Signature] (Signature) 10079158 (Employee #)

Witnessed By: _____ (Print Name) _____ (Signature)

Approved By: _____ (Print Name/Captain) _____ (Signature)

Approved By: _____ (Print Name/Major) _____ (Signature)

Received for Posting By: _____

NOTE: List Denomination / Serial Numbers on Reverse Side

CF - 3
NARC-0034-2017

009

RECEIVED

SLED CASE NUMBER 54-14-0307 CASE AGENT ISCDOR ALCOHOLIC
SUMMONS NUMBER BEVERAGE LICENSING

DATE OF SEIZURE 2-25-69 TIME 11:00

For: [Signature] A. Anderson -

AI # _____ LIC # _____

exp. (1.10.195) in course of extent
of our own and people's
concern for the future.

© 2000 Blackwell Science Ltd *Journal of Internal Medicine* 247: 111–117

Relinquished by <u>2/2/85</u>	Received by <u>[Signature]</u>	Date <u>2/2/85</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Evidence destroyed on: _____ / _____
(date) (time)

(witness) (witness)

ATTACH A COPY OF SEARCH WARRANT
revised 7-2-98

NUMBER: 29965 -A

White: Violator's Copy Green: Headquarter's Copy Yellow: Agent's Copy Pink: Warehouse's Copy Gold: Transfer's Copy

010

RECEIVED

SLED AEU SEIZURE REPORT

MAR 14 2019

SLED CASE NUMBER 0307 011-19-0277 CASE AGENT SCDOR ALCOHOLIC BEVERAGE LICENSING

SUMMONS NUMBER: _____

DATE OF SEIZURE 2-28-19 TIME 10:35P

1. Registered owner(s) and name of operator, address in control of property at time of seizure: _____

Alvin P. Lee
101 Stony Pt. Union, CA, 94588

If licensed DBA: _____

AI # _____ LIC # _____

2. Description of property seized: See Union City Inventory

Shirts

3. Current location (storage) of the property seized: Union City Police

1001 E. Broadway (Union City)

4. Chain of Custody

Relinquished by

[Signature]

Received by

[Signature]

Date

2-28-19

5. Case disposed on: _____
(date)

6. Evidence destroyed on: _____ / _____
(date) (time)

Place: _____

(witness)

(witness)

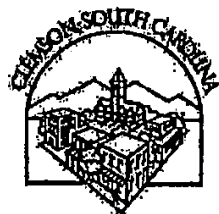
7. Evidence given to The Department of Revenue on _____
(date)

ATTACH A COPY OF SEARCH WARRANT
revised 7-2-98

NUMBER: 29907 -A

White: Violator's Copy Green: Headquarter's Copy Yellow: Agent's Copy Pink: Warehouse's Copy Gold: Transfer's Copy

011



CITY OF CLEMSON, SOUTH CAROLINA

2018

BUSINESS LICENSE

**MUST BE POSTED IN A
CONSPICUOUS PLACE**

**LICENSE EXPIRES ON
December 31, 2018**

**LICENSE IS NOT TRANSFERABLE, AND MAY BE SUSPENDED
OR REVOKED IF NOT IN COMPLIANCE WITH CHAPTER 12 OF
THE CITY CODE OR ANY OTHER APPLICABLE CITY
ORDINANCES.**

**THE STUDY HALL
JON STARKEY
390 RIDGECREST DR
CLEMSON, SC 29831-9631**

**LICENSE NUMBER: 26358
BUSINESS NAME: THE STUDY HALL
BUSINESS TYPE: BAR, LOUNGE
LOCATION: SLOAN ST., 101
DATE: 7/24/2018**

Beverly A. Coleman
BUSINESS LICENSE OFFICER

**SCDOR ALCOHOLIC
BEVERAGE LICENSING**

MAR 14 2019

RECEIVED

012

339 339

387

PBW

LICENSE IS NOT TRANSFERABLE



SOUTH CAROLINA DEPARTMENT OF REVENUE

PLB

REGISTERED

18

STUDY HALL
MORTIMER HALL
GLENSON 102-30

STUDY HALL
MORTIMER HALL
GLENSON 102-30

THIS LICENSE IS NOT TRANSFERABLE

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of Denial

ABL-931
(Rev. 11/22/15)
4403

Case ID: D-000-438-778
Letter ID: L00008142279
Date Issued: December 07, 2018

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

RE: FILE # 320701852
STUDY HALL LLC
101 SLOAN ST
CLEMSON SC 29631-1434

RECEIVED

MAR 14 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

Your renewal was not submitted in time before your license and/or permit expired. You can't renew your expired license and/or permit until you have paid the late filing fee of \$300 per month for the beer and wine permit and \$200 per month for the liquor permit.

You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license.

Additionally, in accordance with SC Code of Laws, Title 61 and Title 8, the South Carolina Department of Revenue (SCDOR) is also denying the renewal of the above-referenced beer/wine and/or liquor application. This is based upon the following:

- Failure to file South Carolina State Income Tax for one or more principals for the following year(s): 2014-2017
- JONATHAN STARKEY. Notify Alcohol Beverage Licensing within 90 days that the taxes have been filed.

- You must provide a copy of your liquor liability policy or general liability insurance policy with a liquor endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. See SC Code Section 81-2-145 on our website at dor.sc.gov/policy.

You may still obtain the renewal of your license or permit by supplying the requested information, documentation, or otherwise comply with the requirements necessary for licensure. See the next page of this notice for your appeal options.

RECEIVED

FEB 14 2019



FOR ALCOHOLIC
BEVERAGE LICENSING

STUDY HALL

KITCHEN & BAR



EST 2016

Study Hall
101 Sloan Street
Clemson, SC 29631
(864)973-1113
studyhallclemson@hotmail.com

Check #
Hunter V. 2/28/2019
Guests 1 5:33 PM

Bud Light 3.00

Subtotal 3.00

Tax 0.25

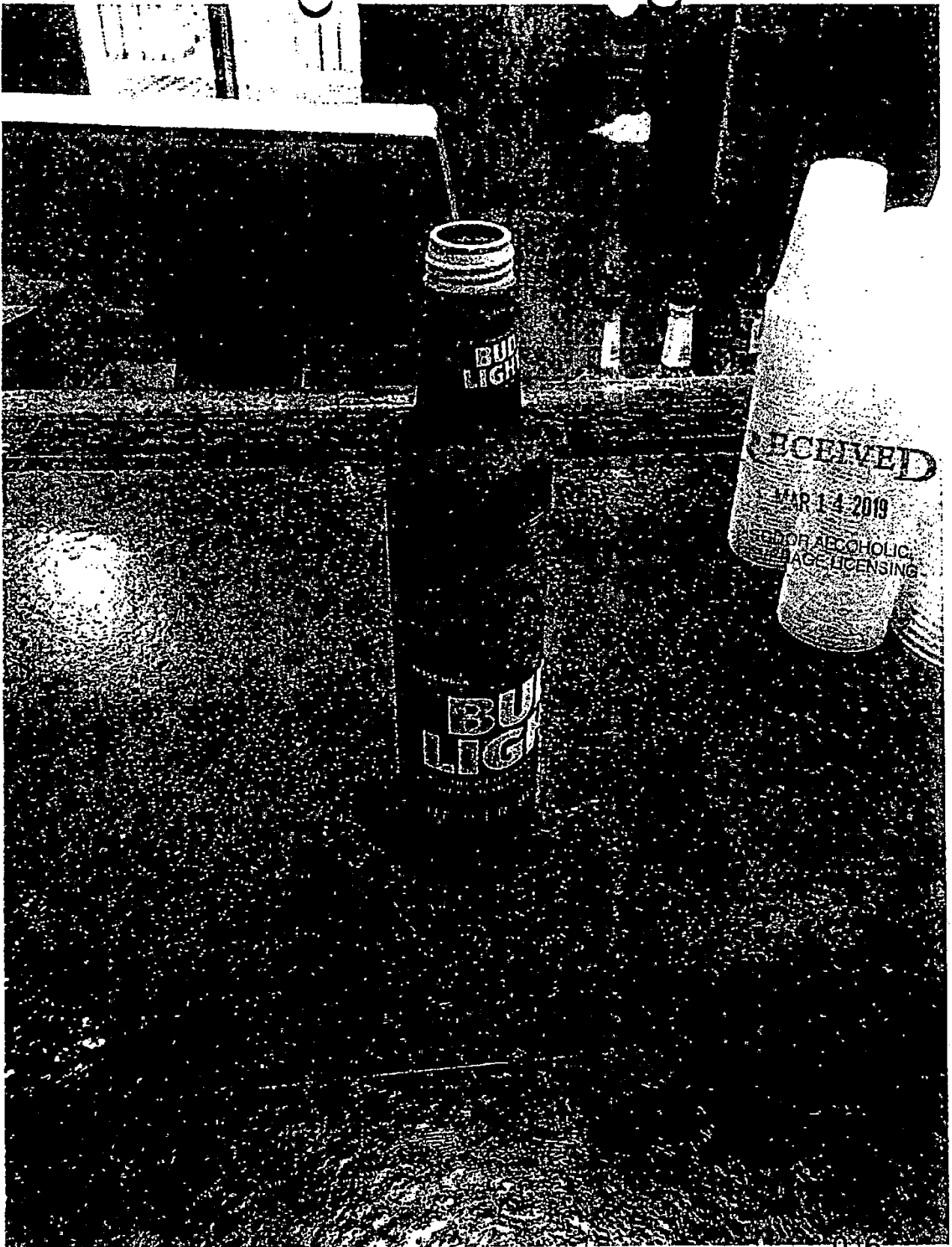
TOTAL 3.25

BALANCE DUE 3.25

Thank You for choosing us.

Please come again soon!

Thank you for your business and save
the money by paying cash.



343

391

Return

I received the attached Search Warrant dated February 28 2019 and have executed it as follows:

On Feb 28 2019 at 5:37 clock P M, I searched _____

and/or Study Hall Restaurant and Bar

I left a copy of the warrant with Alvin Darr - Manager

together with a receipt for the items seized.

RECEIVED
MAR 14 2019
SODOR ALCOHOLIC
BEVERAGE LICENSING

The following is an inventory of property taken pursuant to the search warrant:

Various bottles and cans of beer, various
bottles of liquor, various bottles
of wine. All mentioned liquor is
sealed and unsealed. All evidence
seized and stored is photographed and
complete list of inventory will be
provided to accompany Search Warrant
return. All evidence is currently being
stored in a secure location at the
Chamson Police Department.

This inventory was made in the presence of Detective Alvin Brown
AND Special Agent Keith Borman

I swear this inventory is a true and detailed account of all property taken by me on the warrant.

SWORN to before me this _____

day of _____, 20____

(Signature of Judge) (L.S.)

(Signature of Officer Executing Search Warrant)

	2	Jose Cuervo Especial	
	1	Deep Eddy Ruby Red	
	6	Deep Eddy Orange	
	3	DeKuyper Blue Curacao	
	1	DeKuyper Melon	
10	3	DeKuyper Pucker Island Punch	
	1	Bumble Mince	
	1	Patan Silver	
	1	Don Julio Blanco	
	3	Don Julio Añejo	
	4	DeKuyper Creme de cassis	
	2	DeKuyper Watermelon	
	2	DeKuyper Strawberry	
	3	Woodford Reserve	
37	4	Southern Comfort	
	3	DeKuyper Sour Apple	
	2	DeKuyper Razzmatazz	
	2	Maker's Mark	
	1	Jameson	
	1	DeKuyper Buttershots	
	3	Jim Bean Bourbon	
	2	Fireball	
	4	Jack Daniels Tennessee Fire	
	1	Jack Daniel Tennessee Whiskey	
	3	Crown Royal Vanilla	
103	3	Piney Pines Le Citron	
	24	Budweiser	

RECEIVED

MAR 14 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

018

12	1 Liter Montezuma Triple Sec	RECEIVED
3	Death's Door Gin	MAR 14 2013
3	Bombay Sapphire	SODOR ALCOHOLIC BEVERAGE LICENSING
1	Pinnacle Cherry	
1	Deep Eddy Lemon	
3	Tanqueray Imported	
7	Bacardi Raspberry	
1	Bacardi Dragonberry	
1	Juarez Tepala Silver	
1	Crown Royal Apple	
5	Malibu Caribbean Rum w/ Passion Fruit	
4	Malibu Black Bold Caribbean Rum w/ coconut	
3	Goslings Black Seal Bermuda Black Rum	
4	Kahlua	
6	Rum Chata Horchata Don Ron	
4	Baileys	
2	Woodbridge	
4	Captain Morgan Spiced Rum	
4	Captain Morgan White Rum	
3	Johnnie Walker Black Label	
3	Johnnie Walker Red Label	
14	Tito's Handmade	
3	Three Olives Peach	
3	Three Olives Orange	
2	Patron Silver	
6	Goldschlager	
2	Grand Marnier	

RECEIVED

MAR 14 2019

SCOTT ALCOHOLIC
BEVERAGE LICENSING

- 13 Dale's Pale Ale
- 1 Fleischmann's
- 13 GVL IPA
- 38 11 Sweet Jane Brown Ale
- 16 Hi-Wire hi-pitch
- 16 New Belgium Citradelic
- 16 Samuel Adams Boston Lager
- 15 Stella Arctus
- 24 Not Your Father's Root Beer
- 18 Stone IPA
- 21 Goose 312
- 21 Business Draught Stout
- 10 IPA Goose
- 2 Shock Top
- 24 Amber
- 15 Quattro Time
- 3 White Zombie
- 13 New Belgium Fat Tire

Upstairs Bar Pg. 5

~~X2~~ Crown Royal Whisky
~~X2~~ Crown Royal Vanilla Whisky
~~X2~~ Deep Eddy Ruby Red Vodka
~~X1~~ Johnnie Walker Red Label Scotch
~~X7~~ Don Julio Añejo Tequila
~~X3~~ Kahlúa Rum
~~X1~~ Bailey's Irish Cream
~~X2~~ Bacardi Dragonberry Vodka
~~X2~~ Bacardi Raspberry Vodka
~~X1~~ Three Olives Vanilla Vodka
~~X1~~ Three Olives Orange Vodka
~~X1~~ Three Olives Cherry Vodka
~~X1~~ Three Olives Rosé
~~X2~~ Three Olives Cucumber Lime
~~X2~~ Three Olives Peach Vodka

RECEIVED

MAR 14 2010

SDOR ALCOHOLIC
BEVERAGE LICENSING

021

Back Room behind Front bar

X7 boxes - 12 Liter Fleischmann's Vodka

X2 boxes-12 liter Montezuma Tequila-

X3 box - 121 liter Fleischmann's Extra Dry Gin

X2 open boxes $\rightarrow$ 1 liter

12 liter

X1 Open box - 12 Liter Montezuma Triple Sec

RECEIVED

FEB 14 2019

SCFOR ALCOHOLIC
BEVERAGE LICENSING

Front Bar

Ps. 1

- X1 - Grey Goose Le Citron - open
- X1 - Creme de Banana Cocktail mixers - open
- X1 - Deep Eddy Lemon (Lemon Flavored Vodka) - open
- X1 - Deep Eddy Orange (Orange Flavored Vodka) - open
- X1 - Don Julio Tequila - open
- X1 - Monte zuma Aztec Silver Tequila - open
- X1 - Deep Eddy Ruby Red (Grapefruit flavored vodka) - open
- X1 - Six & Twenty Carolina Cream Rum - open
- X1 - Death's Door Gin - Open
- X24 - Michelob Ultra beer (aluminum bottle) - unopened
- X1 - Grand Marnier Liqueur - open
- X1 - Jack Daniel's Tennessee Fire Whiskey - open
- X1 - Crown Royal Whiskey - open
- X1 - Crown Royal Regal Apple - open
- X1 - Rumple Minze Liqueur - open
- X1 - Canadian LTD Whiskey - open
- X1 - Woodford Reserve Whiskey - open
- X1 - Johnnie Walker Red Label Whiskey - open
- X1 - Johnnie Walker Black Label Whiskey - open
- X1 - Three Olives Vanilla Vodka - open
- X1 - Three Olives Fresh Watermelon Vodka - open
- X1 - Three Olives Orange Vodka - open
- X1 - Three Olives Peach Vodka - open
- X1 - Three Olives Cherry Vodka - open
- X1 - Three Olives Raspberry Vodka - open
- X1 - Three Olives Rose Vodka

RECEIVED

MAR 14 2019

SCOTT ALCOHOLIC
BEVERAGE LICENSING

023

Front Bar cont.

Ps. 2

- X1 - Southern Comfort Whiskey - open
- X1 - Buffalo Trace Whiskey (Bourbon) - open
- X1 - Goslings Black Rum - open
- X2 - di Amore Amaretto liqueur - open
- X11 - di Amore Amaretto liqueur - unopened
- X4 - Canadian LTD Whisky - unopened
- X1 - Captain Morgan Caribbean White Rum - open
- X1 - Mr. Boston Peach Schnapps Liqueur - open
- X12 - Mr. Boston Peach Schnapps Liqueur - unopened
- X1 - Imported Goldschl ger schnapps liqueur - open
- X2 - Fleischmann's extra dry gin - open
- X13 - Fleischmann's extra dry gin - unopened
- X4 - Barton imported light Rum - open
- X2 - Barton imported light Rum - unopened
- X6 - Fleischmann's Royal Vodka - open
- X17 - Fleischmann's Royal Vodka - unopened
- X3 - Kentucky Gentleman Kentucky Bourbon Whiskey - open
- X12 - Kentucky Gentleman Kentucky Bourbon Whiskey - unopened
- X4 - Montezuma Aztec Silver Tequila - open
- X13 - Montezuma Aztec Silver Tequila - unopened
- X2 - Montezuma Triple Sec Liqueur - open
- X13 - Montezuma Triple sec Liqueur - unopened

RECEIVED

MAR 14 2010

SCBOR ALCOHOLIC
BEVERAGE LICENSING

024

RECEIVED

NR 14 2013

SECRETARY OF PUBLIC
BEVERAGE CONTROL

Ps. 1

Front Booths (From Front Bar)

- X4 - Malibu Caribbean Rum w/Coconut Liqueur - open
- X2 - Grey Goose Vodka - open
- X2 - Canadian LTD Whisky - open
- X4 - Captain Morgan Original Spiced Rum - open
- X2 - Bombay Sapphire London Dry Gin - open
- X4 - Jim Beam Kentucky Straight Bourbon Whiskey
- X3 - Jose Cuervo Especial Blue Agave Gold Tequila - open
- X4 - Jack Daniels Tennessee Whiskey - open
- X2 - DeKuyper Creme de Cocoa - open
- X2 - DeKuyper Razzmatazz - open
- X1 - Jameson Irish Whiskey - unopened
- X3 - Jameson Irish Whiskey - open
- X2 - Mr. Boston Peach Schnapps Liqueur - open
- X2 - Tito's Handmade Vodka - open
- X2 - Fireball Cinnamon Whiskey - open
- X1 - Fireball Cinnamon Whiskey - unopened
- X2 - Tanqueray London Dry Gin - open
- X2 - Captain Morgan White Rum - open
- X2 - Maker's Mark Kentucky Straight Bourbon Whiskey - open
- X2 - Bacardi Raspberry Rum - open
- X2 - Bacardi Dragonberry Rum - open
- X2 - DeKuyper Pucker Watermelon Schnapps - open
- X2 - Silver Patron Tequila - open
- X2 - DeKuyper Strawberry Pucker Schnapps - open
- X2 - DeKuyper Pucker Sour Apple Schnapps - open
- X2 - DeKuyper Melon Schnapps

025

Front booths (Front bar) Schnapps

- X² - DeKuyper Pucker Island Punch - open
- X² - DeKuyper Blue Curacao Liqueur - open
- X³ - Rum Chata Caribbean Rum
- X² - Jagermeister Liqueur
- X³ - Bailey Irish Cream
- X² - Kahlua Rum + Coffee Liqueur
- X² - DeKuyper Buttershots Butterscotch Schnapps
- X³ - Bud Light beer (aluminum)
- X⁴ - White Claw Black Cherry Hard Seltzer
- X³⁰ - Coors Light beer (aluminum)

RECEIVED

MAR 14 2019

REG. OF ALCOHOLIC
BEVERAGE LICENSING

Back Bar

RECEIVED

MAR 14 2000

SOUTH ALCOHOL BEVERAGE LICENSING

Pg. 7

- X45 - Coors Light Caluminum
- X21 - Miller Lite Caluminum
- X35 - Bud Light beer Caluminum
- X3 - Fleischmann's Extra Dry Gin
- X2 - Mr. Boston Peach Schnapps
- X2 - Bacardi Raspberry Rum
- X2 - Bacardi Dragon berry Rum
- X1 - Malibu Caribbean Rum w/ Passion Fruit
- X1 - Malibu Black Caribbean Rum
- X3 - Malibu Caribbean Rum
- X3 - Jameson Irish Whiskey
- X4 - Jack Daniel's Tennessee Whiskey
- X2 - Jack Daniel's Tennessee Fire Whiskey
- X3 - Jim Beam Kentucky Straight Bourbon
- X2 - Captain Morgan White Rum
- X3 - Boston Light Rum
- X4 - Captain Morgan Original Spiced Rum
- X2 - Rum Chata Caribbean Rum
- X1 - Crown Royal Canadian Whisky
- X1 - Crown Royal Vanilla Whisky
- X1 - Crown Royal Regal Apple Whisky
- X2 - Jose Cuervo Gold Tequila
- X1 - DeKuyper Buttershots Butterscotch Schnapps
- X1 - Canadian LTD Whisky
- X6 - Montezuma Aztec Silver Tequila
- X3 - Montezuma Triple Sec Liqueur

RECEIVED

MAR 14 2019

SDOR ALCOHOLIC
BEVERAGE LICENSING

Ps.2

Back Bar

X4 - Fireball Cinnamon Whiskey

X1 - Bailey's Irish Cream

X2 - Kentucky Gentleman Bourbon Whiskey

X12 - New Belgium Citra delect Tangerine IPA

X12 - Samuel Adams Boston Lager

X13 - Stone IPA

X10 - Guinness Draught Stout

X11 - New Belgium Fat Tire Amber Ale

X17 - Palmetto Brewing Company Amber Ale

X11 - Goose 312 Urban Wheat Ale

X18 - Hi-wire hi-pitch Mosaic IPA

X3 - Sierra Nevada Pale Ale

X12 - Not Your Father's Root Beer Ale

X1 - Fleischmann's Royal Vodka

X12 - Goose IPA

X12 - Stella Artois Lager Beer

X11 - Dale's Pale Ale

X9 - Lonerider Sweet Josie Brown Ale

X6 - Quittin' Time Helles Pils Beer

X6 - GVL IPA

Cabinets X2 - Tito's Handmade Vodka

X1 - De Kuyper Butter Shots Butter scotch Schnapps

X1 - di Amore Amaretto

X1 - V.V. Blue Raspberry Vodka

X1 - Silver Patron Tequila

X1 - Maker's Mark Kentucky Straight Bourbon

028

Back Room (Front Bar)

X 8 Mr. Boston Triple Sec
 X 1 Three Olives Raspberry Vodka
 X 2 Three Olives Cherry Vodka
 X 3 Three Olives Fresh Watermelon Vodka
 X 4 Three Olives Vanilla Vodka
 X 3 Three Olives Rosé Vodka
 X 2 Three Olives Cucumber Lime Vodka

RECEIVED

11/21/2020

800R ALCOHOLIC
BEVERAGE LICENSING

Back Bar Pg. 3

RECEIVED

13

MAR 14 2010

SCDOR ALCOHOLIC
BEVERAGE LICENSING

- x1-Tangeray London Dry Gin
- x2-Canadian LTD Whisky
- x1-Bailey's Irish Cream
- x2-Dekuyper Creme De Cocoa
- x2-Dekuyper Razzmatazz
- x2-Dekuyper Strawberry Pucker Schnapps
- x2-Dekuyper Pucker sau Apple Schnapps
- x2-Dekuyper Melon Liqueur
- x2-Kahlua's Rum + Coffee Liqueur
- x2-Grey Goose Vodka
- x1-Grey Goose Le Citron Vodka
- x3-Jagermeister Liqueur
- x2-Dekuyper Blue Curacao Liqueur
- x2-Goldschlager Schnapps
- x1-Mr. Boston Peach Schnapps
- x1-Dekuyper Island Punch Pucker
- ~~x2-Dekuyper Pucker~~
- x1-Dekuyper Watermelon Schnapps
- x25-Budweiser Beer (aluminum)
- x1-Grand Marnier Cointreau + Orange Liqueur
- x1-Don Julio Añejo Tequila
- x1-Don Julio Blanco Tequila
- x1-Jose Cuervo Gold Tequila
- x1-Deep Eddy Ruby Red Vodka
- x1-Three Olive Cucumber Lime Vodka
- x1-Deep Eddy Orange Vodka

030

Back Bar Pg. 4

RECEIVED

MAR 14 2008

SODOR ALCOHOLIC
BEVERAGE LICENSING

- x1 Three Olives Peach Vodka
- x1 Deep Eddy Lemon Vodka
- x1 Three Olives Raspberry Vodka
- x1 Tito's Handmade Vodka
- x1 Three Olives Cherry Vodka
- x1 Three Olives Vanilla Vodka
- x1 Three Olives Fresh Watermelon Vodka
- x1 Three Olives Orange Vodka
- x1 Bombay Sapphire London Dry Gin
- x1 Death's Door Gin
- x1 Tanqueray London Dry Gin
- x1 Montezuma Aztec Silver Tequila
- x1 Goslings Black Seal Rum
- x1 Southern Comfort Whiskey
- x1 Buffalo Trace Bourbon Whiskey
- x1 Johnnie Walker Black Label Whisky
- x1 Johnnie Walker Red Label Whisky
- x1 Cran Royal Whisky
- x2 Fleischmann's Royal Vodka
- x1 Woodford Reserve Whiskey
- x1 DeKuyper Pecker Watermelon Schnapps
- x1 " Blue Curacao Schnapps
- x1 Jim Beam Bourbon Whiskey
- x1 Kentucky Gentleman Whiskey Bourbon
- x1 Maker's Mark Whiskey
- x1 diAmore Amaretto Liqueur

031

VP stairs Bar Pg. 4

RECEIVED

W 214 253

SCHOOL / LOANING
EVENING LICENSE

- X5 Sweet Water 420 Ale
- X7 Tecate Cans
- X6 Yvengling Lager
- X5 Hi-Wire hi-pitch IPA
- X10 Goose IPA
- X10 Dale's Pale Ale
- X12 ~~X5~~ New Belgium Citradelic IPA
- X17 New Belgium Fat Tire Ale
- X2 Elysian Space Dust IPA
- X14 Goose 312 Urban wheat Ale
- X9 Stella Artois Lager
- X11 Sierra Nevada Pale Ale
- X3 Blue Curacao Liqueur Dekuyper
- X7 Dekuyper Pucker Island Punch
- X4 Dekuyper Moon Liqueur
- X1 Dekuyper Pucker Sour Apple Schnapps
- X1 Dekuyper Butterscotch Buttershots Schnapps
- X1 Dekuyper Strawberry Pucker Liqueur
- X1 Dekuyper Creme de Cocoa Liqueur
- X1 Dekuyper Razzmatazz Liqueur
- X1 Malibu Black Rum
- X2 Malibu Caribbean Rum
- X3 Malibu Caribbean Rum Passion Fruit
- X2 Three Olives Watermelon Vodka
- X7 Three Olives Raspberry Vodka
- X2 Crown Royal Regal Apple Whisky

032

Upstairs Bar Pg. 2

RECEIVED
MAR 14 2013

SOUTH ALCOHOLIC
BEVERAGE LICENSING

- x13 Fleischmann's Extra Dry Gin
- x2 Benchmark Bourbon
- x15 Kentucky Gentleman Bourbon
- x11 Fleischmann's Royal Vodka
- x5 Captain Morgan Original Spiced Rum
- x2 Captain Morgan Caribbean White Rum
- x1 Grey Goose Vodka
- x1 Grey Goose Le Citron Vodka
- x3 Woodford Reserve Bourbon
- x2 Fireball Cinnamon Whiskey
- x2 Maker's Mark Bourbon
- x1 Rum Chata Caribbean Rum
- x1 Goslings Black Seal Black Rum
- x1 Southern Comfort Whiskey
- x1 Jagermeister Liqueur
- x3 Jim Beam Bourbon
- x1 Casamigos Tequila
- x2 Grand Marnier Cognac + Orange Liqueur
- x2 Don Julio Blanco Tequila
- x3 Silver Patron Tequila
- x3 Buffalo Trace Bourbon
- x2 Tanqueray London Dry Gin
- x1 Bombay Sapphire London Dry Gin
- x2 Remy Tequila
- x2 Goldschlager Schnapps
- x2 Jameson Irish Whiskey

UPSTAIRS Bar Pg. 3

- x1 Deep Eddy Orange Vodka
 x5 Canadian LTD Whisky
 x7 Goslings Black Seal Black Rum
 x1 Death's Door Gin
 x1 Johnnie Walker Black Label Whisky
 x20 Montezuma Aztec Silver Tequila
 x15 Montezuma Triple Sec
 x10 Lone Rider Sweet Josie Brann
 x10 Samuel Adams Boston Lager
 x14 Palmetto Brewing Company Brann
 x5 Shock Top Beer
 x1 Sierra Nevada Hazy Little Thing IPA
 x1 Tecate Beer
 x3 Babe Rose
 x1 Blue Moon Belgian White Beer
 x1 Woodchuck Hard Cider
 x1 Michelob Ultra Beer
 x10 Budweiser Beer Calcium
 x8 Miller Lite
 x2 Heineken Beer
 x7 Not Your Father's Root Beer Ale
 x12 GVL IPA
 x18 Coors Light (Aluminum)
 x3 Sierra Nevada Pale Ale
 x16 Stone IPA
 x12 Quittin' Time Helles Pock Beer

034

RECEIVED

MAR 14 2010

SODAS ALCOHOLIC
BEVERAGE LICENSING

UPSTAIRS Bar

Pg. 1

	X2 kegs	Bud Light
	X1 box	Hi-Wire hi-pitch IPA (4 6 packs)
	X1 box (4 6 packs)	Samuel Adams Boston Lager
SIX PACKS	X29 17 1/2	G-VL IPA
SIX PACKS	X2 1/2	Lone Rider Sweet Josie Bran Ale
SIX PACKS	X3 1/2	Quittin' Time Helles Pock Beer
	X3 3/4 boxes	12 11.2 Fl Oz Guinness Draught Stout
SIX PACK	X7 1/2	Not Your Father's Root Beer Ale
SIX PACKS	X2 1/2	Palmetto Brewing Company Amber
SIX PACK	X33 1/8	Samuel Adams Boston Lager
SIX PACKS	X6 3/4	Hi-Wire hi-pitch Mosaic IPA
	X3 1/2 boxes	each 4 (6 packs) New Belgium Citradelic IPA
SIX PACK	X1 1/2	New Belgium Citradelic IPA
	X4 1/4 boxes	16 pack Budweiser bottles
	X1 Six + Twenty	Cardina Cream Rum
	X11	Eight Point IPA
	X1 box	4 cans Babe Rose'
	X2 box	8 cans 4/1 Babe Grigio
	X4	Barefoot Bubbly Brut Cuvée Champagne
	X4	Jack Daniels' whiskey
	X2	Jack Daniels Tennessee Fire Whiskey
	X3	di Amore Amaretto
	X3	Jose Cuervo Gold Tequila
	X6	Barton Rum
	X1	Tito's Handmade Vodka
	X5	Mr. Boston Peach Schnapps

035

The Study Hall

Daily Group Sales for 2/1/2019-2/28/2019
created at 2/28/2019 8:29:06 PM

Page 1 of 1

OPEN CHECK AMOUNT (330.46)

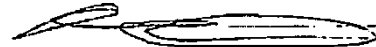
	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units Sales	Lunch 11:01am - 04:00pm Units Sales	Dinner 04:01pm - 03:00am Units Sales	Disc Units	Disc Sales			
Average Check	8902	6.89		0	0.00	168	25.98	8732	6.52		
Average Guest	9493	6.46		0	0.00	398	10.97	9088	6.27		
Voids	125	479.72		0	0.00	21	56.31	104	423.41		
Food	1013	6,112.33	9.97	0	0.00	455	2,754.43	557	3,352.90	46	-91.97
NA Beverage	102	186.67	0.30	0	0.00	50	110.00	52	76.67	24	-66.33
Beer	3305	10,910.50	17.79	0	0.00	193	805.26	3112	10,105.24	68	-49.00
Wine	1	3.75	0.01	0	0.00	1	3.75	0	0.00	0	0.00
Liquor	14398	36,993.46	60.32	0	0.00	149	651.91	14247	36,330.54	192	-96.58
Misc	301	239.13	0.39	0	0.00	10	10.08	291	229.05	0	0.00
Totals	20856	61,331.96	100.00	0	0.00	866	4,364.43	19987	56,951.53	349	-325.75
CC Bar		5,272.50									
Subtotal		66,604.46									
Inclusive Tax		0.00									
Subtotal Discounts		0.00									
Net Sales		66,604.46									
Sales Tax		1,564.00 on		17,451.01 exempt	0.00						
Liquor Tax		5,927.75 on		43,880.95 exempt	0.00						
Total Tax		7,491.75									
Total Sales		74,096.21									
Paid Outs		0.00									
Paid Ins		0.00									
CC Tip Fee		1,420.21									
Refunds		0.00									
Total Accountable		75,516.42									
Gross Cash	2198	14,940.88									
Paid Outs	0	0.00	-								
CC Tip Fee		1,420.21	+								
Tips Paid Out		-14,176.12	-								
Net Cash		2,184.97	=			Cash Deposit:					
CHECK	0	0.00	+								
Cash & Checks		2,184.97	=			Cash & Checks Deposit:					
VISA	5209	52,920.80	+								
MasterCard	1404	14,528.06	+								
AMEX	208	3,703.54	+								
Discover	194	2,057.57	+								
Gift Cert.	0	0.00	+								
House Charge	0	0.00	+								
Diners Card	0	0.00	+								
Employee Charge	0	0.00	+								
Givex	0	0.00	+								
Local Account	0	0.00	+								
Gift Card	0	0.00	+								
Online Credit	0	0.00	+								
Online Gift	0	0.00	+								
Donation	0	0.00	+								
Trivia GC	3	73.74	+								
Total Payments		75,468.68	=			- 75516.42 = Over/Short		CC Total 73,209.97			
Order Types											
CC Bar	6800	53,526.52	Cash Sale		2102	13,077.94					
Discounts (325.75)											
Employee 30%	20	57.82	Regulars 30%		2	5.40	Cash Discount		144		
Comp Starkay	14	142.28	Comp Justin		2	13.00					
Voids											
Incorrect Order	54	236.62	Changed Mind		22	61.20	Took Too Long		6		
Walked Out	8	41.25	Server Error		8	25.24	Wrong Payment		18		
Wrong Table	2	12.50	Training		3	11.00	POS Test		1		
Out of Stock	3	11.40									

RECEIVED

MAR 14 2019

3000 ALCOHOLIC
BEVERAGE LICENSING

Alvin Dark



038

363

411

The Study Hall

Daily Group Sales for 1/1/2019-1/31/2019
created at 2/28/2019 8:27:51 PM

Page 1 of 1

OPEN CHECK AMOUNT (489.79)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units Sales	Lunch 11:01am - 04:00pm Units Sales	Dinner 04:01pm - 03:00am Units Sales	Disc Units	Disc Sales
Average Check	10414	7.07		81 11.60	237 19.57	10091 6.74		
Average Guest	10897	6.76		91 10.32	444 10.45	10357 6.57		
Voids	186	924.34		0 0.00	18 98.87	160 792.98		
Food	1103	6,665.24	9.05	43 242.62	435 2,699.03	623 3,682.65	87	-209.70
NA Beverage	67	79.50	0.11	3 6.50	15 33.00	49 40.00	32	-96.00
Beer	4491	14,588.36	19.81	37 161.00	247 909.40	4207 13,517.96	106	-72.14
Wine	8	30.00	0.04	0 0.00	3 11.25	5 18.75	0	0.00
Liquor	15579	43,144.90	58.57	142 523.04	245 923.35	15189 41,684.51	276	-180.47
Misc	298	2.98	0.00	13 0.13	12 0.12	273 2.73	0	0.00
Totals	23869	73,658.36	100.00	240 939.29	975 4,639.15	22643 68,023.98	539	-581.93
CC Bar		5,978.25						
Subtotal		79,636.61						
Inclusive Tax		0.00						
Subtotal Discounts		0.00						
Net Sales		79,636.61						
Sales Tax		1,908.00 on		21,192.58 exempt	0.00			
Liquor Tax		7,142.75 on		52,465.78 exempt	0.00			
Total Tax		9,050.75						
Total Sales		88,687.36						
Paid Outs		0.00						
Paid Ins		0.00						
CC Tip Fee		1,711.03						
Refunds		-20.23						
Total Accountable		90,378.16						
Gross Cash	2739	19,081.59						
Paid Outs	0	0.00	-					
CC Tip Fee		1,711.03	+					
Tips Paid Out		-17,075.78	-					
Net Cash		3,716.84	=			Cash Deposit:		
CHECK	0	0.00	+					
Cash & Checks		3,716.84	=			Cash & Checks Deposit:		
VISA	5811	62,500.13	+					
MasterCard	1750	18,481.90	+					
AMEX	194	3,089.91	+					
Discover	237	2,580.38	+					
Gift Cert.	0	0.00	+					
House Charge	0	0.00	+					
Diners Card	0	0.00	+					
Employee Charge	0	0.00	+					
Givex	0	0.00	+					
Local Account	0	0.00	+					
Gift Card	0	0.00	+					
Online Credit	0	0.00	+					
Online Gift	0	0.00	+					
Donation	0	0.00	+					
Trivia GC	0	0.00	+					
Total Payments		90,378.16	=			- 90378.16 = Over/Short		CC Total 86,661.32
Order Types								
CC Bar	7765	62,564.87	Cash Sale	2649	17,071.74			
Discounts (581.83)								
Employee 30%	22	91.22	Police 30%	1	7.08	Regulars 30%	9	34.68
Cash Discount	220	162.76	Comp Starkay	16	232.94	Comp Justin	4	53.25
Voids								
Incorrect Order	103	513.65	Changed Mind	9	32.00	Took Too Long	6	38.14
Walked Out	3	9.00	Cold Food	1	7.49	Server Error	20	130.24
Wrong Payment	8	22.00	Wrong Table	6	14.00	Training	2	8.49
POS Test	20	102.73	Did Not Like	1	8.50	Out of Stock	3	11.75
Cook Error	4	26.35						

RECEIVED

MAR 14 2019

SOPOR MICHIGAN
BEVERAGE LICENSING

Alvin Dark



037

364

412

The Study Hall

Daily Group Sales for 12/1/2018-12/31/2018

created at 2/28/2019 8:26:19 PM

Page 1 of 1

OPEN CHECK AMOUNT (320.00)

			%	Breakfast		Lunch		Dinner			
	Units	Sales	Sales	08:00am - 11:00am	11:01am - 04:00pm	04:01pm - 03:00am	Disc	Disc			
				Units	Sales	Units	Sales	Units	Sales	Units	Sales
Average Check	4618	6.67		0	0.00	79	18.64	4538	6.46		
Average Guest	4838	6.36		0	0.00	174	8.46	4663	6.29		
Voids	90	408.22		0	0.00	11	52.19	51	280.55		
Food	456	2,470.00	8.02	0	0.00	145	877.10	311	1,592.90	77	-205.11
NA Beverage	19	34.60	0.11	0	0.00	1	2.10	18	32.50	7	-18.90
Beer	2062	6,730.11	21.86	0	0.00	74	278.90	1968	6,451.21	88	-59.89
Wine	5	18.75	0.06	0	0.00	2	7.50	3	11.25	0	0.00
Liquor	7173	18,397.99	59.76	0	0.00	70	279.17	7099	18,110.82	162	-201.91
Retail	2	0.00	0.00	0	0.00	0	0.00	2	0.00	0	0.00
Misc	127	1.27	0.00	0	0.00	2	0.02	125	1.25	0	0.00
Totals	10648	30,788.97	100.00	0	0.00	301	1,472.79	10341	29,308.18	356	-509.56
CC Bar		2,696.25									
Subtotal		33,485.22									
Inclusive Tax		0.00									
Subtotal Discounts		0.00									
Net Sales		33,485.22									
Sales Tax		811.25 on		8,926.85 exempt	0.00						
Liquor Tax		2,972.75 on		21,862.12 exempt	0.00						
Total Tax		3,784.00									
Total Sales		37,269.22									
Paid Outs		0.00									
Paid Ins		0.00									
CC Tip Fee		733.14									
Refunds		0.00									
Total Accountable		38,002.36									
Gross Cash	1125	7,658.57									
Paid Outs	0	0.00	+								
CC Tip Fee		733.14	+								
Tips Paid Out		-7,316.95	-								
Net Cash		1,074.76	=				Cash Deposit:				
CHECK	0	0.00	+								
Cash & Checks		1,074.76	=				Cash & Checks Deposit:				
VISA	2692	26,806.81	+								
MasterCard	764	8,012.17	+								
AMEX	85	1,442.30	+								
Discover	71	651.32	+								
Gift Cert.	0	0.00	+								
House Charge	0	0.00	+								
Diners Card	0	0.00	+								
Employee Charge	0	0.00	+								
Givex	0	0.00	+								
Local Account	0	0.00	+								
Gift Card	0	0.00	+								
Online Credit	0	0.00	+								
Online Gift	0	0.00	+								
Donation	0	0.00	+								
Trivia GC	3	15.00	+								
Total Payments		38,002.36	=				- 38002.36 = Over/Short		CC Total 36,912.60		
Order Types											
CC Bar	3524	26,479.22	Cash Sale		1094	7,006.00					
Discounts (509.56)											
Employee 30%	25	104.75	Regulars 30%		3	16.42	Cash Discount		122		
Comp Starkey	2	62.00	Comp Justin		20	220.39	Comp Band		1		
Voids											
Incorrect Order	50	256.28	Changed Mind		1	3.95	Took Too Long		5		
Walked Out	1	4.00	Server Error		25	84.50	Wrong Table		1		
Training	2	10.50	Cook Error		5	10.24					

INVOICE

NO 14

SCDOR ALA
BEVERAGE U

Alvin D

RECEIVED

NOV 14 2018

SCDOR ALCOHOLIC
BEVERAGE LICENSING

Alvin Dark

036

365

413

STATE OF SOUTH CAROLINA

County of PICKENS

SEARCH WARRANT

Date February 28, 2019_

Officer SA Keith Dorman

039

366

414

COPY

SEARCHED
SERIALIZED
INDEXED
FILED
FEB 28 2019
FBI - PICKENS

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

} Search Warrant

Form approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF A MUNICIPALITY OF
PICKENS COUNTY

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140 (issuance, execution and return of search warrants for property connected with the commission of crime; inventory of property seized), 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE, OR THING)
TO BE SEARCHED

Described at 101 Sloan St. Clemson, SC 29631 is a multi-level gray brick building. 101 Sloan St. has an open air bar on the second level, rear left of the bar, looking at the building from the main entrance located at the corner of Sloan St. and College Ave. The main entry door to the above referenced address is wooden with glass windows.

RECEIVED

MAR 14 2019

STUDY HALL RESTAURANT
BEVERAGE LOBBY

DESCRIPTION OF PROPERTY

Click here to enter text.

Any and all alcoholic beer, wine, and/or liquor within the business, Study Hall Restaurant and Bar. Any and all receipts of beer, wine, and/or liquor transactions made with US currency, debit/credit card basic transaction information, any and all gift card transactions used for alcoholic beer/wine and/or liquor transactions, from December 1, 2018 through February 28, 2019.

Click here to enter text.

This Search Warrant shall not be valid for more than ten days from the date of issuance. A written inventory of all property seized pursuant to this Search Warrant shall be made to The Honorable Jesse Daniel

(Name of Judge)

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Clemson, S.C.
(City or Town)

February 28, 2019
(Date)

SCCA/513 (3-78)

Jesse Daniel (L.S.)
(Signature of Officer)

040

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

}

AFFIDAVIT

Personally appeared before me, one Special Agent Keith Dorman who, being
duly

(Name of Affiant)

sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140
(Issuance, execution and return of search warrants for property connected with the commission of crime; inventory of property
seized), 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any and all alcoholic beer, wine, and/or liquor within the business, Study Hall Restaurant and Bar. Any and all receipts of
beer, wine, and/or liquor transactions made with US currency, debit/credit card basic transaction information, any and all
gift card transactions used for alcoholic beer/wine and/or liquor transactions, from December 1, 2018 through February
28, 2019.

RECEIVED
MAR 14 2019
RODGER M. BOWLING
BEVERAGE LICENSING

DESCRIPTION OF PREMISES (PERSON, PLACE, OR THING)

TO BE SEARCHED

Click here to enter text. Described at 101 Sloan St. Clemson, SC 29631 is a multi-level gray brick building. 101 Sloan St.
has an open air bar on the second level, rear left of the bar, looking at the building from the main entrance located at the
corner of Sloan St. and College Ave. The main entry door to the above referenced address is wooden with glass windows.

041

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On February 28, 2019, Special Agent (SA) Keith Dorman with the South Carolina Law Enforcement Division (SLED) conducted an undercover operation at Study Hall Restaurant and Bar located at 101 Sloan St. Clemson, SC within the city limits of Clemson. The operation was conducted due to SA Dorman receiving an anonymous tip that Study Hall Restaurant and Bar is operating as a business, open to the public, and selling beer, wine, and/or liquor without proper alcohol licenses from the South Carolina Department of Revenue. SA Dorman verified with the South Carolina Department of Revenue on February 27, 2019, that Study Hall Restaurant and Bar does not have valid beer/wine or liquor licenses. As of February 28, 2019, Study Hall Restaurant and Bar still did not have proper alcohol licenses to sell beer/wine or liquor.

At approximately 5:30pm SA Phillips arrived at Study Hall Restaurant and Bar and entered through the unlocked main entrance.

SA Phillips approached the bar nearest the front door at 5:30pm and was asked for identification to purchase a beer. SA Phillips ordered a bud light. The bartender, opened a 16 fl oz aluminum can of Bud Light beer and provided SA Phillips the beer. SA Phillips paid \$3.25 for the 16 fl oz aluminum can of Bud Light beer and received \$6.75 in change from the bartender. SA Phillips exited Study Hall Restaurant and Bar at 5:37pm, with the empty can and sample of contents of beer can. Based on the above stated facts, there is probable cause to believe that this business located at 101 Sloan St. Clemson, SC is selling alcoholic beer, wine, and/or liquor without valid alcohol licenses.

SEARCHED
INDEXED
SERIALIZED
FILED
FEB 28 2019
SOUTH CAROLINA
DEPARTMENT OF REVENUE

Sworn to and Subscribed before me

This 28th day of February 2019

 (L.S.)
(Signature of Judge)


(Affiant's Signature)

Affiant's Agency South Carolina Law Enforcement Division

Affiant's Agency Address Columbia, SC

Affiant's Agency Phone # 803-737-9000

042

369

417

ARREST WARRANT
2019A3920200066

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

THE STATE
against

JONATHAN EARL STARKEY

Address: [REDACTED]
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 6-4 Weight: 250
DL State: GA DL#: [REDACTED]
DOB: [REDACTED] 1977 Agency OR#: SC0390200
Prosecuting Agency: CITY OF CLEMSON / SUP
Prosecuting Officer: SPECIAL AGENT K. DORMAN
Offense: OPERATION WITHOUT A PERMIT
Offense Code: 2292
Code/Ordinance Sec. 61-04-0560

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____
Time: _____

RETURN

A copy of this arrest warrant was delivered to
defendant JONATHAN EARL STARKEY
on 3/4/2019

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
CLEMSON MUNICIPAL COURT
1250 TIGER BOULEVARD, SUITE 3
CLEMSON, SC 29631
864-653-2045

043

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

AFFIDAVIT

Form Approved by
S.C. Attorney General
9-2011-2013
SCCA 619

Personally appeared before me the affiant SPECIAL AGENT K. DORMAN who
being duly sworn deposes and says that defendant JONATHAN EARL STARKEY
did within this county and state on 02/28/2019 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CLEMSON)
in the following particulars:
DESCRIPTION OF OFFENSE: 61-04-0560 / OPERATION WITHOUT A PERMIT

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON FEBRUARY 28TH, 2019 THE ACCUSED, JONATHAN STARKEY DID KNOWINGLY AND WILFULLY OPERATE AND ALLOW TO OPERATE,
HIS RETAIL BUSINESS, STUDY HALL RESTAURANT AND BAR, WITHOUT OBTAINING PROPER ALCOHOL PERMITS REQUIRED BY THE SOUTH
CAROLINA DEPARTMENT OF REVENUE. JONATHAN STARKEY'S BUSINESS, STUDY HALL RESTAURANT AND BAR, SOLD A 16 FL OZ ALUMINUM
CAN OF BUD LIGHT BEER TO AN UNDERCOVER SOUTH CAROLINA LAW ENFORCEMENT DIVISION AGENT ON THE ABOVE DATE AT
APPROXIMATELY 5:33PM WITHIN THE CITY LIMITS OF CLEMSON SC AND WITHIN PICKENS COUNTY. JONATHAN STARKEY IS THE PRINCIPAL
OWNER OF STUDY HALL RESTAURANT AND BAR. STUDY HALL RESTAURANT AND BAR AS OF THE DATE AND TIME MENTIONED ABOVE, DID
NOT HAVE PROPER AND/OR VALID ALCOHOL LICENSES TO ALLOW THE SALE OF BEER/WINE AND/OR LIQUOR.

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

Affiant's Address 1198 TIGER BOULEVARD / 4400 Broad Pkwy Rd
CLEMSON SC 29631 Clemson, SC 29631
Affiant's Telephone (864) 624-2000 803-737-9000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/28/2019 defendant JONATHAN EARL STARKEY

did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of CLEMSON) as set forth below:

DESCRIPTION OF OFFENSE: ALCOHOL / FAILURE TO SECURE REQUIRED BEER OR WINE SALE
PERMIT

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/01/2019 1:45 PM
Date Time (L.S.)
T. DANIEL

Judge Code: 8050

Judge's Address 1250 TIGER BLVD. SUITE 3
CLEMSON SC 29631
Judge's Telephone 864 653-2064
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 2019A3920200066

ORIGINAL

BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____
(Indicate jury trial, bench trial, plea, not. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

RECORDED
MAR 16 2019
BOSTON MUNICIPAL
CLERK OF COURTS

044

ARREST WARRANT
2019A3920200067

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

THE STATE
against

JONATHAN EARL STARKEY

Address: [REDACTED]
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 6-4 Weight: 250
DL State: GA DL#: [REDACTED]
DOB: [REDACTED] 1977 Agency OR#: SC0390200
Prosecuting Agency: CITY OF CLEMSON / SLED
Prosecuting Officer: SPECIAL AGENT K. DORMAN
Offense: UNLAWFUL STORAGE IN PLACE OF
BUSINESS Offense Code: 0246
Code/Ordinance Sec. 61-06-4060 (A)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____ Time: _____

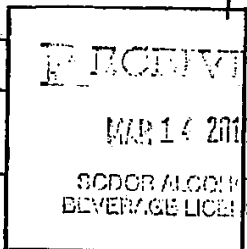
RETURN

A copy of this arrest warrant was delivered to
defendant JONATHAN EARL STARKEY
on 3/4/2019

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
CLEMSON MUNICIPAL COURT
1250 TIGER BOULEVARD, SUITE 3
CLEMSON, SC 29631
864-653-2045

045



STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

AFFIDAVIT

Form Approved by
U.S. Attorney General
April 21, 2004
SCCA 818

Personally appeared before me the affiant SPECIAL AGENT K. DORMAN who
being duly sworn deposes and says that defendant JONATHAN EARL STARKEY
did within this county and state on 02/28/2019 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CLEMSON)
in the following particulars:
DESCRIPTION OF OFFENSE: 61-06-4060 (A) / UNLAWFUL STORAGE IN PLACE OF BUSINESS

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON FEBRUARY 28TH, 2019, AT APPROXIMATELY 5:33PM, THE ACCUSED, JONATHAN STARKEY DID KNOWINGLY AND WILFULLY, STORE
ALCOHOLIC LIQUOR(S) IN HIS PLACE OF BUSINESS, STUDY HALL RESTAURANT AND BAR, LOCATED WITHIN THE CITY LIMITS OF CLEMSON
WITHIN PICKENS COUNTY. STUDY HALL RESTAURANT AND BAR IS NOT A LICENSED, RETAIL LIQUOR STORE AND DID NOT HAVE PROPER
AND/OR VALID LIQUOR LICENSING TO PERMIT SALE OR CONSUMPTION OF ALCOHOLIC LIQUORS AS OF THE ABOVE TIME AND DATE.
JONATHAN STARKEY IS THE OWNER AND PRINCIPAL OF STUDY HALL RESTAURANT AND BAR.

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

Affiant's Address 1198 TIGER BOULEVARD / 4400 2nd Street Rd.
CLEMSON SC 29631 Columbia, S.C. 29206
Affiant's Telephone (864) 624-2000 803-777-9000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/28/2019 defendant JONATHAN EARL STARKEY

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of CLEMSON) as set forth below:

DESCRIPTION OF OFFENSE: ALCOHOL / UNLAWFUL STORAGE OR POSSESSION OF ALCOHOLIC
LIQUORS IN PLACE OF BUSINESS - 1ST OFFENSE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/01/2019 1:45 PM
Date Time (L.S.)
T. DANIEL

Judge Code: 8050

Judge's Address 1250 TIGER BLVD. SUITE 3
CLEMSON SC 29631
Judge's Telephone 864 653-2064
Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

Case: 2019A3920200067

ORIGINAL

BAIL set by

Judge _____
on _____
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defense Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

RECEIVED

MAR 14 1968

SONG
BAYVIEW

046

#320701852



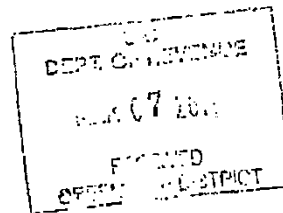
Public:
Home
Contact Information
General Information

SLED CATCH
Citizens Access to Criminal Histories

Results

Alcohol Enforcement
AMBER Alert
Aviation Flight Log
Blue Alert
Cold Case
Concealed Weapons Permit Program
Constables
Counter-Terrorism
Crime Reporting & Statistics
Criminal Justice Information Services
Criminal Records Check
Endangered Person Advisory
Homeland Security Grants Admin
Implied Consent
Methamphetamine Tracking/NPLEx
NewsRoom
Private Investigations & Security Licenses / Registrations
Procurement Services
SC State Agency Spending Transparency
Sex Offender Registry
Unidentified Remains
Vulnerable Adult
Wanted / Unsolved
ILAB

Name **JETLIR BELEGN**
DOB **1996**
Gender **Male**
Maiden Name
SSN
Transaction **3612423GGJ**
Date of Check **March 06, 2019 at 12:04**



To Whom it May Concern:

The criminal history search was based upon the criteria furnished. It did not include a fingerprint comparison, which is the only means of positive identification. This **NO ARREST DATA** verification is only valid as of March 06, 2019 at 12:04 since a record may be established after that time. Therefore, if no action is taken within a reasonable period, it is recommended that another check be made.

Sincerely,

Chief Mark Keel
South Carolina Law Enforcement Division

Return Another Check

Member:
Secure Services

047

374

422

DEPT. OF REVENUE
111.07.001
OFFICE OF THE
COMPTROLLER

WINTER SEASON 155

DOB: [REDACTED] 1973

Issued: 04-24-2014

Expires: 05-20-2015

Class: D

Sex: M

Weight: 125

Height:

Age:

Enc: 2 28094 01

UNDER 18 UNTIL 09-23-2014

048

375

423

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of Denial

ABL-931
(Rev. 11/28/18)
4403

Case ID: 0-000-438-778
Letter ID: L0008142279
Date Issued: December 07, 2018

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

RE: FILE # 320701852
STUDY HALL LLC
101 SLOAN ST
CLEMSON SC 29631-1434

Your renewal was not submitted in time before your license and/or permit expired. You can't renew your expired license and/or permit until you have paid the late filing fee of \$300 per month for the beer and wine permit and \$200 per month for the liquor permit.

You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license.

Additionally, in accordance with SC Code of Laws, Title 61 and Title 8, the South Carolina Department of Revenue (SCDOR) is also denying the renewal of the above-referenced beer/wine and/or liquor application. This is based upon the following:

- Failure to file South Carolina State Income Tax for one or more principals for the following year(s): 2014-2017 JONATHAN STARKEY. Notify Alcohol Beverage Licensing within 90 days that the taxes have been filed.
- You must provide a copy of your liquor liability policy or general liability insurance policy with a liquor endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. See SC Code Section 61-2-145 on our website at dor.sc.gov/policy.

You may still obtain the renewal of your license or permit by supplying the requested information, documentation, or otherwise comply with the requirements necessary for licensure. See the next page of this notice for your appeal options.

049

376

424



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of Denial

ABL-931
(Rev. 11/28/18)
4403

If you are unable or unwilling to meet these requirements you may also protest this denial. Your protest must be in writing, must reach the department within ninety (90) days of the date of this letter, and must include the following information:

1. Your name, address, and telephone number.
2. A statement of facts supporting your position.
3. A statement outlining the reasons for your protest, including any law or other authority upon which you are relying, and the relief which you are seeking.

You must forward your protest to the ABL Section of the South Carolina Department of Revenue at the address shown below. After review of your protest, the ABL Section of South Carolina Department of Revenue will either continue to process your renewal application or forward it to the Office of General Counsel for the Department of Revenue for their review and final determination.

If you do not respond to this Notice of Denial as stated above, this Denial will be final and you will have no further rights to protest or appeal. You will be required to reapply.

You **MUST** cease all sales of beer, wine, and/or liquor until you receive your renewed license.

NOTE: If you are in bankruptcy, please forward the bankruptcy number and date filed to our attention.

South Carolina Department of Revenue
Alcohol Beverage Licensing
P.O. Box 125
Columbia, SC 29214-0907
803-898-5864



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

March 20, 2019

Study Hall, LLC
d/b/a Study Hall, LLC
Attn: Jon Starkey
390 Ridgecrest Dr.
Clemson, SC 29631

NOTICE OF INTENT TO CANCEL

Re: Study Hall, LLC.
Beer and Wine Permit #320701852-PBW
Liquor License #320701852-PLB
Study Hall, LLC d/b/a Study Hall, LLC.
101 Sloan St., Clemson, SC 29631

Dear Mr. Starkey,

We regret to inform you that based upon a review of the Department's records; it appears that your On-Premises Beer and Wine Permit and Liquor by the Drink License was erroneously granted on March 7, 2019.

On December 7, 2018, the Department issued a late renewal denial notice. This notice advised you to cease all sales of beer, wine and liquor until you came into compliance. On March 7, 2019, you provided the Department with the necessary documentation and was issued a permit and license.¹ However, the Department's records indicate that your location was unlicensed from November 30, 2018 thru March 7, 2019.

After the permit and license were issued, South Carolina Law Enforcement Division (SLED) informed the Department that you were selling alcohol beverages without a license on February 28, 2019.² Selling alcoholic beverages without a license indicates that you lack the requisite

¹ On March 11, 2019, the Department instructed you to surrender the permit and license due to the issue dates being incorrect. On March 12, 2019, you surrendered the permit and license to the Greenville District office, and was issued a correctly dated permit and license.

² Mr. Starkey was charged with violating of S.C. Code Ann. §§61-4-560 (2009) and 61-6-4060(A) (2009).

Moral character to hold an alcohol permit and license as required by S.C. Code Ann. §§ 61-2-100(D), 61-4-520, and 61-6-1820(2) (2009).

Accordingly, the S.C. Department of Revenue intends to cancel your On Premises Beer and Wine Permit and your Liquor by the Drink License.

You have the following options:

1. You may consent to the cancellation and surrender your permit/license. The permit and license must reach the Department within ninety (90) days from the date of this letter. Please return the enclosed copy of this letter with your permit/license.
2. Alternatively, you may protest the proposed cancellation. This protest must be in writing and must reach the Department within ninety (90) days from the date of this letter. Your protest must include the following information:
 - (a) Your name, address, and telephone number;
 - (b) Your permit/license number;
 - (c) The date of the alleged violation;
 - (d) A statement of the facts supporting your position;
 - (e) A statement outlining the reasons for your appeal, including any law or other authority upon which you are relying.

If you do not respond to this letter as stated above, you will lose all rights to appeal this matter, and the cancellation will be made as indicated.

Sincerely,

Krista Strzelczyk
South Carolina Department of Revenue
Field Operations/Alcohol Beverage Licensing Supervisor
(803) 898-5064

CERTIFICATE OF MAILING

I hereby certify the following:

(Circle one)

1. I am one of the following for the South Carolina Department of Revenue
 - a. an attorney,
 - b. an ABL Analyst
 - ☒ c. an ABL Supervisor

2. I have served one of the following documents upon the license holder(s):

- a. Notice of Dismissal, Dated;
- ☒ b. Notice of Cancellation, Dated; March 20, 2019
- c. Notice of Intent to Suspend, Dated _____; or
- d. Notice of Intent to Revoke, Dated _____; or
- e. Notice of Proposed Assessment and Intent to Revoke,
Dated _____; or
- f. Final Determination, Dated _____

3. I have caused the item identified above to be delivered to the U.S. Postal Service, with first-class postage attached, and sent to the license holder(s) addressed as follows:

STUDY HALL, LLC
390 RIDGECREST DR.
CLEMSON, SC 29631
File #320701852-PBW/PLB

4. Executed this 20th day of March 2019.

5. Signature: *Krista Stundom*

053



BURNETTE SHUTT MCDANIEL

Moving law forward.

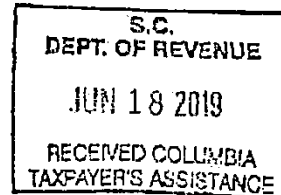
Kathleen McDaniel – Partner
803.904.7913 Direct
kmcdaniel@BurnetteShutt.law

BURNETTE SHUTT & MCDANIEL, PA
912 Lady Street | PO Box 1929 | Columbia, SC 29202
O: 803.850.0912 F: 803.904.7910
burnetteshutt.law

June 18, 2019

VIA Hand Delivery

SC Dept. of Revenue
Alcohol Beverage Licensing
300A Outlet Pointe Blvd.
Columbia, South Carolina 29210



RE: Study Hall, LLC
Beer and Wine Permit #: 320701852-PBW
Liquor License #: 320701852-PLB
101 Sloan Street, Clemson, SC 29631
BSM File No.: 19102.001

To whom it may concern:

Please be informed that I represent Jon Starkey and Study Hall, LLC in the matter of SCDOR's Notice of Intent to Cancel, dated March 20, 2019. I am writing to file an official protest of the proposed cancellation. Below you will find the information the Notice directed Mr. Starkey to provide for the purpose of such protest.

(a) Name, address, and telephone number

Jon Starkey



RECEIVED

JUN 19 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

(b) Permit/license number

Beer and Wine Permit #: 320701852-PBW
Liquor License #: 320701852-PLB

(c) Date of alleged violation

Based upon SC DOR's Notice, it appears that the date of the alleged violation was February 28, 2019, which is when Mr. Starkey was charged with violating S.C. Code Ann. § 61-4-560 and 61-6-4060(A).

054

RECEIVED

JUN 19 2019

(d) Statement of facts

SCDOR ALCOHOLIC
BEVERAGE LICENSING

On December 7, 2018, Mr. Starkey filed the application to renew the PBW-On Premises Beer & Wine and PLB-Business Liquor by the Drink licenses for Study Hall, LLC. At that time, he paid SC DOR \$2,805.00 by check. On that same date, Mr. Starkey met in-person with a DOR representative who gave him the Notice of Denial because the renewal was late. At that time, the agent explained that he also had 90 days to correct problems with filing South Carolina income taxes for several years and to provide a copy of the applicable liability insurance policy. The agent told Mr. Starkey that he had 90 days in which to address these issues. Mr. Starkey asked if he was "good to go" during that period, and Mr. Starkey recalls the representative saying yes. Mr. Starkey understood this to mean that he could continue to sell alcohol during the 90-day period when he was working through the tax issues. Mr. Starkey did not see the language in the Notice of Denial stating the he could not sell alcohol during that 90-day period.

Again, Mr. Starkey did not see the pertinent portion of the Denial of Renewal, so he continued to operate. Not only that, Mr. Starkey has paid all taxes on his sales to all state and local agencies for all of 2019. SC DOR issued his renewal on March 7, 2019, at which time Mr. Starkey again believed that all matters were appropriately handled. It appears SC DOR now wants to retroactively revoke Mr. Starkey's licenses, which should not be permitted.

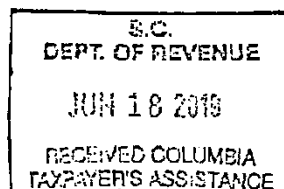
(e) Statement of basis for appeal

SC DOR takes the position that because Mr. Starkey sold alcohol without a license to do so he lacks the necessary moral character to hold an alcohol permit and license. As set forth above, Mr. Starkey thought that his alcohol licenses were still in good standing at all times. He did not see the pertinent language in the Denial of Renewal, the SC DOR representative did not tell him that he could not sell alcohol during the 90-day period, and he thought the representative told him that he could see during the 90-day period, so he believed that he was properly licensed to sell alcohol at all times pertinent. This is no reflection on Mr. Starkey's moral character and should not affect his ability to maintain his alcohol licenses.

Furthermore, there has been no adjudication on the alleged sale of alcohol without a license. Therefore, any such citation cannot form the basis for revocation of Mr. Starkey's licenses at this time.

Finally, the SLED agents confiscated a large portion of Mr. Starkey's liquor, beer, and wine inventory. There is no need for that entire inventory worth thousands of dollars to be retained as evidence. Please provide me with the appropriate procedure or contact person for reclaiming that inventory.

If you need further information, feel free to contact me at your convenience.



Very truly yours,

A handwritten signature in black ink that reads "Kathleen McDaniel".

Kathleen McDaniel

055

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

Physical Address:
300A Outlet Pointe Blvd.
Columbia, SC 29210



Mailing Address:
PO Box 12265
Columbia, SC 29211-9979

July 15, 2019

Kathleen McDaniel, Esquire
Burnette Shutt McDaniel, P.A.
P.O. Box 1929
Columbia, SC 29202

Re: Department Determination
Study Hall, LLC, d/b/a Study Hall LLC
Renewal Application File Number: 320701852-PBW & PLB
Our File Number: 190191

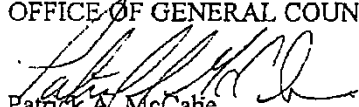
Dear Ms. McDaniel:

Enclosed is the South Carolina Department of Revenue's Determination in the above-referenced matter. If you disagree with the Determination, you may request a contested case hearing before an Administrative Law Judge. If you choose to pursue such remedy, you must do so within thirty (30) days of the date of this letter. If you fail to respond within this time limitation, you will lose your right to appeal the Department Determination and your protest will be ended. Should you desire a contested case hearing, you must complete the enclosed request form and mail it, along with a \$150.00 filing fee, to the Administrative Law Court at the address stated on the form's instruction sheet.

The Administrative Law Court rules require that you also send me a copy of your request. My address is as follows: P.O. Box 12265, Columbia, SC 29211-9979.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION


Patrick A. McCabe
Counsel for Litigation
Patrick.McCabe@dor.sc.gov
803-898-5056

Enclosures
PAM: tm

056

383

431

DEPARTMENT DETERMINATION

Licensee:

Study Hall, LLC
d/b/a Study Hall, LLC
101 Sloan Street
Clemson SC 29631

File No.:

320701852-PBW/PLB

Matter in Dispute:

Did the South Carolina Department of Revenue (Department) properly cancel the Licensee's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Licensee's principal is not of good moral character pursuant to S.C. Code Ann. §§ 61-2-100(D), 61-4-520 and 61-6-1820(2) (2009)?

Determination:

The Department properly canceled the Licensee's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Licensee's principal is not of good moral character.

Relevant Facts:

1. On December 7, 2018, the Department received an on-premises beer and wine permit and restaurant liquor by the drink license renewal application for Study Hall, LLC, d/b/a Study Hall, LLC (Licensee), for its location at 101 Sloan Street, Clemson, South Carolina (Licensed Location).
2. On December 7, 2018, the Department issued an ABL Renewal Notice of Denial letter. The notice informed the Licensee that because its ABL renewal was not submitted before its license and permit expired, and the Licensee would need to pay a late filing fee, the permit and license were denied. The notice also informed the Licensee that the permit and license were denied because the Licensee failed to provide the Department with a copy of the Licensee's liquor liability policy and that Mr. Jonathan Starkey, the Licensee's sole principal, failed to file South Carolina State Income Tax. The notice contained the following language in bold print - "You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license."
3. On Thursday, February 28, 2019, South Carolina Law Enforcement Division (SLED) Special Agents Dorman, Benjamin, and Phillips along with officers of the Clemson City Police Department, conducted an undercover alcohol operation at the Licensed Location. Prior to

beginning the operation, Special Agent Dorman verified with the Department that the Licensee did not have a valid on-premises beer and wine permit and restaurant liquor by the drink license.

At approximately 5:30 p.m. Special Agent Phillips entered the location in an undercover capacity and approached the bar. He then proceeded to order a Bud Light beer from the bartender, who was later identified as Ms. Shelby Sheets. Ms. Sheets opened the beer and placed it in front of Special Agent Phillips. Special Agent Phillips paid \$3.25 for the beer, receiving \$6.75 in change and a receipt showing proof of purchase of the beer. Special Agent Phillips obtained a sample of the beer and left the location.

Following the purchase of the beer, Special Agent Dorman obtained a search warrant from Clemson Municipal Judge T. Daniel as a result of the illegal beer sale and liquor being stored in a place of business. After obtaining the signed search warrant, the warrant was served on the Licensed Location. SLED seized all contraband beer, wine and alcoholic liquor on the premises pursuant to S.C. Code Ann. §§ 61-4-150 (2009) and 61-6-2610 (2009). During the course of the investigation, the businesses manager, Alvin Dark, provided Special Agent Dorman a copy of the December 7, 2018 ABL Renewal Notice of Denial letter, which contained the following language : **"You MUST cease all sales of beer, wine and/or liquor until you receive your renewed license."**

4. On March 7, 2019, the Licensee provided the Department the necessary paperwork and was issued an on-premises beer and wine permit and restaurant liquor by the drink license.
5. On March 11, 2019, the Department instructed the Licensee to surrender the permit and license due to the issuance date being incorrect.¹
6. On March 12, 2019, the Licensee surrendered the permit and license to the Greenville District Office.
7. On March 12, 2019, the Greenville District Office issued a correctly dated permit and license.²
8. After the permit and license were issued, SLED informed the Department that the Licensee was selling alcoholic beverages without a license on February 28, 2019.
9. On March 20, 2019, the Department issued a Notice of Intent to Cancel letter. The notice informed the Licensee that selling alcoholic beverages without a license is an indication that Mr. Starkey lacks the requisite moral character to hold an alcohol permit and license as required by §§ 61-2-100(D), 61-4-520 and 61-6-1820(2).

¹The erroneous permit and license listed December 1, 2018, as the date of issuance.

²The corrected permit and license listed March 7, 2019, as the date of issuance.

10. The Licensee protested the Notice of Intent to Cancel by letter received on June 18, 2019.

Analysis:

The Department properly canceled the Licensee's permit and license because the Licensee's principal is not of good moral character as required by §§ 61-2-100(D), 61-4-520, and 61-6-1820(2).

Several statutory provisions address the moral character of an applicant seeking a beer and wine permit in South Carolina. Specifically, § 61-2-100(D) mandates, "The [D]epartment may not issue a license or permit under this title to any person unless the person and all principals are of good moral character." Also, § 61-4-520 states in pertinent part: "A retail permit authorizing the sale for beer or wine must not be issued unless: (1) The applicant, any partner or co-shareholder of the applicant, and each agent employee and servant of the applicant to be employed on the licensed premises are of good moral character."

Although there is no single criterion by which to determine if a person is of good moral character, "it is a generally recognized principal that a liquor license may be refused [to] a person who has previously been convicted of a crime or crimes, particularly a violation of liquor laws." Wall v. S.C. Alcoholic Beverage Control Comm'n, 269 S.C. 13, 16, 235 S.E.2d 806, 808 (1977). Here the Licensee was selling alcohol without a license. The Licensee's argument that on December 7, 2018, some unnamed Department of Revenue employee said he was "good to go" is not creditable. Even if a Department employee made this statement, Mr. Starkey was provided the Department's denial letter which clearly indicated in bold print that "**You MUST cease all sales of beer, wine and/or liquor until you receive your renewed license.**"

The sale of alcohol without a license is indicative of poor moral character and is ample support for the assertion that the Licensee's principal lacks the requisite moral character needed to hold an on-premises beer and wine permit and restaurant liquor by the drink license in the State of South Carolina.³

If the Department had been made aware of the arrest for the unlicensed sale of alcohol prior to the issuance of the permit and license, it would have denied the renewal application for lack of

³Additionally, Mr. Starkey's business practices while operating an alcohol establishment (Rude Rudy's) in Statesboro, Georgia raise concern about his moral character. In 2014, an underage bouncer, who had been served alcohol all evening, murdered Michael Gatto, an eighteen (18) year old patron of the bar. Statements given to the police after the murder indicate that it was a common practice for underage employees to be given over twenty-one (21) wristbands so they could drink alcoholic beverages off duty. Shortly after the murder of Michael Gatto, Mr. Starkey entered into a settlement agreement with the City of Statesboro. This agreement required Mr. Starkey to close Rude Rudy's and to forfeit all rights and privileges associated with an alcohol beverage license, agreeing that Mr. Starkey would never seek, nor be granted, an alcohol beverage license from the City of Statesboro.

moral character. Accordingly, when the Department learned of the unlicensed sale, it properly canceled the existing permit and license.

Conclusion:

If you agree with this Department Determination, please withdraw (in writing) your renewal application within thirty (30) days of the Date of this Determination. If you disagree, please appeal the Determination within such thirty-day (30) period as noted on the attached cover letter.

July 15, 2019

South Carolina Administrative Law Court (SCALC)
Request for Contested Case Hearing FORM
Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name: Starkey First: Jon Middle: ☒ Mr. ☐ Miss ☐ Mrs. ☐ Ms. Docket No. (To Be Completed by ALC)
Mailing Address: City: State and Zip:
Home Number: Work Number: Cell Number: *E-Mail Address:

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? ☐ Yes ☒ No

Are you represented by an Attorney? ☒ Yes ☐ No

Attorney Mailing Address: Burnette Shutt & McDaniel, PA
912 Lady Street
Second Floor

Name of Attorney: Kathleen McDaniel, Esq.
City, State and Zip: Columbia, SC 29201

Attorney Work Number and Cell Number:
803-904-7913 (office)
843-345-8865 (cell)

Attorney E-Mail Address:
kmdaniel@burnetteshutt.law

South Carolina Department of Revenue
Litigation & Appeals

AUG 21 2019

Received

CASE INFORMATION

Name of Agency that Issued the Decision: Department of Revenue
(Example - Dept. of Revenue, Dept. of Insurance, DHEC)

In order to have your case processed, you must attach the agency decision. Is it attached?:
☒ Yes ☐ No If no, please explain:

Date the decision was issued: July 15, 2019

Date the decision was received: July 17, 2019

Please provide a brief statement regarding why the hearing is being requested and the relief sought:

Jon Starkey, the owner of Study Hall, LLC, was late in renewing his PBW-On Premises Beer & Wine and PLB-Business Liquor by the Drink licenses for the Study Hall bar in Clemson, SC. When he went to renew the licenses on December 7, 2018, a DOR representative gave him a Notice of Denial and informed him he had 90 days to correct certain tax and insurance issues. It was Mr. Starkey's understanding that the bar could continue to serve alcohol. DOR issued the licenses, but during the correction period a ticket was issued for the alleged unpermitted sale of alcohol. DOR retroactively revoked his licenses. This was a sincere misunderstanding on Mr. Starkey's part. He corrected the tax and insurance issues and the licenses were properly issued. This should not serve as a basis for revoking the alcohol licenses. This Court should find that the alcohol licenses were properly issued.

Payment via ☒ Check ☐ Money Order ☐ Cash for \$150.00 (applicable filing fee pursuant to ALC Rule 71) is being submitted today to the Administrative Law Court via ☐ U.S. Postal Service ☒ Hand-delivery

Kathleen McDaniel
X Your Signature or Signature of Attorney

August 14, 2019
Date

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: Kathleen McDaniel, Esq.

Date: August 14, 2019 City: Columbia State: SC

I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):

SC Dept. of Revenue 300A Outlet Pointe Blvd. Columbia, SC 29210
Name and/or Agency Name Address City, State and Zip

Name and/or Agency Name Address City, State and Zip

Kathleen McDaniel
X Your Signature or Signature of Attorney

August 14, 2019
Date

SC ADMIN LAW COURT

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

061

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

 **SCANNED**

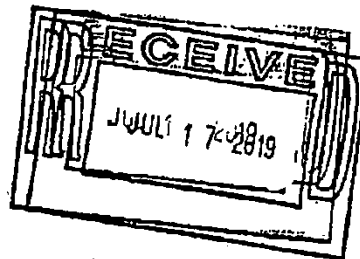
Physical Address:
300A Outlet Pointe Blvd.
Columbia, SC 29210



Mailing Address:
PO Box 12265
Columbia, SC 29211-9979

July 15, 2019

Kathleen McDaniel, Esquire
Burnette Shutt McDaniel, P.A.
P.O. Box 1929
Columbia, SC 29202



Re: Department Determination
Study Hall, LLC, d/b/a Study Hall LLC
Renewal Application File Number: 320701852-PBW & PLB
Our File Number: 190191

Dear Ms. McDaniel:

Enclosed is the South Carolina Department of Revenue's Determination in the above-referenced matter. If you disagree with the Determination, you may request a contested case hearing before an Administrative Law Judge. If you choose to pursue such remedy, you must do so within thirty (30) days of the date of this letter. If you fail to respond within this time limitation, you will lose your right to appeal the Department Determination and your protest will be ended. Should you desire a contested case hearing, you must complete the enclosed request form and mail it, along with a \$150.00 filing fee, to the Administrative Law Court at the address stated on the form's instruction sheet.

The Administrative Law Court rules require that you also send me a copy of your request. My address is as follows: P.O. Box 12265, Columbia, SC 29211-9979.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION


Patrick A. McCabe
Counsel for Litigation
Patrick.McCabe@dor.sc.gov
803-898-5056

Enclosures
PAM: tm

062

DEPARTMENT DETERMINATION

Licensee:

Study Hall, LLC
d/b/a Study Hall, LLC
101 Sloan Street
Clemson SC 29631

File No.:

320701852-PBW/PLB

Matter in Dispute:

Did the South Carolina Department of Revenue (Department) properly cancel the Licensee's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Licensee's principal is not of good moral character pursuant to S.C. Code Ann. §§ 61-2-100(D), 61-4-520 and 61-6-1820(2) (2009)?

Determination:

The Department properly canceled the Licensee's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Licensee's principal is not of good moral character.

Relevant Facts:

1. On December 7, 2018, the Department received an on-premises beer and wine permit and restaurant liquor by the drink license renewal application for Study Hall, LLC, d/b/a Study Hall, LLC (Licensee), for its location at 101 Sloan Street, Clemson, South Carolina (Licensed Location).
2. On December 7, 2018, the Department issued an ABL Renewal Notice of Denial letter. The notice informed the Licensee that because its ABL renewal was not submitted before its license and permit expired, and the Licensee would need to pay a late filing fee, the permit and license were denied. The notice also informed the Licensee that the permit and license were denied because the Licensee failed to provide the Department with a copy of the Licensee's liquor liability policy and that Mr. Jonathan Starkey, the Licensee's sole principal, failed to file South Carolina State Income Tax. The notice contained the following language in bold print - "You **MUST** cease all sales of beer, wine, and/or liquor until you receive your renewed license."
3. On Thursday, February 28, 2019, South Carolina Law Enforcement Division (SLED) Special Agents Dorman, Benjamin, and Phillips along with officers of the Clemson City Police Department, conducted an undercover alcohol operation at the Licensed Location. Prior to

beginning the operation, Special Agent Dorman verified with the Department that the Licensee did not have a valid on-premises beer and wine permit and restaurant liquor by the drink license.

At approximately 5:30 p.m. Special Agent Phillips entered the location in an undercover capacity and approached the bar. He then proceeded to order a Bud Light beer from the bartender, who was later identified as Ms. Shelby Sheets. Ms. Sheets opened the beer and placed it in front of Special Agent Phillips. Special Agent Phillips paid \$3.25 for the beer, receiving \$6.75 in change and a receipt showing proof of purchase of the beer. Special Agent Phillips obtained a sample of the beer and left the location.

Following the purchase of the beer, Special Agent Dorman obtained a search warrant from Clemson Municipal Judge T. Daniel as a result of the illegal beer sale and liquor being stored in a place of business. After obtaining the signed search warrant, the warrant was served on the Licensed Location. SLED seized all contraband beer, wine and alcoholic liquor on the premises pursuant to S.C. Code Ann. §§ 61-4-150 (2009) and 61-6-2610 (2009). During the course of the investigation, the businesses manager, Alvin Dark, provided Special Agent Dorman a copy of the December 7, 2018 ABL Renewal Notice of Denial letter, which contained the following language: "You MUST cease all sales of beer, wine and/or liquor until you receive your renewed license."

4. On March 7, 2019, the Licensee provided the Department the necessary paperwork and was issued an on-premises beer and wine permit and restaurant liquor by the drink license.
5. On March 11, 2019, the Department instructed the Licensee to surrender the permit and license due to the issuance date being incorrect.¹
6. On March 12, 2019, the Licensee surrendered the permit and license to the Greenville District Office.
7. On March 12, 2019, the Greenville District Office issued a correctly dated permit and license.²
8. After the permit and license were issued, SLED informed the Department that the Licensee was selling alcoholic beverages without a license on February 28, 2019.
9. On March 20, 2019, the Department issued a Notice of Intent to Cancel letter. The notice informed the Licensee that selling alcoholic beverages without a license is an indication that Mr. Starkey lacks the requisite moral character to hold an alcohol permit and license as required by §§ 61-2-100(D), 61-4-520 and 61-6-1820(2).

¹The erroneous permit and license listed December 1, 2018, as the date of issuance.

²The corrected permit and license listed March 7, 2019, as the date of issuance.

10. The Licensee protested the Notice of Intent to Cancel by letter received on June 18, 2019.

Analysis:

The Department properly canceled the Licensee's permit and license because the Licensee's principal is not of good moral character as required by §§ 61-2-100(D), 61-4-520, and 61-6-1820(2).

Several statutory provisions address the moral character of an applicant seeking a beer and wine permit in South Carolina. Specifically, § 61-2-100(D) mandates, "The [D]epartment may not issue a license or permit under this title to any person unless the person and all principals are of good moral character." Also, § 61-4-520 states in pertinent part: "A retail permit authorizing the sale for beer or wine must not be issued unless: (1) The applicant, any partner or co-shareholder of the applicant, and each agent employee and servant of the applicant to be employed on the licensed premises are of good moral character."

Although there is no single criterion by which to determine if a person is of good moral character, "it is a generally recognized principal that a liquor license may be refused [to] a person who has previously been convicted of a crime or crimes, particularly a violation of liquor laws." Wall v. S.C. Alcoholic Beverage Control Comm'n, 269 S.C. 13, 16, 235 S.E.2d 806, 808 (1977). Here the Licensee was selling alcohol without a license. The Licensee's argument that on December 7, 2018, some unnamed Department of Revenue employee said he was "good to go" is not creditable. Even if a Department employee made this statement, Mr. Starkey was provided the Department's denial letter which clearly indicated in bold print that "You MUST cease all sales of beer, wine and/or liquor until you receive your renewed license."

The sale of alcohol without a license is indicative of poor moral character and is ample support for the assertion that the Licensee's principal lacks the requisite moral character needed to hold an on-premises beer and wine permit and restaurant liquor by the drink license in the State of South Carolina.³

If the Department had been made aware of the arrest for the unlicensed sale of alcohol prior to the issuance of the permit and license, it would have denied the renewal application for lack of

³Additionally, Mr. Starkey's business practices while operating an alcohol establishment (Rude Rudy's) in Statesboro, Georgia raise concern about his moral character. In 2014, an underage bouncer, who had been served alcohol all evening, murdered Michael Gatto, an eighteen (18) year old patron of the bar. Statements given to the police after the murder indicate that it was a common practice for underage employees to be given over twenty-one (21) wristbands so they could drink alcoholic beverages off duty. Shortly after the murder of Michael Gatto, Mr. Starkey entered into a settlement agreement with the City of Statesboro. This agreement required Mr. Starkey to close Rude Rudy's and to forfeit all rights and privileges associated with an alcohol beverage license, agreeing that Mr. Starkey would never seek, nor be granted, an alcohol beverage license from the City of Statesboro.

moral character. Accordingly, when the Department learned of the unlicensed sale, it properly canceled the existing permit and license.

Conclusion:

If you agree with this Department Determination, please withdraw (in writing) your renewal application within thirty (30) days of the Date of this Determination. If you disagree, please appeal the Determination within such thirty-day (30) period as noted on the attached cover letter.

July 15, 2019

Filing and Assignment of a Contested Case with the Administrative Law Court

Complete the Request for Contested Case Hearing and Certificate of Service form in its entirety. File the original by mailing it or hand delivering it to the Administrative Law Court, along with a copy of the decision from the agency (for example: Department Determination) and the appropriate filing fee. Be sure to serve a copy of the Request on the agency which you are appealing (see address below) as well as any other known parties or protestants.

Your case will be deemed filed with the Administrative Law Court upon receipt of your request and filing fee, and will normally be assigned to an administrative law judge within a week of filing. You should receive a Notice of Assignment within a few days of your case being assigned. The Notice of Assignment will have the case caption, docket number, date of filing and the name of the administrative law judge assigned to your case. Once your case has been assigned, all filings and questions regarding your case should be directed to the assigned judge.

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201

South Carolina Department of Revenue
Litigation & Appeals
Office of General Counsel
P.O. Box 12265
Columbia, SC 29211-9979

South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM
Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name:		First:	Middle:	☐ Mr. ☐ Mrs.	☐ Miss ☐ Ms.	Docket No. (To Be Completed by ALC)
Mailing Address:			City:		State and Zip:	
Home Number:		Work Number:		Cell Number:		*E-Mail Address:

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? ☐ Yes ☐ No

Are you represented by an Attorney? ☐ Yes ☐ No

Name of Attorney:

Attorney Mailing Address:

City, State and Zip:

Attorney Work Number and Cell Number:

Attorney E-Mail Address:

CASE INFORMATION

Name of Agency that Issued the Decision:
 (Example - Dept. of Revenue, Dept. of Insurance, DHEC)

In order to have your case processed, you must attach the agency decision. Is it attached?
☐ Yes ☐ No

If no, please explain:

Date the decision was issued:

Date the decision was received:

Please provide a brief statement regarding why the hearing is being requested and the relief sought:

Payment via ☐ Check ☐ Money Order ☐ Cash for \$
 submitted today to the Administrative Law Court via

(applicable filing fee pursuant to ALC Rule 71) is being
☐ U.S. Postal Service ☐ Hand-delivery

X Your Signature or Signature of Attorney

Date

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name:

Date:

City:

State:

I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):

Name and/or Agency Name

Address

City, State and Zip

Name and/or Agency Name

Address

City, State and Zip

X Your Signature or Signature of Attorney

Date

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

AUG 26 2019

Received

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,

Petitioner,

vs.

Study Hall, LLC, d/b/a Study Hall, LLC,

Respondent.

NOTICE OF ASSIGNMENT
(Contested Case)

DOCKET NO. 19-ALJ-17-0269-CC

NOTICE IS GIVEN that a request for a contested case hearing was filed on August 14, 2019. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2018), the Honorable H. W. Funderburk, Jr., Administrative Law Judge, has been assigned to preside in this matter. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550. Pursuant to SCALC Rule 4A, all future filings (except for the Agency Information Sheet) must be filed directly with the above assigned Judge and shall include the docket number.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scalc.net.

A copy of any document or any other item filed with the Court shall be sent to all other parties at the time of filing. If a mailing address changes, or if an address is incorrect, the Court must be notified immediately of the correct address.

This the twenty-third day of August 2019.

Ralph King Anderson, III
Chief Administrative Law Judge

By:

Jana E. Shealy
Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED

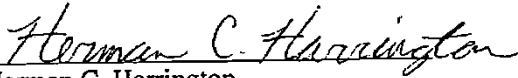
AUG 28 2019

SC ADMIN. LAW COURT
069

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	DOCKET NO. 19-ALJ-17-0269-CC
	)	
	)	
Petitioner,	)	CERTIFICATION OF DOCUMENTS
	)	
vs.	)	
	)	
Study Hall, LLC, d/b/a Study Hall, LLC,	)	
	)	
	)	
Respondent.	)	
	)	

I, Herman C. Harrington, an employee of the South Carolina Department of Revenue, do hereby certify that the attached documents, numbered 1 through 69 in the case, South Carolina Department of Revenue vs. Study Hall, LLC, d/b/a Study Hall, LLC, Docket No. 19-ALJ-17-0269-CC are hereby certified by this Certificate as true and correct copies of the original documents maintained by the South Carolina Department of Revenue in connection with its statutory responsibilities pertaining to the issuance of alcohol licenses and beer and wine permits. Certified this 4th day of September, 2019.


Herman C. Harrington
Paralegal
Office of Litigation & Appeals Division
South Carolina Department of Revenue

SU14-CR-1618W

IN THE SUPERIOR COURT OF BULLOCH COUNTY

NOVEMBER TERM 2014

STATE OF GEORGIA,

v.

GRANT JAMES SPENCER,
Defendant(s).

* CT. 1: FELONY MURDER O.C.G.A. 16-5-1(C)
* CT. 2: AGGRAVATED BATTERY O.C.G.A. 16-5-24
*
*
*

BILL OF INDICTMENT

TRUE BILL

Det. Ben Purvis
Foreperson

Det. Ben Purvis, SPD, Prosecutor

RICHARD A. MALLARD
District Attorney
Ogeechee Judicial Circuit

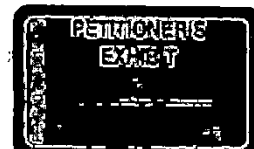
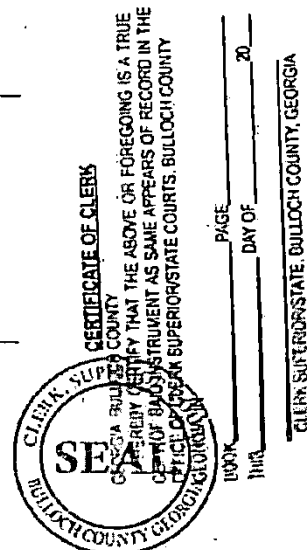
Returned in Open Court and filed in Office

this 30th day of November, 2014

Heather B. McNeal
Clerk of Superior Court

The State and Defense
enter into a negotiated plea
agreement wherein the Defendant
will enter a guilty plea to the charge
of Voluntary manslaughter on Count 1.
Count 2 is Nolle Prossed.
Debra L. Latta, ADA

398



**STATE OF GEORGIA
COUNTY OF BULLOCH**

The Grand Jurors, aforesaid, selected, chosen, and sworn for the County of Bulloch, in the name and on behalf of the citizens of Georgia, charge and accuse **GRANT JAMES SPENCER** with the offense of **Felony Murder** in that the said accused, in said State and said County, between the 28th day of August, 2014, and the 30th day of August, 2014, while in the commission of the offense of **Aggravated Battery**, a felony, did cause the death of Michael Joseph Gatto, a human being, by hitting him in the head and face repeatedly causing a skull fracture and blunt force trauma to his head, contrary to the laws of said State, the good order, peace, and dignity thereof.

COUNT 2

And the Grand Jurors, aforesaid, selected, chosen, and sworn for the County of Bulloch, in the name and on behalf of the citizens of Georgia, do further charge and accuse **GRANT JAMES SPENCER** with the offense of **Aggravated Battery** in that the said accused, in said State and said County, between the 28th day of August, 2014 and August 30th, 2014., did maliciously cause bodily harm to Michael Joseph Gatto by rendering his brain, a member of said person's body, useless by hitting him in the head and face repeatedly causing a skull fracture and blunt force trauma to his head , contrary to the laws of said State, the good order, peace, and dignity thereof.

Richard A. Mallard,
District Attorney

This 1st day of December, 2014.

Daphne J. Jolke
Assistant District Attorney

The Defendant having been arraigned and having been furnished with a copy of the Bill of Indictment and with a list of witnesses on whose testimony the charge against him or her is found, pleads as follows:

Guilty / Not Guilty: Guilty

Grant James Spencer

[Signature]
Counsel for Defendant

This 11th day of October, 2016.

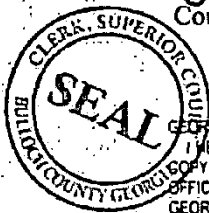
Daphne Jolke
Assistant District Attorney

The Defendant having been arraigned and having been furnished with a copy of the Bill of Indictment and with a list of witnesses on whose testimony the charge against him or her is found, pleads as follows:

Guilty / Not Guilty: Guilty

Grant James Spencer

[Signature]
Counsel for Defendant



CERTIFICATE OF CLERK

GEORGIA BULLOCH COUNTY
I HEREBY CERTIFY THAT THE ABOVE OR FOREGOING IS A TRUE
COPY OF SAID INSTRUMENT AS SAME APPEARS OF RECORD IN THE
OFFICE OF CLERK SUPERIOR/STATE COURTS, BULLOCH COUNTY,
GEORGIA, IN

BOOK _____ PAGE _____
THIS _____ DAY OF _____, 20____

CLERK SUPERIOR/STATE BULLOCH COUNTY GEORGIA

SUPERIOR COURT, BULLOCK COUNTY

CASE NO. SU14 CR 618 W

State vs.

OFFENSE(s): CT 1) FELONY MURDER

CT 2) AGGRAVATED BATTERY

GRANT JAMES SPENCER

Defendant

SWORN STATEMENT OF DEFENDANT

The defendant, having been sworn, states the following to the court:

(Write YES or NO for each Statement)

1. YES I understand that I am charged with the offense(s) listed above. LIFE WITHOUT PAROLE + 20 YEARS
2. YES I understand that conviction of these charge(s) could result in my imprisonment for as much as ____ years.
3. YES I understand that I have a right to a trial by a jury, and I hereby expressly waive that right.
4. YES I understand that I am presumed to be innocent of the charge(s) and that the State has to prove that I am guilty beyond a reasonable doubt.
5. YES I understand that I have a right to confront the witnesses against me.
6. YES I understand that I have a right to testify in this case if I want to, but that I could not be forced to testify or to incriminate myself in any way.
7. YES I understand that I can subpoena witnesses to testify on my behalf.
8. YES I understand that I can present other relevant evidence in my case.
9. YES I understand that if I exercised my right to a trial by jury, I have a right to be assisted by counsel at that trial.
10. YES I understand that if I were to plead not guilty, or if I remained silent and entered no plea, then I would receive a jury trial.
11. YES I understand that the District Attorney has agreed to make a recommendation to the Court as to what sentence to impose in return for my plea of guilty.
12. YES I understand that if I plead guilty to the charge(s), the District Attorney will recommend as punishment:

CT 1) GUILTY TO VOLUNTARY MANSLAUGHTER - 20 YEARS TO SERVE WITH FULL GUILT
BACK TO DATE OF ARREST - AUGUST 28, 2014

CT 2) NOW PRESSED

Check if applicable: _____ \$ _____ attorney fees payable to _____ County
_____ \$50.00 public defender application fee payable to _____ County

13. YES I understand that the Court does not have to accept this negotiated plea, but if the Court rejects this plea, I will be allowed to withdraw my plea of guilty and to return to the same legal position that I held before entering my plea.
14. YES With all the foregoing in mind, I waive my right to a jury trial and I hereby voluntarily plead NOT GUILTY
I COULD BE VOLUNTARILY MANSLAUGHTER
15. YES I am in fact guilty of each offense to which I am pleading guilty.
16. YES I have had time to confer with my attorney and
() I do not want an attorney; I hereby waive my right to any attorney and I will represent myself.
(☒) I am satisfied with my attorney's services on my behalf.
17. YES I understand that by entering this plea I am subject to deportation from the United States of America in accordance with the laws of the United States of America.
18. YES I further understand that if under these court proceedings I believe that there was a substantial denial of my rights under the Constitution of the United States of America or of the Constitution of Georgia, or if I wish to challenge the composition of the grand or trial jury in my case, I must do so within the following applicable time limits, else these issues are waived. Any action brought pursuant to O.C.G.A. § 9-14-42; 40-13-33 shall be filed within:

- a. 180 days for traffic offense
- b. One year in the case of a misdemeanor; or

X c. within four years in the case of a felony from (1) the judgment of a conviction becoming final by the conclusion of direct review (appeal) or the expiration of time for seeking such review (30 days from sentencing or ruling on the motion for new trial or order granting an out of time appeal); (2) the date on which an impediment to filing a petition which was created by state action in violation of the Constitution or law of the United States or of this state is removed, if the petitioner was prevented from filing such state action; (3) the date on which the right asserted was initially recognized by the Supreme Court of the United States or the Supreme Court of Georgia, if that right was newly recognized by said courts and made retroactively applicable to cases on collateral review; or (4) the date on which the fact supporting the claims presented could have been discovered through the exercise of due diligence.

I, the undersigned defendant, have either read or had read to me all the foregoing statements. I understand the statements and swear or affirm that my answers or responses are true, correct, and voluntarily made.

Sworn to and subscribed by the accused before me this
11th day of October, 2016

Jarvis E. Coursh
Witness/Clerk Superior Court

x

[Signature]
Defendant's Signature

[Signature]
Attorney for Defendant

IN RE: STATE OF GEORGIA VS. _____, Defendant.
SUPERIOR COURT CASE NO.: _____

JUDGE'S CERTIFICATE

The undersigned presiding judge hereby certifies that the defendant in the above--referenced case entered the plea(s) as stated in the Sworn Statement of Defendant, and in open court, under oath, further informed the court (1) that he/she is and has been fully advised of his/her rights and the charge(s) against him/her; (2) that he/she knows the maximum punishment for the offense(s) charged and for the offense(s) to which he/she pleads (3) that he/she is in fact guilty of or does not contest the offenses(s) to which he/she pleads; (4) that he/she voluntarily enters this plea to the charge(s) (5) that he/she has had ample time to confer with an attorney and to subpoena witnesses desired by him/her; (6) that he/she is ready for trial; and (7) that he/she has either waived counsel or that he/she is satisfied with the services of his/her attorney.

And after further examination by the Court, the Court finds that the plea entered by the defendant is freely, understandingly, and voluntarily made without undue influence, compulsion, or duress, and without promise of leniency. The Court further finds that there is sufficient evidence to authorize a conviction and the sentence imposed. It is therefore ordered that this plea be entered on the minutes and that this sworn statement and certificate be filed with the record of the case.

This 10th day of October, 2016

Judge, Superior Court [Signature] County



CERTIFICATE OF CLERK

GEORGIA, BULLOCH COUNTY
I HEREBY CERTIFY THAT THE ABOVE OR FOREGOING IS A TRUE
COPY OF SAID INSTRUMENT AS SAME APPEARS OF RECORD IN THE
OFFICE OF CLERK SUPERIOR/STATE COURTS, BULLOCH COUNTY
GEORGIA, IN

BOOK _____ PAGE _____
THIS _____ DAY OF _____ 2016

CLERK SUPERIOR/STATE, BULLOCH COUNTY, GEORGIA

IN THE SUPERIOR COURT OF BULLOCH COUNTY, STATE OF GEORGIA

STATE OF GEORGIA versus

GRANT JAMES SPENCER

CRIMINAL ACTION #:

SU14CR618W

AUGUST Term of 2016

Clerk to complete if
incomplete:OTN(s): 88396359982DOB: 07/21/1994Ga. ID#: 4280498J

FILED
BULLOCH COUNTY
CLERK'S OFFICE
2016 OCT 17 PM 1:51
Shantel B. Smith, Clerk of Court

Final Disposition:
FELONY CONFINEMENT

- ☐ First Offender entered under O.C.G.A. § 42-8-60
☐ Repeat Offender as imposed below
☐ Repeat Offender waived

PLEA:

X Negotiated ☐ Non-negotiated

VERDICT:

☐ Jury ☐ Non-jury

The Court enters the following judgment:

Count	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Alford, Guilty- Lesser Incl, Not, Not Pros, Dead Docket)	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended
1	Felony Murder reduced to Voluntary Manslaughter	Guilty - Voluntary Manslaughter	20 Years Confinement		
2	Aggravated Battery	Nolle Prosequi			

The Defendant is adjudged guilty or sentenced under First Offender for the above-stated offense(s); the Court sentences the Defendant to confinement in such institution as the Commissioner of the State Department of Corrections may direct, with the period of confinement to be computed as provided by law.

Sentence Summary: The Defendant is sentenced for a total of 20 Years.

The Defendant is to receive credit for time served in custody: x from August 28, 2014; or
☐ as determined by the custodian.

☐ The Court sentences the Defendant as a recidivist under O.C.G.A.:

☐ § 17-10-7(a); ☐ § 17-10-7(c); ☐ § 16-7-1(b); ☐ § 16-8-14(b); or ☐ § ____.

☐ The Defendant shall pay restitution in the amount of \$_____ through the Clerk of Court for the benefit of the victim(s), _____.

FIRST OFFENDER

(If designated by the Court)

The Defendant consenting hereto, it is the judgment of the Court that no judgment of guilt be imposed at this time but that further proceedings are deferred and the Defendant is hereby sentenced

to confinement at such institution as the Commissioner of the State Department of Corrections or the Court may direct, with the period of confinement to be computed as provided by law.

Upon the Court's determination that the Defendant is or was not eligible for sentencing under the First Offender Act, the Court may enter an adjudication of guilt and proceed to sentence the Defendant to the maximum sentence as provided by law.

For Court's Use:

The Hon. Matt Hube and David Wolfe, Attorney at Law, represented the Defendant by: employment.

SO ORDERED this 11th day of October, 2016.



Judge of Superior Court
Ogeechee Judicial Circuit

Chief Judge William E. Woodrum, Jr.

FIREARMS – If you are convicted of a crime punishable by imprisonment for a term exceeding one year, or of a misdemeanor crime of domestic violence where you are or were a spouse, intimate partner, parent, or guardian of the victim, or are or were involved in another similar relationship with the victim, it is unlawful for you to possess or purchase a firearm including a rifle, pistol, or revolver, or ammunition, pursuant to federal law under 18 U.S.C. § 922(g)(9) and/or applicable state law.

Acknowledgment: I have read the terms of this sentence or had them read and explained to me.

Defendant



CERTIFICATE OF CLERK

GEORGIA BULLOCH COUNTY
I HEREBY CERTIFY THAT THE ABOVE OR FOREGOING IS A TRUE
COPY OF SAID INSTRUMENT AS SAME APPEARS OF RECORD IN THE
OFFICE OF CLERK SUPERIOR/STATE COURTS BULLOCH COUNTY
GEORGIA, IN

BOOK _____ PAGE _____
THIS _____ DAY OF _____ 20____

CLERK SUPERIOR/STATE BULLOCH COUNTY GEORGIA



Scott P. Brunson
Police Major

Statesboro Police Department

25 West Grady Street
Statesboro, Georgia 30458

Phone: [REDACTED]



Wendell Turner
Public Safety Director

To : Director Wendell B. Turner

Major Scott P. Brunson

From : Detective Lieutenant Robert W. Bryan

Date : 09/03/14

Ref : Rude Rudy's

RECEIVED

MAR 28 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

On 09/02/14 I began reviewing our records regarding conduct at Rude Rudy's. During this review I have determined at least 9 violations of the City of Statesboro Alcohol Ordinance.

On 08/28/14 we have at least 3 violations of the Alcohol Ordinance. 1 for Violation of 6-88 (c) for disorderly conduct and/or breach of peace. 2 for Violation of 6-86 furnishing alcohol to persons under 21 years of age.

On 07/25/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 05/04/2014 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 3/9/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 3/8/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 2/23/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 08/30/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

082
405



During the past 12 months (8/28/14 – 8/28/13) Statesboro PD Officers have been dispatched to Rude Rudy's for 9 Fight in Progress calls, 1 Murder / Aggravated Battery, 2 Affrays, 3 Battery / Simple Battery, 2 Disorderly Conduct, 2 Intoxicated Persons or Public Drunkenness. These totals do not reflect other calls for service that SPD Officers have responded to at this location.

RECEIVED

MAR 28 2019

**SCDOR ALCOHOLIC
BEVERAGE LICENSING**

083
406



Scott P. Brunson
Police Major

Statesboro Police Department

25 West Grady Street
Statesboro, Georgia 30458

Phone: [REDACTED]



Wendell Turner
Public Safety Director

To : Director Wendell B. Turner
Major Scott P. Brunson
From : Detective Lieutenant Robert W. Bryan
Date : 09/05/14 (This memo replaces the memo dated 9/3/14)
Ref : Rude Rudy's

RECEIVED

MAR 28 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

On 09/02/14 I began reviewing our records regarding conduct at Rude Rudy's. During this review I have determined at least 28 violations of the City of Statesboro Alcohol Ordinance. I also began interviewing subjects tied to some of these reported incidents and have learned that a culture exists within Rude Rudy's that allows underage employees and patrons to drink alcohol at the establishment. A number of these violations cannot be quantified, I can only state that the number would be vast and represents a pattern of continuous illegal conduct. The 28 violations of the City of Statesboro Alcohol Ordinance mentioned above are listed below.

On 08/28/14 we have determined at least 20 violations of the Alcohol Ordinance.

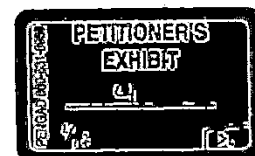
6-88 (c) Disorderly conduct and/or breach of peace - 1 Count.

- This violation stems from the Murder / Aggravated Battery of Michael Gatto by Grant Spencer. Spencer is an employee of Rude Rudy's at the time of the incident.

6-86 Furnishing alcohol to persons under 21 years of age - 17 Counts.

- Grant Spencer was furnished Alcohol by the bartenders of Rude Rudy's Spencer is 20 years of age.
- [REDACTED] was furnished Alcohol by bartenders (Julian Buchanan Cowart and Taylor Burroughs) and Grant Spencer who obtained it from the bartenders of Rude Rudy's [REDACTED] is 18 years of age. (During my interview with [REDACTED] he admitted to consuming at least 7 alcoholic beverages by his own admission this night at Rude Rudy's.)
- [REDACTED] was furnished Alcohol by the bartenders (Julian Buchanan Cowart and Taylor Burroughs) of Rude Rudy's Houser is 20 years of age. (During my interview with [REDACTED] he admitted to consuming 5 or more alcoholic beverages by his own admission

076
407



this night at Rude Rudy's. He further states that underage employees are given over 21 wristbands and allowed to drink alcoholic beverages in Rude Rudy's.)

- was furnished Alcohol by the bartenders of Rude Rudy's . is 18 years of age. (During my interview with he admitted to consuming 4 or more alcoholic beverages by his own admission this night at Rude Rudy's. He further states that underage employees are given over 21 wristbands and allowed to drink alcoholic beverages in Rude Rudy's.)

6-165(b)(4) Pricing of Alcoholic Beverages – 1 Count

- Bartender Julian Buchan Cowart states that he did deliver 3 drinks to a patron , at one time, he advises that he was unaware that it was prohibited by City Ordinance. This violation is shown on video from Rude Rudy's.

6-85 Knowledge of Chapter Provisions – 1 Count.

- Bartender Julian Buchan Cowart states that he has never been instructed by Rude Rudy's on the relevant provisions of the City of Statesboro Ordinance or State Law.

Several of the violations listed on 8/28/14 can be seen on the surveillance video obtained from Rude Rudy's.

On 07/25/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 05/04/2014 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 03/9/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 03/8/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 02/23/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

On 02/09/14 – 1 violation of 6-161 Hours of Sale and at least 1 violation of 6-86 Furnishing alcohol to persons under 21 years of age. This information was obtained from GSU PD case # 14-1294.

RECEIVED

MAR 28 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

077

408

On 08/30/14 - 1 violation of 6-88 (c) for noise or activity which is disturbing to the surrounding neighborhood.

During the past 12 months (8/28/14 - 8/28/13) Statesboro PD Officers have been dispatched to Rude Rudy's for 9 Fight in Progress calls, 1 Murder / Aggravated Battery, 2 Affrays, 3 Battery / Simple Battery, 2 Disorderly Conduct, 2 Intoxicated Persons or Public Drunkenness. These totals do not reflect other calls for service that SPD Officers have responded to at this location. During this 12 month period the Statesboro Police Department has expended over 99 man hours during calls dispatched to Rude Rudy's. This total does not reflect the additional man hours spent by Detectives conducting follow-up investigations of crimes reported at the location. Interviews that I have conducted in reference to the serving of alcohol to underage persons inside Rude Rudy's

As additional interviews are conducted supplemental memos will be provided.

RECEIVED

MAR 28 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

078
409

2013

RUDE RUDY'S
11 UNIVERSITY PLAZA

Call Count	DATE	START TIME	END TIME	CALL TIME (H:MM)	# OF OFCS	TOTAL TIME (HRS)	COMPLAINT	DISPOSITION
1	8/30/2013	12:52 AM	12:53 AM	0:01	4	0.07	INCIDENT REPORT	CRN - 1304949- THEFT BY TAKING
2	8/31/2013	1:12 AM	1:38 AM	0:26	4	1.73	REPORT IN PERSON	DOMESTIC - ASSISTANCE RENDERED
3	9/1/2013	12:11 AM	12:20 AM	0:09	2	0.30	REPORT IN PERSON	COMPLAINANT ON STAFF MEMBER - NO ACTION
4	9/1/2013	1:03 AM	1:58 AM	0:55	2	1.83	INCIDENT REPORT	CRN - 1305018 THEFT BY TAKING
5	9/1/2013	1:06 AM	2:17 AM	1:11	2	2.37	INCIDENT REPORT	CRN - 1305019 SIMPLE BATTERY
6	9/1/2013	12:18 PM	12:19 PM	0:01	1	0.02	INCIDENT REPORT	CRN - 1305025 LOST OR STOLEN
7	9/3/2013	8:53 PM	8:57 PM	0:04	1	0.07	INCIDENT REPORT	CRN - 1305069 THEFT BY TAKING
8	9/7/2013	1:05 AM	1:25 AM	0:20	3	1.00	REPORT IN PERSON	INTOXICATED PERSON, EMS TRANSPORT - NAT
9	9/7/2013	7:04 PM	7:10 PM	0:06	3	0.30	REPORT IN PERSON	ALARM CALL - FALSE
10	9/13/2013	1:12 AM	1:14 AM	0:02	2	0.07	REPORT IN PERSON	FIGHT - GONE ON ARRIVAL
11	9/14/2013	1:14 AM	2:00 AM	0:46	3	2.30	REPORT IN PERSON	FIGHT - NO ACTION TAKEN
12	9/21/2013	12:58 AM	1:53 AM	0:55	4	3.67	INCIDENT REPORT	CRN - 1305481 PUBLIC DRUNK, DIS CON, OBST
13	9/21/2013	9:01 PM	9:25 PM	0:24	1	0.40	BUSY	LOG
14	9/27/2013	2:33 PM	2:38 PM	0:05	1	0.23	REPORT IN PERSON	ALARM CALL - FALSE
15	9/27/2013	11:51 PM	12:02 AM	0:14	3	0.60	REPORT IN PERSON	ESCORT - NO ACTION TAKEN
16	9/28/2013	6:47 PM	6:59 PM	0:12	3	0.70	REPORT IN PERSON	ALARM CALL - FALSE
17	9/29/2013	2:43 AM	2:57 AM	0:14	1	0.23	REPORT IN PERSON	ASSISTANCE RENDERED
18	10/19/2013	3:20 AM	4:11 AM	0:51	2	1.70	INCIDENT REPORT	CRN - 1306173 BATTERY, BURGLARY, MIP
19	10/24/2013	9:45 PM	9:48 PM	0:03	1	0.05	BUSY	LOG
20	11/3/2013	1:33 AM	1:42 AM	0:09	1	0.15	BUSY	FOLLOW UP
21	11/9/2013	12:21 AM	12:52 AM	0:31	3	1.55	INCIDENT REPORT	CRN - 1306652 BATTERY
22	11/9/2013	12:31 AM	12:47 AM	0:16	3	0.80	REPORT IN PERSON	FIGHT - CITATIONS ISSUED
23	11/22/2013	9:40 AM	11:17 AM	9:48	2	19.60	INCIDENT REPORT	CRN - 1307011 THEFT BY TAKING
24	12/13/2013	1:29 AM	1:39 AM	1:39	1	1.65	BUSY	CITATION ISSUED
Total Man Hours						41.38		

RECEIVED

MAR 28 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

410

070

RECEIVED

MAR 28 2019

2014

RUDE RUDY'S
11 UNIVERSITY PLAZA

Call Count	DATE	START TIME	END TIME	CALL TIME (H:MM)	# OF OFC'S	TOTAL TIME (HRS)	COMPLAINT	SCDOR ALCOHOLIC BEVERAGE LICENSING
								DISPOSITION
1	1/11/2014	4:51 PM	6:16 PM	1:25	1	1.42	INCIDENT REPORT	CRN - 1400159 THEFT OF LOST OR MISLAID PROPERTY
2	1/19/2014	16:04	4:39 PM	0:35	1	0.58	INCIDENT REPORT	CRN - 1400331 SIMPLE BATTERY/AFFRAY
3	1/25/2014	10:40 PM	10:59 PM	0:19	3	0.95	REPORT IN PERSON	SUBJECTS SERVED CT
4	1/26/2014	1:11 AM	1:21 AM	0:20	2	0.67	REPORT IN PERSON	FIGHT NO ACTION TAKEN
5	2/1/2014	12:41 AM	12:44 AM	0:03	1	0.05	REPORT IN PERSON	FIGHT - BOTH PARTIES DENIED REPORT
6	2/1/2014	1:12 AM	1:46 AM	0:34	3	1.70	INCIDENT REPORT	CRN - 1400581 CRIMINAL TRESPASS
7	2/18/2014	1:51 PM	2:00 PM	0:09	1	0.15	BUSY	LOG
8	2/21/2014	2:08 PM	3:03 PM	0:55	3	2.75	INCIDENT REPORT	CRN - 1400958 THEFT BY TAKING
9	2/23/2014	1:33 AM	1:54 AM	0:21	6	2.10	INCIDENT REPORT	CRN 1401005 NOISE VIOLATION
10	3/1/2014	1:39 AM	2:20 AM	0:41	3	2.05	REPORT IN PERSON	FIGHT ASSISTANCE RENDERED
11	3/8/2014	1:31 AM	1:38 AM	0:07	4	0.47	REPORT IN PERSON	FIGHT NO ACTION TAKEN
12	3/8/2014	11:07 PM	11:46 PM	0:39	4	2.60	INCIDENT REPORT	CRN - 1401282 NOISE VIOLATION
13	3/9/2014	12:44 AM	1:20 AM	0:36	4	2.40	INCIDENT REPORT	CRN - 1401284 NOISE VIOLATION
14	3/9/2014	11:27 AM	11:48 AM	0:21	1	0.35	INCIDENT REPORT	CRN - 1401292 THEFT BY TAKING
15	3/11/2014	1:01 PM	1:29 PM	0:28	1	0.47	BUSY	LOG
16	3/14/2014	12:45 AM	1:53 AM	1:08	4	4.53	INCIDENT REPORT	CRN - 1401406 CRIMINAL TRESPASS/MIP
17	3/14/2014	1:36 AM	3:07 AM	1:31	4	6.07	INCIDENT REPORT	CRN - 1400153 ENTERING AUTO
18	3/28/2014	12:42 AM	1:31 AM	0:49	1	0.82	INCIDENT REPORT	CRN - 1401664 LOST OR STOLEN
19	4/4/2014	11:52 PM	12:05 AM	0:17	1	0.28	REPORT IN PERSON	UNFOUNDED
20	4/6/2014	7:19 AM	7:50 AM	0:31	2	1.03	REPORT IN PERSON	OPEN DOOR ASSISTANCE RENDERED
21	4/11/2014	1:29 AM	2:11 AM	0:42	3	2.10	INCIDENT REPORT	CRN - 1401953 NOISE VIOLATION
22	4/13/2014	8:57 PM	9:27 PM	0:30	1	0.50	INCIDENT REPORT	CRN - 1402027 LOST OR MISLAID
23	4/15/2014	2:35 PM	3:31 PM	0:56	1	0.93	INCIDENT REPORT	CRN - 1402063 THEFT BY TAKING
24	4/15/2014	4:01 PM	4:06 PM	0:05	1	0.08	BUSY	FOLLOW UP
25	4/23/2014	2:08 PM	2:10 PM	0:02	1	0.03	BUSY	LOG
26	5/4/2014	12:57 AM	1:16 AM	0:19	1	0.32	INCIDENT REPORT	CRN - 1402463 NOISE VIOLATION
27	5/6/2014	4:34 PM	5:01 PM	0:27	1	0.45	INCIDENT REPORT	CRN - 1402519 LOST OR MISLAID
28	5/8/2014	3:35 PM	4:12 PM	0:37	1	0.62	INCIDENT REPORT	CRN - 1402568 LOST OR STOLEN
29	5/9/2014	1:27 AM	1:40 AM	0:13	3	0.65	REPORT IN PERSON	ASSIST EMS
30	5/17/2014	1:57 AM	2:10 AM	0:13	3	0.65	REPORT IN PERSON	FIGHT - GONE ON ARRIVAL
31	5/19/2014	4:04 PM	4:16 PM	0:12	2	0.40	REPORT IN PERSON	ALARM CALL - FALSE
32	5/21/2014	1:30 PM	2:30 PM	1:00	1	1.00	BUSY	LOG

RUDE RUDY'S
11 UNIVERSITY PLAZA

RECEIVED
MAR 28 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

460

CITY OF STATESBORO
50 East Main Street
Statesboro, GA 30458

CERTIFICATION OF AUTHENTICITY OF MUNICIPAL RECORDS
PURSUANT TO O.C.G.A. § 24-9-920

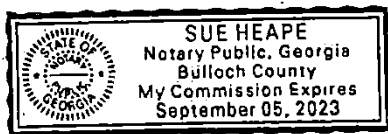
The enclosed documents consisting of 8 pages and 0 disc, constitute an accurate, valid, and authentic copy and/or transcript of records and documents maintained under my care, custody, and control in the City of Statesboro.

I certify that these records are maintained under my care, custody, and control and are kept in the usual and ordinary course of the business of this office.

Leah Harden
Leah Harden, City Clerk
City of Statesboro

Sworn to and subscribed before me this 4th day of November, 2019

Sue Heape
Notary Public



CITY OF STATESBORO, GEORGIA
CITY HALL COUNCIL CHAMBERS



CITY COUNCIL MEETING &
PUBLIC HEARING AGENDA

**Called Council Meeting
September 24, 2014 9:00 A.M.**

1. Call to Order by Mayor Jan Moore
2. Administrative Hearing regarding the alcohol license for Rude Rudy's.
3. Consideration of a Motion to Adjourn

CITY OF STATESBORO

COUNCIL
Phil Boyum
John C. Riggs
William P. Britt
Travis L. Chance
Gary L. Lewis



Jan J. Moore, Mayor
Frank Parker, City Manager
Sue Starling, City Clerk
J. Alvin Leaphart, City Attorney

50 EAST MAIN STREET • P.O. BOX 348
STATESBORO, GEORGIA 30459-0348

MAYOR AND CITY OF COUNCIL OF STATESBORO NOTICE OF HEARING

VIA CERTIFIED MAIL NO.: 7006 2150 0005 1746 8257
RETURN RECEIPT REQUESTED
AND VIA REGULAR MAIL TO:

Jonathan Earl Starkey as
owner of Rude Rudy's
121 Pineneedle Road,
Statesboro, GA 30458

YOU ARE HEREBY PROVIDED NOTICE that Councilman Riggs and Councilman Boyum have called a special meeting of the Mayor and City Council for the purpose of conducting an administrative hearing in the Council Chambers on the Second Floor of City Hall located at 50 East Main Street, Statesboro, Georgia 30458 on the 24th day of September, 2014 at 9:00 a.m.

The Mayor and City Council shall hear evidence as to whether the alcohol beverage license issued to Jonathan Earl Starkey for the operation of the restaurant known as Rude Rudy's at University Plaza Statesboro, Georgia should be suspended or revoked due to violations of Chapter 6 of the Code of Ordinances of the City of Statesboro that governs the sale of alcoholic beverages.

The date and nature of the allegations are as follows:

1. Whether the alleged murder that occurred on August 28, 2014 within the licensed premises that resulted in the death of Michael Gatto is a violation of Section 6-88(c).
2. Whether on or about August 28, 2014 the licensee, his agents or employees furnished alcohol to persons under 21 years of age in violation of Section 6-86, and if so, how many violations of Section 6-86 occurred.
3. Whether within the previous twelve (12) months the licensee, his agents or employees furnished alcohol to persons under 21 years of age in violation of Section 6-86, and if so, how many violation of Section 6-86 occurred.

Georgia Municipal Association City of Excellence • Certified City of Ethics
Telephone: (912) 764-5468 • Fax: (912) 764-4691 • email: cityhall@statesboroga.net

4. Whether within the previous twelve (12) months the licensee, his agents or employees engaged in service of alcoholic beverages beyond the permitted hours of sale in violation of Section 6-161, and if so, how many violations of Section 6-161 occurred.
5. Whether within the past twelve (12) months the licensee, his agents, or employees violated Section 6-85 by failing to instruct an employee engaged in the sale and handling of alcoholic beverages on the provisions of Chapter 6 of the Code of Ordinances of the City of Statesboro.
6. Whether within the past twelve (12) months the licensee, his agents, or employees violated Section 6-88(c) by allowing noise or activity that disturbed the surrounding neighborhood, and if so, how many violations of Section 6-88(c) occurred.

The Mayor and City Council shall generally conduct this hearing in accordance with the requirements of due process as required by the United States Constitution and the Constitution of the State of Georgia. The Mayor and City Council shall entertain any and all evidence relevant to this matter without regard to evidentiary rules regarding hearsay. The licensee has the right to be represented by counsel at his expense, present evidence, and cross-examine the evidence presented against him. The standard for action by the City Council against the licensee shall be a preponderance of the evidence.

THIS 9 DAY OF SEPTEMBER, 2014 IN STATESBORO, GEORGIA.

Sue Starling signed w/
Sue Starling, City Clerk
express permission
by J. AbouLeaphant
City Attorney.

THE MAYOR AND CITY COUNCIL OF STATESBORO
STATE OF GEORGIA

STATESBORO DEPARTMENT OF
PUBLIC SAFETY, Petitioner

v.

JONATHAN EARL STARKEY, as owner
and licensee of Rude Rudy's, Respondent

Administrative Hearing
September 24, 2014

 COPY

SETTLEMENT AGREEMENT

IT IS HEREBY STIPULATED AND AGREED, by and between the Petitioner, STATESBORO DEPARTMENT OF PUBLIC SAFETY, and Respondent JONATHAN EARL STARKEY that the above-captioned action shall be settled, subject to approval by the Mayor and City Council, by the following terms and conditions:

1.

Respondent JONATHAN EARL STARKEY agrees to cease and desist operating the business known as Rude Rudy's located in the University Plaza, Statesboro, Georgia.

2.

Respondent JONATHAN EARL STARKEY agrees to voluntarily surrender any alcohol license issued by the City of Statesboro to JONATHAN EARL STARKEY and/or any entity in which JONATHAN EARL STARKEY has a legal or equitable interest in and abandon any and all rights or privileges granted by said license.

3.

Respondent JONATHAN EARL STARKEY agrees to forever forfeit all rights or privileges in obtaining an alcoholic beverage license from the City of Statesboro, and agrees that neither JONATHAN EARL STARKEY nor any entity in which JONATHAN EARL STARKEY has a legal or equitable interest in shall ever apply for or be granted an alcoholic beverage license from the City of Statesboro.

4.

The Parties acknowledge that it is their intent to consummate this Settlement Agreement, and cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Settlement Agreement.

IN WITNESS HERETO, the Parties have caused the Settlement Agreement to be executed by their duly authorized agent.

WENDELL TURNER, DIRECTOR OF
DEPARTMENT OF PUBLIC SAFETY,
PETITIONER

JONATHAN EARL STARKEY,
RESPONDENT

WES TAULBEE, ESQ.
ATTORNEY FOR RESPONDENT
GEORGIA BAR NO.: 368972
12 SIEBALD STREET
STATESBORO, GA 30458
912.764.9055

THE MAYOR AND CITY COUNCIL OF STATESBORO
STATE OF GEORGIA

STATESBORO DEPARTMENT OF
PUBLIC SAFETY, Petitioner

v.

JOHN EARL STARKEY, as owner
and licensee of Rude Rudy's, Respondent

*
*
* Administrative Hearing
* September 24, 2014
*
*
*
*
*

CONSENT FINAL ORDER AND JUDGMENT

WHEREAS, Petitioner, STATESBORO DEPARTMENT OF PUBLIC SAFETY, and Respondent JOHN EARL STARKEY entered into a Settlement Agreement to settle matters pending for administrative hearing before the Mayor and City Council of Statesboro on September 24, 2014; and

The Mayor and City Council have reviewed and approved the Settlement Agreement and based on that approval, it is HEREBY ORDERED AND ADJUDGED AND DECREED as follows:

1. The Mayor and City Council has jurisdiction over the alcoholic beverage license issued to JOHN EARL STARKEY as the owner of Rude Rudy's that is the subject of this hearing.
2. This Final Order and Judgment incorporates and makes a part hereof the Settlement Agreement reviewed and approved by Mayor and Council on September 24, 2014.
3. Nothing in this Final Order and Judgment shall preclude any action to enforce the terms of the Settlement Agreement.

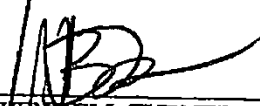
Accordingly, finding no just reason for delay it is hereby **ORDERED, ADJUDGED, and DECREED** that **FINAL JUDGMENT** is hereby entered this ____ day of _____, 2014 in Statesboro, Georgia.

JAN J. MOORE, Mayor and Presiding
Official of the Administrative Hearing.

ATTEST

SUE STARLING, City Clerk

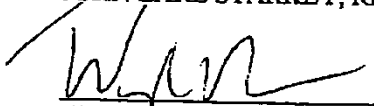
THE FOREGOING CONSENT FINAL ORDER AND JUDGMENT IS CONSENTED TO IN FORM AND SUBSTANCE BY THE UNDERSIGNED.



WENDELL TURNER, DIRECTOR OF
DEPARTMENT OF PUBLIC SAFETY,
ON BEHALF OF THE PETITIONER



JOHN EARL STARKEY, RESPONDENT



WES TAULBEE, ESQ.
ATTORNEY FOR RESPONDENT
GEORGIA BAR NO.: 368972
12 SIEBALD STREET
STATESBORO, GA 30458
912.764.9055

September 24, 2014
Statement Issued By:

Jan Moore, Mayor
City of Statesboro

This statement is issued by Mayor Jan Moore only, and is not issued on behalf Mayor and City Council

Today the City of Statesboro voted to accept a settlement between the city of Statesboro Department of Public Safety and John Starkey, owner of Rude Rudy's, in which Starkey surrendered his alcohol license and agreed to never again apply for an alcohol license in the City of Statesboro.

This resolution was equitable in the face of the evidence collected by the Statesboro Department of Public Safety in their investigation of the death of Michael Gatto.

While this certainly does not bring Michael back, I believe this is a step in the right direction as we move towards making the City of Statesboro a safer place for those that live here, work here, and for those who choose to come here to further their education.

Due process was followed today and a just result obtained. My sympathy and condolences remain with the Gatto family.

Thank You.

1350

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of DenialABL-931
(Rev. 11/28/18)
4303Case ID: 0-000-438-778
Letter ID: L0008142279
Date Issued: December 07, 2018STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849RE: FILE # 320701852
STUDY HALL LLC
101 SLOAN ST
CLEMSON SC 29631-1434

Your renewal was not submitted in time before your license and/or permit expired. You can't renew your expired license and/or permit until you have paid the late filing fee of \$300 per month for the beer and wine permit and \$200 per month for the liquor permit.

You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license.

Additionally, in accordance with SC Code of Laws, Title 61 and Title 8, the South Carolina Department of Revenue (SCDOR) is also denying the renewal of the above-referenced beer/wine and/or liquor application. This is based upon the following:

- Failure to file South Carolina State Income Tax for one or more principals for the following year(s): 2014-2017 JONATHAN STARKEY. Notify Alcohol Beverage Licensing within 90 days that the taxes have been filed.
- You must provide a copy of your liquor liability policy or general liability insurance policy with a liquor endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. See SC Code Section 61-2-145 on our website at dor.sc.gov/policy.

You may still obtain the renewal of your license or permit by supplying the requested information, documentation, or otherwise comply with the requirements necessary for licensure. See the next page of this notice for your appeal options.



1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of Denial

ABL-931
(Rev. 11/28/18)
4403

If you are unable or unwilling to meet these requirements you may also protest this denial. Your protest must be in writing, must reach the department within ninety (90) days of the date of this letter, and must include the following information:

1. Your name, address, and telephone number.
2. A statement of facts supporting your position.
3. A statement outlining the reasons for your protest, including any law or other authority upon which you are relying, and the relief which you are seeking.

You must forward your protest to the ABL Section of the South Carolina Department of Revenue at the address shown below. After review of your protest, the ABL Section of South Carolina Department of Revenue will either continue to process your renewal application or forward it to the Office of General Counsel for the Department of Revenue for their review and final determination.

If you do not respond to this Notice of Denial as stated above, this Denial will be final and you will have no further rights to protest or appeal. You will be required to reapply.

You **MUST** cease all sales of beer, wine, and/or liquor until you receive your renewed license.

NOTE: If you are in bankruptcy, please forward the bankruptcy number and date filed to our attention.

South Carolina Department of Revenue
Alcohol Beverage Licensing
P.O. Box 125
Columbia, SC 29214-0907
803-898-5264



**South Carolina
Law Enforcement Division**

Henry D. McMaster, Governor
Matt A. Keel, Chief

P.O. Box 21391
Columbia, South Carolina
29221-1391

Tel: (803) 737 2000

March 7, 2019

TO: Casefile 54-19-0307

From: Keith Dorman, Special Agent

Subject: Study Hall Restaurant and Bar
101 Sloan St.
Clemson, SC 29631

County: Pickens

RECEIVED

MAR 14 2019

SCDOR ALCOHOLIC
BEVERAGE LICENSING

SUMMARY OF EVENT:

On Thursday, February 28, 2019, Special Agents (SA) Dorman, Benjamin and Phillips of the South Carolina Law Enforcement Division along with Detective Brown and other officers with the Clemson City Police Department, conducted an undercover alcohol operation at Study Hall Restaurant and Bar, located at the above address in the City of Clemson. An undercover SLED Agent entered the bar and purchased a 16 fl oz aluminum can of Bud Light beer.

NARRATIVE:

Prior to beginning the operation, SA Dorman verified through the South Carolina Department of Revenue that the Study Hall Restaurant and Bar did not have valid beer/wine and liquor licenses to sell alcoholic beverages. SA Dorman verified that Jonathan Starkey was the sole owner and principal of Study Hall Restaurant and Bar.

On February 28, 2019, Study Hall Restaurant and Bar was a business open to the public and operating without valid South Carolina Department of Revenue beer/wine and liquor licenses when SA Phillips entered at approximately 5:30pm. SA Phillips approached the bar and ordered a Bud Light from the bartender, later identified as Shelby Sheets. Ms. Sheets opened the beer and placed it in front of SA Phillips. At 5:33pm, SA Phillips paid \$3.75 for the 16 fl oz aluminum can of Bud Light beer, receiving \$6.72 in change and a receipt showing proof of purchase of the beer. SA Phillips collected a sample of the beer from the 16 fl oz aluminum can of Bud Light beer purchased and left Study Hall Restaurant and Bar, turning over the sample of Bud Light beer, receipt of purchase, and empty 16 fl oz aluminum Bud Light can to SA Dorman.



An Accredited Law Enforcement Agency



Casefile No: 54-19-0307

Page 2

Following the purchase of beer, SA Dorman obtained a search warrant from Clemson Municipal Judge T. Daniel as a result of the illegal beer sale and liquor being stored in the place of business. After obtaining the signed search warrant, the warrant was served on Study Hall Restaurant and Bar. During the course of the investigation, SA Dorman was provided by manager, Alvin Dark, a letter from the South Carolina Department of Revenue dated December 7, 2018 and addressed to Jonathan Starkey, strictly stating in bold lettering, that the business must cease all sales of beer, wine, and/or liquor until the business received its renewed license.

Numerous cans of beer and bottles of liquor and wine were seized as a result of the search warrant and the items were documented, seized and are being held securely by the Clemson Police Department pending transport to SLED's evidence warehouse.

Due to the facts stated above, on March 1, 2019, SA Dorman obtained two arrest warrants for Jonathan Starkey, charging him with violating S.C. Code of Laws, § 61-4-560 Operation Without a Permit and §61-6-4060(A) Unlawful Storage of Liquor in a Place of Business.

The evidence purchased, consisting of the sample of beer from the can purchased, the 16 fl oz aluminum Bud Light can, receipt of purchase, and sales sheets voluntarily given by manager Alvin Dark from the months of December, January and February, are documented on SLED Seizure Report 29968-A.

END OF REPORT**RECEIVED**

MAR 14 2019

SOUTH ALCOHOLIC
BEVERAGE LICENSING

SA Keith Dorman

RECEIVED

E003710

SLED Case #: 54-19-0907

MAR 14 2019

Informant Control #: Agent B-1

Lab File #:

SODIUM ALCOHOLIC

DRYER PAGE 1 OF 3

CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL

CONFIDENTIAL FUND EXPENSE VOUCHER

Subject's Name: Study Hall Restaurant and Bar
 Date of Expenditure: 2-28-19 County: Pickens, 39
 Place of Expenditure: Study Hall Restaurant and Bar
 Type of Investigation: Alcohol, Unlicensed Location
 Voucher Amount: Three Dollars + 25/100 Dollars (\$) 3.25

Classification of Expenditures:

- ☐ CATEGORY A - Rental of space and equipment in connection with regular criminal investigations, both undercover and non-undercover.
☒ CATEGORY B - Purchases of evidence in regular criminal investigations. This includes the use of funds as a "flash roll".
☐ CATEGORY C - Undercover operational funds which are used by an agent to purchase those items necessary for the continuation of his undercover role during a criminal investigation.
☐ CATEGORY D - Other expenditures.

Amount Received: Ten Dollars + 00/100 Dollars (\$) 10.00

I certify that I have received the above amount of monies to be utilized only for the purpose of evidence, that any unused funds shall be returned to the South Carolina State Law Enforcement Division upon demand and that misappropriation will render me liable for prosecution.

Name: Matthew Phillips (Print Name) Matthew Phillips (Signature)

Identification #: Agent B-1 Date: 2-28-19

Submitted By: Keith Dorman (Print Name) [Signature] (Signature) 10079158 (Employee #)

Witnessed By:

(Print Name)

(Signature)

Approved By:

(Print Name/Captain)

(Signature)

Approved By:

(Print Name/Major)

(Signature)

Received for Posting By:

NOTE: List Denomination / Serial Numbers on Reverse Side

CF - 3
NARC-0034-2017

SLED A&U SEIZURE REPORT

RECEIVED

MAR 14 2019

SLED CASE NUMBER 54-19-0307 CASE AGENT ISOBOR ALQOHOLIC

SUMMONS NUMBER: BEVERAGE LICENSING

DATE OF SEIZURE 2-28-19 TIME

1. Registered owner(s) and name of operator, address in control of property at time of seizure: Studebaker Hall Restaurant and bar

161 Sloan St. Alhambra, CA

If licensed DBA:

AI# LIC#

2. Description of property seized: one 11.5 fl oz aluminum can (Bud Light). one sample of contents of their can. one receipt of purchase for Bud beer.

3. Current location (storage) of the property seized: 11447 Azusa

4. Chain of Custody

Relinquished by	Received by	Date
<u> </u>	<u> </u>	<u>2/28/19</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

5. Case disposed on:
(date)

6. Evidence destroyed on: / Place:
(date) (time)

 (witness) (witness)

7. Evidence given to The Department of Revenue on
(date)

ATTACH A COPY OF SEARCH WARRANT
revised 7-2-98

NUMBER: 29968 -A

White: Violator's Copy Green: Headquarter's Copy Yellow: Agent's Copy Pink: Warehouse's Copy Gold: Transfer's Copy

RECEIVED

SLED AEU SEIZURE REPORT

MAR 14 2019

SLED CASE NUMBER 54-19-0307-0277 CASE AGENT SCHOOL ALCOHOLIC BEVERAGE LICENSING

SUMMONS NUMBER: _____

DATE OF SEIZURE 2-28-19 TIME 10:32P

1. Registered owner(s) and name of operator, address in control of property at time of seizure: _____

Alvin J. Hrv
101 Starn St. Clumson, SC

If licensed DBA: _____

AI # _____ LIC # _____

2. Description of property seized: See Clumson City Inventory
Sheets.

3. Current location (storage) of the property seized: Clumson Police
Dept. Secure Evidence Room

4. Chain of Custody

Relinquished by	Received by	Date
<u>[Signature]</u>	<u>[Signature]</u>	<u>2-28-19</u>
_____	_____	_____
_____	_____	_____

5. Case disposed on: _____
(date)

6. Evidence destroyed on: _____ / _____ Place: _____
(date) (time)

(witness)

(witness)

7. Evidence given to The Department of Revenue on _____
(date)

ATTACH A COPY OF SEARCH WARRANT
revised 7-2-98

NUMBER: 29967 -A

White: Violator's Copy Green: Headquarter's Copy Yellow: Agent's Copy Pink: Warehouse's Copy Gold: Transfer's Copy



CITY OF CLEMSON, SOUTH CAROLINA

2018

BUSINESS LICENSE

**MUST BE POSTED IN A
CONSPICUOUS PLACE**

**LICENSE EXPIRES ON
December 31, 2018**

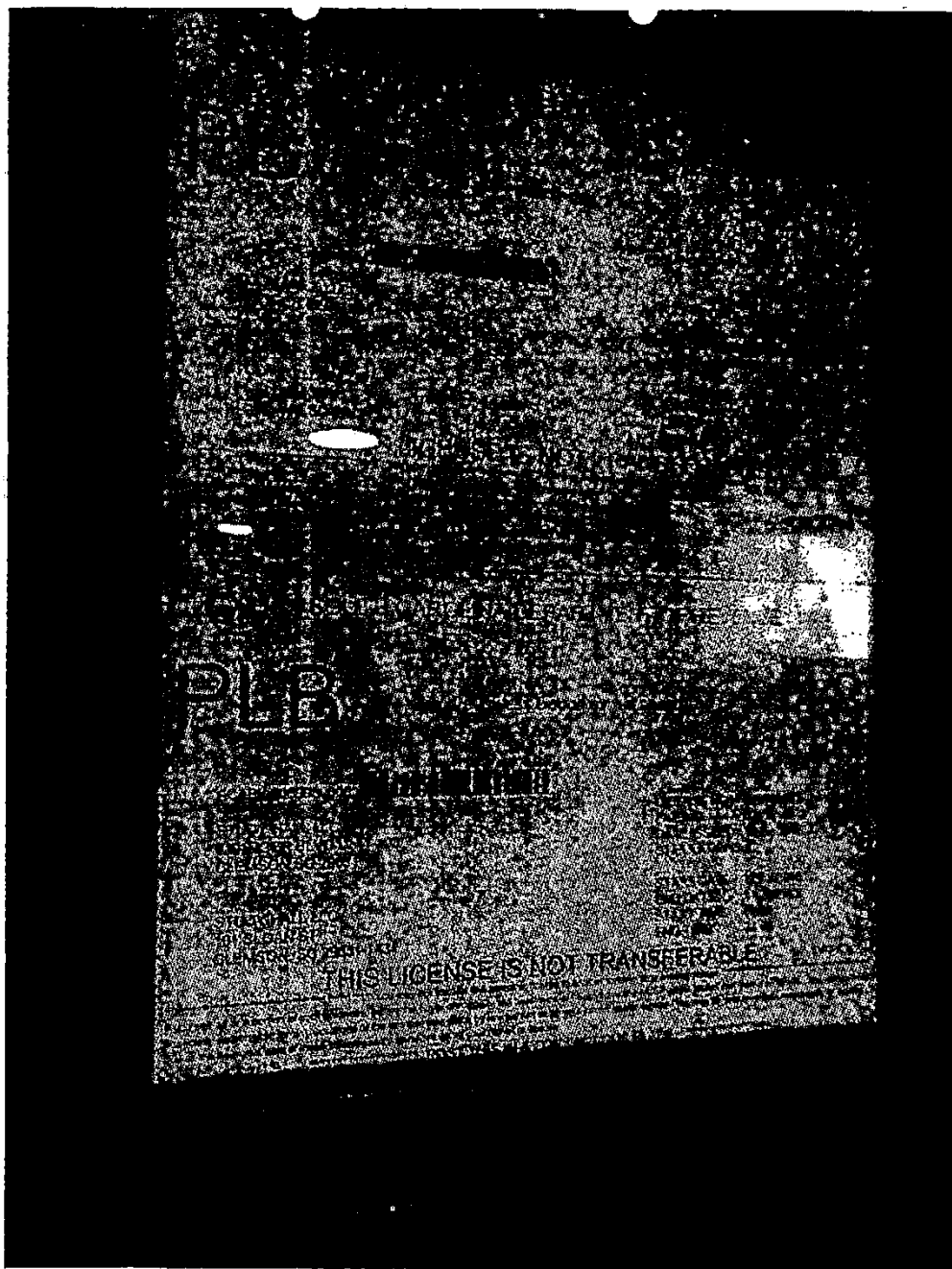
**LICENSE IS NOT TRANSFERABLE, AND MAY BE SUSPENDED
OR REVOKED IF NOT IN COMPLIANCE WITH CHAPTER 12 OF
THE CITY CODE OR ANY OTHER APPLICABLE CITY
ORDINANCES.**

**LICENSE NUMBER: 26356
BUSINESS NAME: THE STUDY HALL
BUSINESS TYPE: BAR, LOUNGE
LOCATION: SLOAN ST., 101
DATE: 7/24/2018**

**THE STUDY HALL
JON STARKEY
390 RIDGECREST DR
CLEMSON, SC 29631-8631**

Beverly A. Coleman
BUSINESS LICENSE OFFICER

RECEIVED
MAY 14 2019
**SCDOR ALCOHOLIC
BEVERAGE LICENSING**



1350

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL-Renewal Notice of Denial

ABL-631
(Rev. 11/28/15)
4433

Case ID: 0-000-439-778
Letter ID: L0008142279
Date Issued: December 07, 2018

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

RE: FILE # 320701882
STUDY HALL LLC
101 BLOAN ST
CLEMSON SC 29631-1434

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

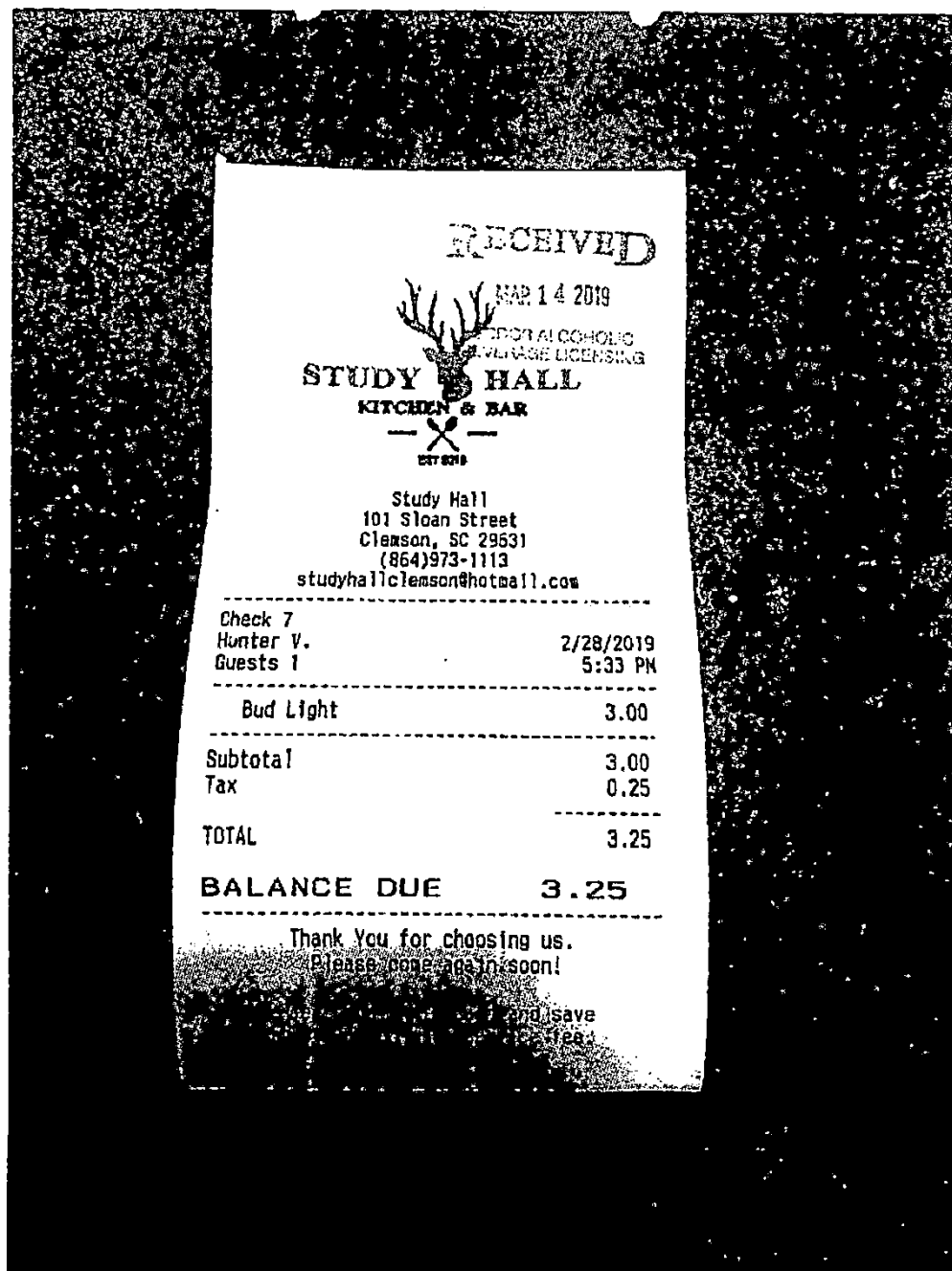
Your renewal was not submitted in time before your license and/or permit expired. You can't renew your expired license and/or permit until you have paid the late filing fee of \$300 per month for the beer and wine permit and \$200 per month for the liquor permit.

You **MUST** cease all sales of beer, wine, and/or liquor until you receive your renewed license.

Additionally, in accordance with SC Code of Laws, Title 61 and Title 6, the South Carolina Department of Revenue (SCDOR) is also denying the renewal of the above-referenced beer/wine and/or liquor application. This is based upon the following:

- Failure to file the South Carolina State Income Tax for one or more principals for the following year(s): 2014-2017 JONATHAN STARKEY, North Alcohol Beverage Licensing within 90 days that the taxes have been filed.
- You must provide a copy of your liquor liability policy or general liability insurance policy with a liquor endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. See SC Code Section 61-2-145 on our website at dor.sc.gov/policy.

You may still obtain the renewal of your license or permit by supplying the requested information, documentation, or otherwise comply with the requirements necessary for licensure. See the next page of this notice for your appeal options.





Return

I received the attached Search Warrant dated February 28 2019 and have executed it as follows:

On Feb 28 2019 at 5:00 clock P M, I searched _____

and/or Study Hall Restaurant and Bar

I left a copy of the warrant with Alvin Park - Manager

together with a receipt for the items seized.

RECEIVED

MAR 14 2019

SODOR ALCOHOLIC
BEVERAGE LICENSING

The following is an inventory of property taken pursuant to the search warrant:

Various bottles and cans of beer, various
bottles of liquor, various bottles
of wine. All mentioned liquor is
sealed and unsealed. All evidence
seized and stored is photographed and
complete list of inventory will be
provided to accompany Search Warrant
return. All evidence is currently being
stored in a secure location at the
Chamson Police Department.

This inventory was made in the presence of Detective Alvin Brown
AND Special Agent Keith Brown

I swear this inventory is a true and detailed account of all property taken by me on the warrant.

SWORN to before me this _____

day of _____, 20____

(L.S.)

Signature of Officer Executing Search Warrant

Signature of Judge

	2	Jose Cuervo Especial	
	1	Deep Eddy Ruby Red	
	6	Deep Eddy Orange	
	3	DeKuyper Blue Curacao	
	1	DeKuyper Melon	
10	3	DeKuyper Buck Island Peach	
	1	Bumble Bee	
	1	Patriot Silver	
	1	Don Julio Blanco	
	3	Don Julio Aged	
	4	DeKuyper Creme de Cacao	
	2	DeKuyper Watermelon	
	2	DeKuyper Strawberry	
	3	Woodford Reserve	
37	4	Southton Comfort	
	3	DeKuyper Sour Apple	
	2	DeKuyper Raspberry	
	2	Makers Mark	
	1	Jameson	
	1	DeKuyper Butterscotch	
	3	Jim Beam Bourbon	
	2	Fireball	
	1	Jack Daniels Tennessee Fire	
	1	Jack Daniel Tennessee Whiskey	
	3	Crown Royal Vanilla	
103	3	Bree Loose Le Citron	
	24	Budweiser	

RECEIVED

MAR 14 2019

SOUTH ALCOHOLIC
BEVERAGE LICENSING

2

12	1 Liter Montezuma Triple Sec	RECEIVED MAR 14 2013 SCDP ALCOHOLIC BEVERAGE LICENSING
3	Death's Door Gin	
3	Bombay Sapphire	
1	Pinnacle Cherry	
1	Deep Eddy Lemon	
3	Tanqueray Imported	
7	Bacardi Raspberry	
1	Bacardi Dragonberry	
1	Josep Tequila Silver	
1	Crown Royal Apple	
5	Malibu Caribbean Rum w/ Passion Fruit	
4	Malibu Black Field Caribbean Rum w/ Coconut	
3	~~Black~~ Goslings Black Seal Bermuda Black Rum	
4	Kahlua	
6	Rum Club Horchata Can Ren	
4	Baskley	
2	Woodbridge	
4	Captain Morgan Spiced Rum	
4	Captain Morgan White Rum	
3	Johnny Walker Black Label	
3	Johnny Walker Red Label	
14	Titos Handmade	
3	Three Olives Peach	
3	Three Olives Orange	
2	Patron Silver	
6	Goldschlager	
2	Grand Macanor	

RECEIVED

11/21/2019

~~STONER ALCOHOLIC
OR DRUGS LICENSING~~

Upstairs Bar Pg. 5

X2 Crown Royal Whisky
 X2 Crown Royal Vanilla Whisky
 X2 Deep Eddy Ruby Red Vodka
 X1 Johnnie Walker Red Label Scotch
 X7 Don Julio Añejo Tequila
 X3 Kahlúa Rum
 X1 Bailey's Irish Cream
 X2 Bacardi Dragonberry Vodka
 X2 Bacardi Raspberry Vodka
 X1 Three Olives Vanilla Vodka
 X1 Three Olives Orange Vodka
 X1 Three Olives Cherry Vodka
 X1 Three Olives Rosé
 X2 Three Olives Cucumber Lime
 X2 Three Olives Peach Vodka

RECEIVED

MAR 14 2019

SCOTT ALCOHOLIC
BEVERAGE LICENSING

5

Back Room behind Front bar

X7 boxes - 12 1-liter Fleischmann's Vodka

X2 boxes - 12 1-liter Montezuma Tequila

X3 box - 12 1-liter Fleischmann's Extra Dry Gin

X2 open boxes - 7 1-liter

12 1-liter

X1 open box - 12 1-liter Montezuma Triple Sec

RECEIVED

APR 14 2019

SOPOR ALCOHOLIC
BEVERAGE LICENSING

Front Bar

Pg. 1

X1 - Grey Goose Le Citron - open
 X1 - Creme de Banana Cocktail mixers - open
 X1 - Deep Eddy Lemon (Lemon Flavored Vodka) - open
 X1 - Deep Eddy Orange (Orange Flavored Vodka) - open
 X1 - Don Julio Tequila - open
 X1 - Monte zuma Aztec Silver Tequila - open
 X1 - Deep Eddy Ruby Red (Grapefruit Flavored Vodka) - open
 X1 - Six & Twenty Carolina Cream Rum - open
 X1 - Death's Door Gin - Open
 X24 - Michelob Ultra beer (Aluminum bottle) - unopened
 X1 - Grand Marnier Liqueur - open
 X1 - Jack Daniel's Tennessee Fire Whiskey - open
 X1 - Crown Royal Whiskey - open
 X1 - Crown Royal Regal Apple - open
 X1 - Rumple Minze Liqueur - open
 X1 - Canadian LTD Whiskey - open
 X1 - Woodford Reserve Whiskey - open
 X1 - Johnnie Walker Red Label Whiskey - open
 X1 - Johnnie Walker Black Label Whiskey - open
 X1 - Three Olives Vanilla Vodka - open
 X1 - Three Olives Fresh Watermelon Vodka - open
 X1 - Three Olives Orange Vodka - open
 X1 - Three Olives Peach Vodka - open
 X1 - Three Olives Cherry Vodka - open
 X1 - Three Olives Raspberry Vodka - open
 X1 - Three Olives Rose' Vodka

RECEIVED

MAR 14 2013

SOUTH ALCOHOLIC
BEVERAGE LICENSING

Front Bar cont.

Pg. 2

X1 - Southern Comfort Whiskey - open
 X1 - Buffalo Trace Whiskey (Bourbon) - open
 X1 - Goslings Black Rum - open
 X2 - di Amore Amaretto liqueur - open
 X11 - di Amore Amaretto liqueur - unopened
 X1 - Canadian LTD Whisky - unopened
 X1 - Captain Morgan Caribbean White Rum - open
 X1 - Mr. Boston Peach Schnapps Liqueur - open
 X12 - Mr. Boston Peach Schnapps Liqueur - unopened
 X1 - Imported Goldschlager Schnapps Liqueur - open
 X2 - Fleischmann's extra dry gin - open
 X13 - Fleischmann's extra dry gin - unopened
 X4 - Barton imported light Rum - open
 X2 - Barton imported light Rum - unopened
 X6 - Fleischmann's Royal Vodka - open
 X11 - Fleischmann's Royal Vodka - unopened
 X3 - Kentucky Gentleman Kentucky Bourbon Whiskey - open
 X12 - Kentucky Gentleman Kentucky Bourbon Whiskey - unopened
 X4 - Montezuma Aztec Silver Tequila - open
 X13 - Montezuma Aztec Silver Tequila - unopened
 X2 - Montezuma Triple Sec Liqueur - open
 X13 - Montezuma Triple Sec Liqueur - unopened

RECEIVED

MAR 14 2008

BCCOF ALCOHOLIC
BEVERAGE LICENSING

RECEIVED

MAR 14 2010

3

Ps. 1

Front Booths (From Front Bar)

X4 - Malibu Caribbean Rum w/ Coconut Liqueur - open
 X2 - Grey Goose Vodka - open
 X2 - Canadian LTD Whisky - open
 X4 - Captain Morgan Original spiced Rum - open
 X2 - Bombay Sapphire London Dry Gin - open
 X4 - Jim Beam Kentucky Straight Bourbon Whiskey
 X3 - Jose Cuervo Special Blue Ancho Reyes Tequila - open
 X4 - Jack Daniels Tennessee Whiskey - open
 X2 - DeKuyper Creme de Cocoa - open
 X2 - DeKuyper Razzmatazz - open
 X1 - Jameson Irish Whiskey - unopened
 X3 - Jameson Irish Whiskey - open
 X2 - Mr. Boston Peach Schnapps Liqueur - open
 X2 - Tito's Handmade Vodka - open
 X2 - Fireball Cinnamon Whiskey - open
 X1 - Fireball Cinnamon Whiskey - unopened
 X2 - Tanqueray London Dry Gin - open
 X2 - Captain Morgan White Rum - open
 X2 - Maker's Mark Kentucky Straight Bourbon Whiskey - open
 X2 - Bacardi Raspberry Rum - open
 X2 - Bacardi Dragonberry Rum - open
 X2 - DeKuyper Pucker Watermelon Schnapps - open
 X2 - Silver Patron Tequila - open
 X2 - DeKuyper Strawberry Pucker Schnapps - open
 X2 - DeKuyper Pucker Sour Apple Schnapps - open
 X2 - DeKuyper Melon Schnapps

Front booths (Front bar) ^{shoppers}

X2 - Dekuyper Pucker Island Punch - open

X2 - Dekuyper Blue Curacao Liqueur - open

X3 - Rum Chata Caribbean Rum

X2 - Jagermeister Liqueur

X3 - Bailey Irish Cream

X2 - Kahlua Rum + Coffee Liqueur

X2 - Dekuyper Buttershots Butterscotch Schnapps

X31 - Bud Light beer (aluminum)

X4 - White Claw Black Cherry Hard Seltzer

X30 - Coors Light beer (aluminum)

RECEIVED

MAR 14 2018

SODOR ALCOHOLIC
BEVERAGE LICENSING

Back Bar

RECEIVED

MAR 14 2011

OFFICIAL RECORD
Beverage Department

Pg. 7

X45 - Coors Light Aluminum
 X21 - Miller Lite Aluminum
 X35 - Bud Light beer Aluminum
 X3 - Fleischmann's Extra Dry Gin
 X2 - Mr. Boston Peach Schnapps
 X2 - Bacardi Raspberry Rum
 X2 - Bacardi Dragonberry Rum
 X1 - Malibu Caribbean Rum w/ Passion Fruit
 X1 - Malibu Black Caribbean Rum
 X3 - Malibu Caribbean Rum
 X3 - Jameson Irish Whiskey
 X4 - Jack Daniel's Tennessee Whiskey
 X2 - Jack Daniel's Tennessee Fire Whiskey
 X8 - Jim Beam Kentucky Straight Bourbon
 X2 - Captain Morgan White Rum
 X3 - Barton Light Rum
 X4 - Captain Morgan Original Spiced Rum
 X2 - Rum Chata Caribbean Rum
 X1 - Crown Royal Canadian Whisky
 X1 - Crown Royal Vanilla Whisky
 X1 - Crown Royal Real Apple Whisky
 X2 - Jose Cuervo Gold Tequila
 X1 - DeKuyper Buttershots Butterscotch Schnapps
 X1 - Canadian LTD Whisky
 X6 - Montezuma Aztec Silver Tequila
 X3 - Montezuma Triple Sec Liqueur

RECEIVED

MAR 14 2018

SCOTT ALCOHOLIC
BEVERAGE LICENSING

Pg. 2

Back Bar

X4 - Fireball Cinnamon Whiskey
 X1 - Bailey's Irish Cream
 X2 - Kentucky Gentleman Bourbon Whiskey
 X12 - New Belgium Citra delect Tangerine IPA
 X12 - Samuel Adams Boston Lager
 X13 - Stone IPA
 X10 - Guinness Draught Stout
 X11 - New Belgium Fat Tire Amber Ale
 X17 - Palmetto Brewing Company Amber Ale
 X11 - Goose 312 Urban Wheat Ale
 X18 - Hi-wire hi-pitch Massac IPA
 X3 - Sierra Nevada Pale Ale
 X12 - Not Your Father's Root Beer Ale
 X1 - Fleischmann's Royal Vodka
 X12 - Goose IPA
 X12 - Stella Artois Lager Beer
 X11 - Dale's Pale Ale
 X9 - Lone Rider Sweet Josie Brown Ale
 X6 - Quittin' Time Helles Pock Beer
 X6 - GVL IPA
 Cabinets X2 - Tito's Handmade Vodka
 X1 - De Kuyper Butter Shots Butterscotch Schnapps
 X1 - di Amore Amaretto
 X1 - VV Blue Raspberry Vodka
 X1 - Silver Patron Tequila
 X1 - Maker's Mark Kentucky Straight Bourbon

12

Back Room (Front Bar)

x 8 Mr. Boston Triple Sec
 x 1 Three Olives Raspberry Vodka
 x 2 Three Olives Cherry Vodka
 x 3 Three Olives Fresh Watermelon Vodka
 x 4 Three Olives Vanilla Vodka
 x 3 Three Olives Rosé Vodka
 x 2 Three Olives Cucumber Lime Vodka

RECEIVED

11/21/2013

STATE OF ALABAMA
BEVERAGE LICENSING

Back Bar Pg. 3

RECEIVED

MAR 14 2003

SODAS & BEVERAGES
BEVERAGE LICENSING

13

x1-Tangeray London Dry Gin
 x12-Camden LTD Whisky
 x1-Bailey's Irish Cream
 x12-Dekuyper Creme De Cacao
 x12-Dekuyper Razzmatazz
 x12-Dekuyper Strawberry Pucker Schnapps
 x12-Dekuyper Pucker sau Apple Schnapps
 x12-Dekuyper Melon Liqueur
 x2-Kahlua Rum & Coffee Liqueur
 x2-Grey Goose Vodka
 x1-Grey Goose Le Citron Vodka
 x3-Jagermeister Liqueur
 x12-Dekuyper Blue Curacao Liqueur
 x12-Goldschlager Schnapps
 x1-Mr. Boston Peach Schnapps
 x1-Dekuyper Island Punch Pucker
~~x12-Dekuyper Pucker~~
 x1-Dekuyper Watermelon Schnapps
 x25-Budweiser Beer (Calvinium)
 x1-Grand Marnier Cointreau & Orange Liqueur
 x1-Don Julio Anejo Tequila
 x1-Don Julio Blanco Tequila
 x1-Jose Cuervo Gold Tequila
 x1-Deep Eddy Ruby Red Vodka
 x1-Three Olive Cucumber Lime Vodka
 x1-Deep Eddy Orange Vodka

14

Back Bar Pg. 4

RECEIVED

MAR 14 2013

SOUTH ALABAMA
BEVERAGE LICENSE #13

X1 Three Olives Peach Vodka
 X1 Deep Eddy Lemon Vodka
 X1 Three Olives Raspberry Vodka
 X1 Tito's Handmade Vodka
 X1 Three Olives Cherry Vodka
 X1 Three Olives Vanilla Vodka
 X1 Three Olives Fresh Watermelon Vodka
 X1 Three Olives Orange Vodka
 X1 Bombay Sapphire London Dry Gin
 X1 Death's Door Gin
 X1 Tanqueray London Dry Gin
 X1 Montezuma Aztec Silver Tequila
 X1 Goslings Black Seal Rum
 X1 Southern Comfort Whiskey
 X1 Buffalo Trace Bourbon Whiskey
 X1 Johnnie Walker Black Label Whisky
 X1 Johnnie Walker Red Label Whisky
 X1 Cran Royal Whisky
 X1 Fleischmann's Royal Vodka
 X1 Woodford Reserve Whiskey
 X1 Dekuyper Pucker Watermelon Schnapps
 X1 " Blue Curacao Schnapps
 X1 Jim Beam Bourbon Whiskey
 X1 Kentucky Gentleman Whiskey Bourbon
 X1 Maker's Mark Whiskey
 X1 diAmore Amaretto Liqueur

VP stairs Bar Pg. 4

RECEIVED

MAR 14 2013

BOTTLED BY THE
BREWERY

- X5 Sweet Water 420 Ale
 X7 Tecate Cans
 X6 Yvengling Lager
 X5 Hi-Wire hi-pitch IPA
 X10 Goose IPA
 X10 Dale's Pale Ale
 X12 ~~X15~~ New Belgium Citradelic IPA
 X17 New Belgium Fat Tire Ale
 X2 Elysian Space Dust IPA
 X14 Goose 312 Urban wheat Ale
 X9 Stella Artois Lager
 X11 Sierra Nevada Pale Ale
 X3 Blue Curacao Liqueur, Dekuyper
 X1 Dekuyper Pucker Island Punch
 X4 Dekuyper Moon Liqueur
 X1 Dekuyper Pucker Sour Apple Schnapps
 X1 Dekuyper Butterscotch Buttershots Schnapps
 X1 Dekuyper Strawberry Pucker Liqueur
 X1 Dekuyper Creme de Cocoa Liqueur
 X1 Dekuyper Razzmatazz Liqueur
 X1 Malibu Black Rum
 X2 Malibu Caribbean Rum
 X3 Malibu Caribbean Rum Passion Fruit
 X2 Three Olives Watermelon Vodka
 X1 Three Olives Raspberry Vodka
 X2 Crown Royal Regal Apple Whisky

10

UPstairs Bar Pg. 2

RECEIVED
10/1/00

x13 Fleischmann's Extra Dry Gin
 x2 Benchmark Bourbon
 x15 Kentucky Gentleman Bourbon
 x11 Fleischmann's Royal Vodka
 x5 Captain Morgan Original Spiced Rum
 x2 Captain Morgan Caribbean White Rum
 x1 Grey Goose Vodka
 x1 Grey Goose Le Citron Vodka
 x3 Woodford Reserve Bourbon
 x2 Fireball Cinnamon Whiskey
 x2 Maker's Mark Bourbon
 x1 Rum Chata Caribbean Rum
 x1 Goslings Black Seal Black Rum
 x1 Southern Comfort Whiskey
 x1 Jagermeister Liqueur
 x3 Jim Beam Bourbon
 x1 Casamigos Tequila
 x2 Grand Marnier Cognac + Orange Liqueur
 x2 Don Julio Blanco Tequila
 x3 Silver Patron Tequila
 x3 Buffalo Trace Bourbon
 x2 Tanqueray London Dry Gin
 x1 Bombay Sapphire London Dry Gin
 x2 Remy Tequila
 x2 Goldschlager Schnapps
 x2 Jameson Irish Whiskey

UPSTAIRS Bar Pg. 3

x1 Deep Eddy Orange Vodka
 x5 Canadian LTD Whisky
 x1 Goslings Black Seal Black Rum
 x1 Death's Door Gin
 x1 Johnnie Walker Black Label Whisky
 x20 Montezuma Aztec Silver Tequila
 x15 Montezuma Triple Sec
 x10 Lone Rider Sweet Jose Brann
 x10 Samuel Adams Boston Lager
 x14 Palmetto Brewing Company Brann
 x5 Shock Top Beer
 x1 Sierra Nevada Hazy Little Thing IPA
 x1 Tecate Beer
 x3 Babe Rose
 x1 Blue Moon Belgian White Beer
 x1 Woodchuck Hard Cider
 x1 Michelob Ultra Beer
 x17 Budweiser Beer (Aluminum)
 x8 Miller Lite
 x2 Heineken Beer
 x1 Not Your Father's Root Beer Ale
 x12 GVL IPA
 x18 Coors Light (Aluminum)
 x3 Sierra Nevada Pale Ale
 x18 Stone IPA
 x12 Quittin' Time Helles Pock Beer

18

UPSTAIRS Bar

Pg. 1

RECEIVED
MAR 14 2019
SCHOOL ALCOHOLIC
BEVERAGE LICENSE

	X2 kegs Bud Light
	X1 box Hi-wire hi-pitch IPA (4 6 packs)
	X1 box (4 6 packs) Samuel Adams Boston Lager
Six Packs	X29 11.2 GVL IPA
Six Packs	X2 11.2 Lone Rider Sweet Josie Bran Ale
Six Packs	X3 11.2 Quittin' Time Helles Back Beer
	X3 11.2 boxes 12 11.2 Fl Oz Guinness Draught Stout
Six Packs	X7 11.2 Not Your Father's Root Beer Ale
Six Packs	X2 11.2 Palmetto Brewing Company Amber
Six Packs	X3 11.2 Samuel Adams Boston Lager
Six Packs	X6 36 Hi-wire hi-pitch Mosaic IPA
	X3 11.2 boxes each (4 6 packs) New Belgium Citradelic IPA
Six Packs	X1 11.2 New Belgium Citradelic IPA
	X4 11.2 boxes 16 pack Budweiser bottles
	X1 Six + Twenty Carolina Cream Rum
	X11 Eight Point IPA
	X1 box 4 cans Babe Rose
	X2 box 8 cans 4/ Babe Grigio
	X4 Barefoot Bubbly Brut Cuvée Champagne
	X4 Jack Daniel's Whiskey
	X2 Jack Daniel's Tennessee Fire Whiskey
	X3 di Amore Amaretto
	X3 Jose Cuervo Gold Tequila
	X6 Barton Rum
	X1 Tito's Handmade Vodka
	X5 Mr. Boston Peach Schnapps

F. OUS
The Study Hall

Daily Group Sales for 12/1/2018-12/31/2018
created at 2/28/2019 8:28:18 PM

Page 1 of 1

OPEN CHECK AMOUNT (320.00)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units Sales	Lunch 11:01am - 04:00pm Units Sales	Dinner 04:01pm - 03:00am Units Sales	Disc Units	Disc Sales			
Average Check	4618	8.67		0	0.00	79	18.64	4538	6.46		
Average Guest	4838	8.36		0	0.00	174	8.46	4663	6.29		
Voids	90	408.22		0	0.00	11	52.19	51	260.55		
Food	496	2,470.00	8.02	0	0.00	145	677.10	311	1,592.80	77	-205.11
NA Beverage	19	34.60	0.11	0	0.00	1	2.10	18	32.50	7	-18.90
Beer	2062	6,730.11	21.86	0	0.00	74	278.60	1589	6,451.21	88	-59.69
Wine	5	18.75	0.06	0	0.00	2	7.50	3	11.25	0	0.00
Liquor	7173	18,397.89	59.78	0	0.00	70	279.17	7099	18,110.82	162	-201.81
Retail	2	0.00	0.00	0	0.00	0	0.00	2	0.00	0	0.00
Misc	127	1.27	0.00	0	0.00	2	0.02	125	1.25	0	0.00
Totals	10648	30,788.97	100.00	0	0.00	301	1,472.79	10341	29,308.18	356	-508.56
CC Bar		2,698.25									
Subtotal		33,485.22									
Inclusive Tax		0.00									
Subtotal Discounts		0.00									
Net Sales		33,485.22									
Sales Tax		811.25 on		8,926.86 exempt	0.00						
Liquor Tax		2,972.79 on		21,862.12 exempt	0.00						
Total Tax		3,784.00									
Total Sales		37,269.22									
Paid Outs		0.00									
Paid Ins		0.00									
CC Tip Fee		733.14									
Refunds		0.00									
Total Accountable		38,002.36									
Gross Cash	1125	7,658.57									
Paid Outs	0	0.00	-								
CC Tip Fee		733.14	+								
Tips Paid Out		-7,316.95	-								
Net Cash		1,074.76	=			Cash Deposit:					
CHECK	0	0.00	+								
Cash & Checks		1,074.76	=			Cash & Checks Deposit:					
VISA	2692	25,806.81	+								
MasterCard	764	8,012.17	+								
AMEX	85	1,442.30	+								
Discover	71	651.32	+								
Gift Cert.	0	0.00	+								
House Charge	0	0.00	+								
Diners Card	0	0.00	+								
Employee Charge	0	0.00	+								
Givex	0	0.00	+								
Local Account	0	0.00	+								
Gift Card	0	0.00	+								
Online Credit	0	0.00	+								
Online Gift	0	0.00	+								
Donation	0	0.00	+								
Trivia CC	3	15.00	+								
Total Payments		36,002.36	=			- 38002.36 = Over/Short			CC Total 36,912.60		
Order Types											
CC Bar	3524	26,479.22	Cash Sale		1094	7,005.00					
Discounts (509.56)											
Employee 30%	25	104.75	Regulars 30%		3	18.42	Cash Discount		122		
Comp Starkey	2	62.00	Comp Justin		20	220.39	Comp Band		1		
Voids											
Incorrect Order	50	258.28	Changed Mind		1	3.85	Took Too Long		5		
Walked Out	1	4.00	Server Error		25	84.50	Wrong Table		1		
Training	2	10.50	Cook Error		5	10.24					

REC'D

MR14

SECTION 4.0
BEVERAGE L

Alvin Dar

RECEIVED
MAR 14 2019
BODOR ALCOHOLIC
BEVERAGE LICENSING

Alvin Dark



F. 2015

The Study Hall

Daily Group Sales for 1/1/2019-1/31/2019

created at 2/29/2019 5:27:51 PM

Page 1 of 1

OPEN CHECK AMOUNT (489.79)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units Sales	Lunch 11:01am - 04:00pm Units Sales	Dinner 04:01pm - 03:00am Units Sales	Dis Units	Dis Sales			
Average Check	10414	7.07		81	11.60	237	19.57	10091	6.74		
Average Guest	10897	6.76		91	10.32	444	10.45	10357	6.57		
Voids	186	924.34		0	0.00	18	98.87	160	792.98		
Food	1109	6,668.24	9.05	43	242.62	405	2,639.03	623	3,682.65	87	-209.70
NA Beverage	67	78.50	0.11	3	6.50	15	33.00	49	40.00	32	-86.00
Beer	4491	14,568.36	19.81	37	161.00	247	909.40	4207	13,517.96	106	-72.14
Wine	6	30.00	0.04	0	0.00	3	11.25	5	18.75	0	0.00
Liquor	15579	43,144.90	58.57	142	523.04	245	923.35	15189	41,884.51	276	-180.47
Misc	298	2.98	0.00	13	0.13	12	0.12	273	2.73	0	0.00
Totals	23869	73,658.36	100.00	240	939.29	975	4,639.15	22643	68,023.98	639	-581.93
CC Bar		5,978.25									
Subtotal		79,636.61									
Inclusive Tax		0.00									
Subtotal Discounts		0.00									
Net Sales		79,636.61									
Sales Tax		1,908.00 on		21,192.58 exempt	0.00						
Liquor Tax		7,142.75 on		52,455.78 exempt	0.00						
Total Tax		9,050.75									
Total Sales		88,687.36									
Paid Outs		0.00									
Paid Ins		0.00									
CC Tip Fee		1,711.03									
Refunds		-20.23									
Total Accountable		90,378.16									
Gross Cash	2739	19,061.50									
Paid Outs	0	0.00									
CC Tip Fee		1,711.03									
Tips Paid Out		-17,075.78									
Net Cash		3,716.84									
CHECK	0	0.00									
Cash & Checks		3,716.84									
VISA	5811	62,600.13									
MasterCard	1750	18,481.90									
AMEX	194	3,068.91									
Discover	237	2,560.38									
Gift Cert.	0	0.00									
House Charge	0	0.00									
Others Card	0	0.00									
Employee Charge	0	0.00									
Gifts	0	0.00									
Local Account	0	0.00									
Gift Card	0	0.00									
Online Credit	0	0.00									
Online Gift	0	0.00									
Donation	0	0.00									
Trivia GC	0	0.00									
Total Payments		90,378.16									
Order Types											
CC Bar	7765	62,554.87	Cash Sale	2849	17,071.74						
Discounts (581.93)											
Employee 30%	22	61.22	Police 30%	1	7.09	Regulars 30%	9	34.88			
Cash Discount	220	162.78	Comp Starkey	18	232.94	Comp Justin	4	53.25			
Voids											
Incorrect Order	103	513.65	Changed Mind	9	32.00	Took Too Long	6	38.14			
Waited Out	3	9.00	Cold Food	1	7.49	Server Error	20	130.24			
Wrong Payment	8	22.00	Wrong Table	6	14.00	Training	2	6.49			
POS Test	20	102.73	Did Not Like	1	8.50	Out of Stock	3	11.75			
Cook Error	4	28.35									

RECEIVED

FEB 14 2020

POSITIVE MARCH 2020
BEVERAGE BUSINESS

Alvin Dark



THE STUDY HALL
The Study Hall

Daily Group Sales for 2/1/2019-2/28/2019
created at 2/28/2019 8:29:08 AM

Page 1 of 1

OPEN CHECK AMOUNT (330.46)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units Sales	Lunch 11:01am - 04:00pm Units Sales	Dinner 04:01pm - 03:00am Units Sales	Disc Units	Disc Sales			
Average Check	8902	6.89		0	0.00	188	25.98	6.52			
Average Guest	9493	6.46		0	0.00	399	19.97	6.27			
Voids	125	479.72		0	0.00	21	56.31	104	423.41		
Food	1013	6,112.33	9.97	0	0.00	435	2,754.43	557	3,352.90	46	-91.97
NA Beverage	102	186.87	0.30	0	0.00	50	110.00	52	78.67	24	-66.39
Beer	3305	10,910.50	17.79	0	0.00	193	805.25	3112	10,105.24	68	-49.00
Wine	1	3.75	0.01	0	0.00	1	3.75	0	0.00	0	0.00
Liquor	14398	36,953.45	60.32	0	0.00	149	651.91	14247	36,330.54	192	-86.58
Misc	301	239.13	0.39	0	0.00	10	10.00	291	229.05	0	0.00
Totals	20858	61,331.96	100.00	0	0.00	666	4,364.43	19967	58,961.53	349	-325.75
CC Bar		5,272.50									
Subtotal		66,604.46									
Inclusive Tax		0.00									
Subtotal Discounts		0.00									
Net Sales		66,604.46									
Sales Tax		1,564.00 on		17,451.01 exempt	0.00						
Liquor Tax		5,827.75 on		43,880.95 exempt	0.00						
Total Tax		7,491.75									
Total Sales		74,096.21									
Paid Outs		0.00									
Paid Ins		0.00									
CC Tip Fee		1,420.21									
Refunds		0.00									
Total Accountable		75,516.42									
Gross Cash	2198	14,940.88									
Paid Outs	0	0.00									
CC Tip Fee		1,420.21									
Tips Paid Out		-14,178.12									
Net Cash		2,184.97									
CHECK	0	0.00									
Cash & Checks		2,184.97									
VISA	5209	52,800.80									
MasterCard	1404	14,523.06									
AMEX	208	3,703.54									
Discover	184	2,067.57									
Gift Cert.	0	0.00									
House Charge	0	0.00									
Diners Card	0	0.00									
Employee Charge	0	0.00									
Gifts	0	0.00									
Local Account	0	0.00									
Gift Card	0	0.00									
Online Credit	0	0.00									
Online Gift	0	0.00									
Donation	0	0.00									
Trivia GG	3	73.74									
Total Payments		75,469.68									
Order Types											
CC Bar	6800	53,526.52	Cash Sale	2102	13,077.94						
Discounts (325.75)											
Employee 30%	20	57.82	Regulars 30%	2	5.40	Cash Discount	144	107.25			
Comp Starkey	14	142.28	Comp Justin	2	13.00						
Voids											
Incorrect Order	54	236.62	Changed Mind	22	61.20	Took Too Long	6	14.21			
Walked Out	8	41.25	Server Error	8	25.24	Wrong Payment	18	66.29			
Wrong Table	2	12.50	Training	3	11.00	POS Test	1	0.01			
Out of Stock	3	11.40									

11-17-11

11:00

SPACE
BEVERAGE

Alvin Darko

RECEIVED
FEB 14 2019
STATE OF CALIFORNIA
REVENUE DEPARTMENT

Alvin Dark

STATE OF SOUTH CAROLINA

COPY

County of PICKENS

SEARCH WARRANT

Date February 28, 2019,
Officer SA Keith Dortman

SEARCHED
SERIALIZED
INDEXED
FILED
FEB 28 2019
FBI - PICKENS

Page 33

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

} Search Warrant

Form approved by
S.C. Attorney General
Section 17-13-140
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF A MUNICIPALITY OF
PICKENS COUNTY

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140 (issuance, execution and return of search warrants for property connected with the commission of crime; inventory of property seized), 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE, OR THING)
TO BE SEARCHED

Described at 101 Sloan St. Clemson, SC 29631 is a multi-level gray brick building. 101 Sloan St. has an open air bar on the second level, rear left of the bar, looking at the building from the main entrance located at the corner of Sloan St. and College Ave. The main entry door to the above referenced address is wooden with glass windows.

RECEIVED
MAR 14 2019
SOUTH CAROLINA
SHERIFFS ASSOCIATION

DESCRIPTION OF PROPERTY

Click here to enter text.

Any and all alcoholic beer, wine, and/or liquor within the business, Study Hall Restaurant and Bar. Any and all receipts of beer, wine, and/or liquor transactions made with US currency, debit/credit card basic transaction information, any and all gift card transactions used for alcoholic beer/wine and/or liquor transactions, from December 1, 2018 through February 28, 2019.

Click here to enter text.

This Search Warrant shall not be valid for more than ten days from the date of issuance. A written inventory of all property seized pursuant to this Search Warrant shall be made to The Honorable James Daniel

(Name of Judge)

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Clemson, S.C.
(City or Town)

February 28, 2019
(Date)

SCCA/S13 (1-78)

James Daniel (L.S.)
(Signature of Officer)

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

}

AFFIDAVIT

Personally appeared before me, one Special Agent Keith Darman who, being
duly

Sworn to before me

sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140
(Issuance, execution and return of search warrants for property connected with the commission of crime; inventory of property
seized), 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any and all alcoholic beer, wine, and/or liquor within the business, Study Hall Restaurant and Bar. Any and all receipts of
beer, wine, and/or liquor transactions made with US currency, debit/credit card basic transaction information, any and all
gift card transactions used for alcoholic beer/wine and/or liquor transactions, from December 1, 2018 through February
28, 2019.

RECEIVED
MAR 14 2019
SOUTH CAROLINA
DEPARTMENT OF LAW ENFORCEMENT

DESCRIPTION OF PREMISES (PERSON, PLACE, OR THING)

TO BE SEARCHED

Click here to enter text. Described at 101 Sloan St, Clemson, SC 29631 is a multi-level gray brick building. 101 Sloan St.
has an open air bar on the second level, rear left of the bar, looking at the building from the main entrance located at the
corner of Sloan St. and College Ave. The main entry door to the above referenced address is wooden with glass windows.

**REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

On February 28, 2019, Special Agent (SA) Keith Dorman with the South Carolina Law Enforcement Division (SLED) conducted an undercover operation at Study Hall Restaurant and Bar located at 101 Sloan St. Clemson, SC within the city limits of Clemson. The operation was conducted due to SA Dorman receiving an anonymous tip that Study Hall Restaurant and Bar is operating as a business, open to the public, and selling beer, wine, and/or liquor without proper alcohol licenses from the South Carolina Department of Revenue. SA Dorman verified with the South Carolina Department of Revenue on February 27, 2019, that Study Hall Restaurant and Bar does not have valid beer/wine or liquor licenses. As of February 28, 2019, Study Hall Restaurant and Bar still did not have proper alcohol licenses to sell beer/wine or liquor.

At approximately 5:30pm SA Phillips arrived at Study Hall Restaurant and Bar and entered through the unlocked main entrance.

SA Phillips approached the bar nearest the front door at 5:30pm and was asked for identification to purchase a beer. SA Phillips ordered a bud light. The bartender, opened a 16 fl oz aluminum can of Bud Light beer and provided SA Phillips the beer. SA Phillips paid \$3.25 for the 16 fl oz aluminum can of Bud Light beer and received \$6.75 in change from the bartender. SA Phillips exited Study Hall Restaurant and Bar at 5:37pm, with the empty can and sample of contents of beer can. Based on the above stated facts, there is probable cause to believe that this business located at 101 Sloan St. Clemson, SC is selling alcoholic beer, wine, and/or liquor without valid alcohol licenses.

RECEIVED
MAR 14 2019
SOUTH CAROLINA
DEPARTMENT OF REVENUE

Sworn to and Subscribed before me

This 28th day of February, 2019


(Signature of Judge)

(L.S.)


(Affiant's Signature)

Affiant's Agency South Carolina Law Enforcement Division

Affiant's Agency Address Columbia, SC

Affiant's Agency Phone # 803-737-9000

ARREST WARRANT
2019A3920200066

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

THE STATE
against

JONATHAN EARL STARKEY

Address: 121 PINE NEEDLE RD
STATESBORO GA 30458

Phone: (912) 541-1529 SOE

Sex: M Race: W Height: 6-4 Weight: 250

DL State: GA DL#: 054779818

DOB: 02/03/1977 Agency Code: SC0390200

Prosecuting Agency: CITY OF CLEMSON / SLEP

Prosecuting Officer: SPECIAL AGENT K. DORMAN

Offense: OPERATION WITHOUT A PERMIT

Offense Code: 2292

Code/Offense Desc: 61-04-0560

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____
Time: _____

RETURN

A copy of this arrest warrant was delivered to
defendant JONATHAN EARL STARKEY
on 2/14/2019

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
CLEMSON MUNICIPAL COURT
1250 TIGER BOULEVARD, SUITE 3
CLEMSON, SC 29631
864-653-2045

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

AFFIDAVIT

File Approved by
S.C. Attorney General
2019/02/14/2019
02/14/19

Personally appeared before me the affiant, SPECIAL AGENT K. DORMAN, who
being duly sworn deposes and says that defendant, JONATHAN EARL STARKEY
did within this county and state on 02/28/2019 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CLEMSON)

in the following particulars:

DESCRIPTION OF OFFENSE: 61-04-0560 / OPERATION WITHOUT A PERMIT

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON FEBRUARY 28TH, 2019 THE ACCUSED, JONATHAN STARKEY DID KNOWINGLY AND WILLFULLY OPERATE AND ALLOW TO OPERATE
HIS RETAIL BUSINESS, STUDY HALL RESTAURANT AND BAR, WITHOUT OBTAINING PROPER ALCOHOL PERMITS REQUIRED BY THE SOUTH
CAROLINA DEPARTMENT OF REVENUE. JONATHAN STARKEY'S BUSINESS, STUDY HALL RESTAURANT AND BAR, SOLD A 16 FL OZ ALUMINUM
CAN OF BUD LIGHT BEER TO AN UNDERCOVER SOUTH CAROLINA LAW ENFORCEMENT DIVISION AGENT ON THE ABOVE DATE AT
APPROXIMATELY 8:35 PM WITHIN THE CITY LIMITS OF CLEMSON SC AND WITHIN PICKENS COUNTY. JONATHAN STARKEY IS THE PRINCIPAL
OWNER OF STUDY HALL RESTAURANT AND BAR. STUDY HALL RESTAURANT AND BAR AS OF THE DATE AND TIME MENTIONED ABOVE, DID
NOT HAVE PROPER AND/OR VALID ALCOHOL LICENSES TO ALLOW THE SALE OF BEER/WINE AND/OR LIQUOR.

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

Affiant's Address: 1198 TIGER BOULEVARD / 4400 Road 200 B
CLEMSON SC 29631 Columbia, SC 29204
Affiant's Telephone: (864) 624-2000 803-737-5000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/28/2019 defendant JONATHAN EARL STARKEY

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of CLEMSON) as set forth below:

DESCRIPTION OF OFFENSE: ALCOHOL / FAILURE TO SECURE REQUIRED BEER OR WINE SALE
PERMIT

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of his execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/01/2019 1:45 PM
Signature of Judge (L.S.)
T. DANIEL

Judge Code: 8050

Judge's Address: 1250 TIGER BLVD. SUITE 3
CLEMSON SC 29631

Judge's Telephone: 864 653-2064

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 2019A3920200066

RAIL set by

Judge _____
 on _____
 Type and Amount: _____
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defense Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
 Sentence: _____

JURORS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS

RECEIVED
 1967 JUN 14 10 39
 600 71607
 600 71607

ARREST WARRANT
2019A3920200067

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLENSON

THE STATE
against

JONATHAN EARL STARKEY
Address: 121 PINE NEEDLE RD
STATESBORO GA 30458
Phone: (912) 541-1529 SSN:
Sex: M Race: W Height: 6-4 Weight: 250
DL State: GA DL#: 064779818
DOB: 02/03/1977 Agency Off#: SC0390200
Prosecuting Agency: CITY OF CLENSON / SLED
Prosecuting Officer: SPECIAL AGENT K. DORMAN
Offense: UNLAWFUL STORAGE IN PLACE OF
BUSINESS Offense Code: 0246
Code/Ordinance Sec: 51-06-4060(A)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)
Date: _____ Time: _____

RETURN
A copy of this arrest warrant was delivered to
defendant JONATHAN EARL STARKEY
on 2/4/2019

Signature of Constable/Law Enforcement Officer
RETURN WARRANT TO:
CLENSON MUNICIPAL COURT
1250 TIGER BOULEVARD, SUITE 3
CLENSON, SC 29631
864-653-2045

RECEIVED
MAR 14 2019
SOUTH CAROLINA
BEVERAGE LICENSING

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLENSON

AFFIDAVIT

Form Approved by
AS 10000-100-0000

Personally appeared before me the affiant, SPECIAL AGENT K. DORMAN
being duly sworn deposes and says that defendant JONATHAN EARL STARKEY
did within this county and state on 02/28/2019
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CLENSON) violate the criminal laws of the
in the following particulars:
DESCRIPTION OF OFFENSE: 51-06-4060(A) / UNLAWFUL STORAGE IN PLACE OF BUSINESS

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON FEBRUARY 28TH, 2019, AT APPROXIMATELY 8:30PM, THE ACCUSED, JONATHAN STARKEY DID KNOWINGLY AND WILLFULLY, STORE
ALCOHOLIC LIQUORS IN HIS PLACE OF BUSINESS, STUDY HALL RESTAURANT AND BAR, LOCATED WITHIN THE CITY LIMITS OF CLENSON
WITHIN PICKENS COUNTY. STUDY HALL RESTAURANT AND BAR IS NOT A LICENSED, RETAIL LIQUOR STORE AND DID NOT HAVE PROPER
AND/OR VALID LIQUOR LICENSING TO PERMIT SALE OR CONSUMPTION OF ALCOHOLIC LIQUORS AS OF THE ABOVE TIME AND DATE.
JONATHAN STARKEY IS THE OWNER AND PRINCIPAL OF STUDY HALL RESTAURANT AND BAR.

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLENSON

Affiant's Address: 1198 TIGER BOULEVARD / 4400 Second Street SE
CLENSON SC 29631 Columbia SC 29204
Affiant's Telephone: (864) 624-2000 803-7229000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/28/2019 defendant JONATHAN EARL STARKEY
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of CLENSON) as set forth below:
DESCRIPTION OF OFFENSE: ALCOHOL / UNLAWFUL STORAGE OR POSSESSION OF ALCOHOLIC
LIQUORS IN PLACE OF BUSINESS - 1ST OFFENSE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 03-01-2019 1:45 PM
T. DANIEL (L.S.)

Judge Code: 8050

Judge's Address: 1250 TIGER BLVD. SUITE 3
CLENSON SC 29631
Judge's Telephone: 864 653-2064

Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit
Case: 2019A3920200067

ORIGINAL

BAIL set by Judge _____ on _____ Type and Amount: _____ Name of Surety: _____ PRELIMINARY HEARING held by Judge _____ on _____ Defense Attorney: _____ Decision: _____ DISPOSITION before Judge _____ on _____ by _____ (indicate jury trial, bench trial, plea, nol. pro., etc.) Disposition: _____ Sentencer: _____ JURORS _____ _____ _____		WITNESSES Name: _____ Address: _____ Telephone: _____ Name: _____ Address: _____ Telephone: _____ Name: _____ Address: _____ Telephone: _____ Name: _____ Address: _____ Telephone: _____ Name: _____ Address: _____ Telephone: _____ CODEFENDANTS _____ _____ _____	

RECEIVED

NOV 14 1968

CLERK OF COURT

Page 40



South Carolina
Law Enforcement Division

P.O. Box 21398
Columbia, South Carolina
29221-1398

Henry D. McMaster, Governor

Mark A. Keel, Chief

Tel: (803) 737-9000

October 14, 2019

TO: SLED Casefile 54-19-1343

From: Special Agent Keith Dorman

Subject: Study Hall LLC
DBA: Study Hall LLC
101 Sloan St.
Clemson, SC 29631
PLB - 320701852

County: Pickens

SUMMARY OF EVENT:

On Saturday, October 13, 2019, Special Agents (SA) Dorman and Tortorello of the South Carolina Law Enforcement Division and Detective Brown of the Clemson Police Department conducted an undercover alcohol operation at Study Hall LLC located at the above address in Pickens County. SA Tortorello purchased a vodka and Red Bull mixed drink after 12:00am on Sunday, October 13, 2019.

NARRATIVE:

Prior to beginning the operation, SA Tortorello was provided twenty dollars in documented funds by SA Dorman.

At the time of purchasing the vodka and Red Bull mixed drink, Study Hall LLC did not possess a valid Local Option Permit (LOP), permitting Study Hall LLC to sell alcoholic liquor on Sunday's.

At approximately 12:19am on Sunday, October 13, 2019, SA Tortorello paid a ten dollar cover charge to enter Study Hall LLC. SA Tortorello was provided a wrist band, entered Study Hall LLC, and approached the bar. SA Tortorello ordered a vodka and Red Bull mixed drink from the bartender. After purchasing the vodka and Red Bull mixed drink, SA Tortorello took a sample and photographs of the mixed drink and exited Study Hall LLC with the empty plastic cup and sample of the vodka and Red Bull mixed drink. After exiting Study Hall LLC, SA Tortorello returned to the Clemson Police Department substation and relinquished the sample of the vodka



An Accredited Law Enforcement Agency

464



and Red Bull mixed drink, empty plastic cup, and "over 21" wristband to SA Dorman.

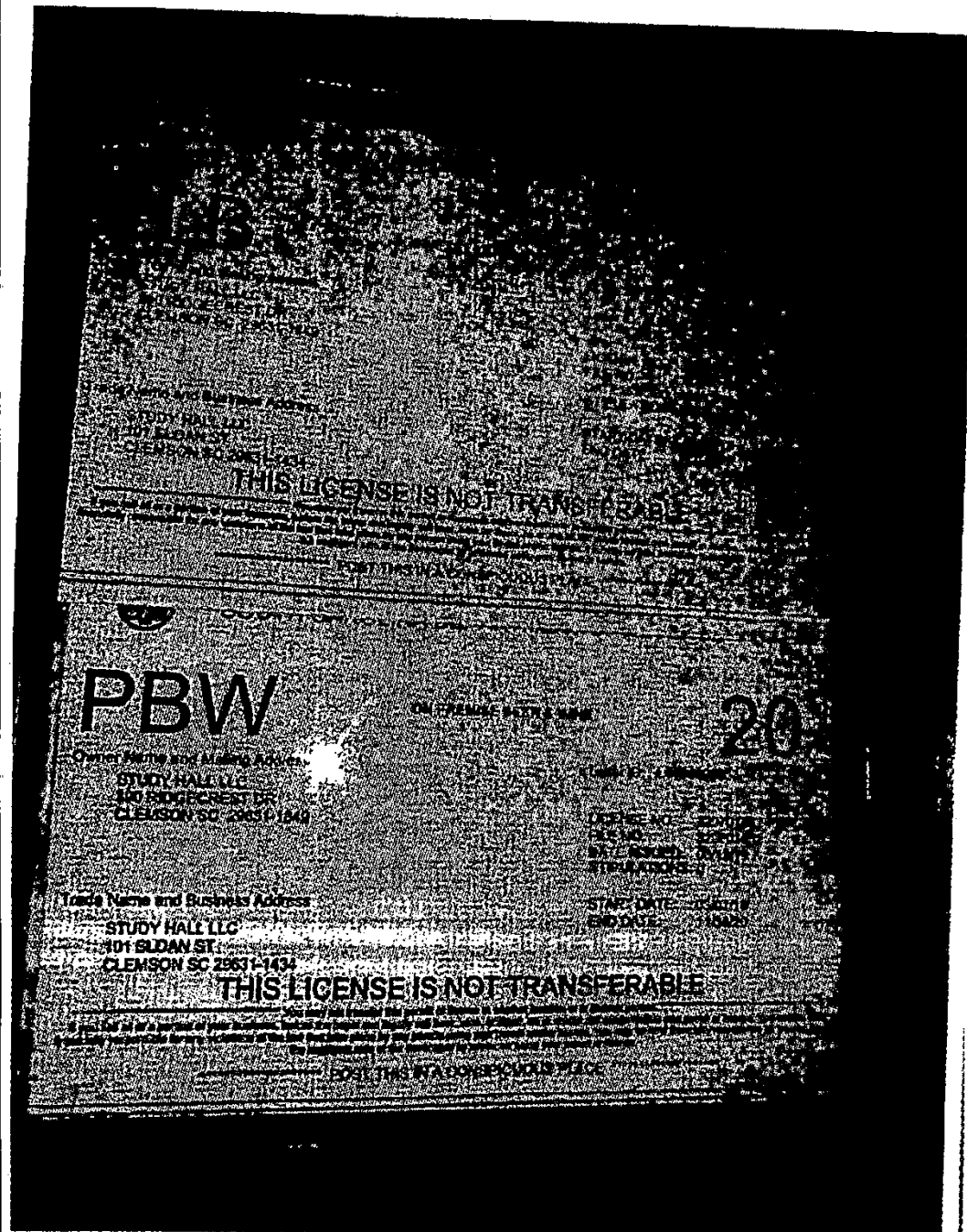
Due to the facts stated above, an administrative violation was issued to the licensee for violating S.C. Statute 61-6-1610(D), by allowing the sale of liquor during restricted hours. SA Dorman explained the violation to bar owner, John Starkey, and advised him that the Department of Revenue would be in contact with the licensee in reference to a violation assessment.

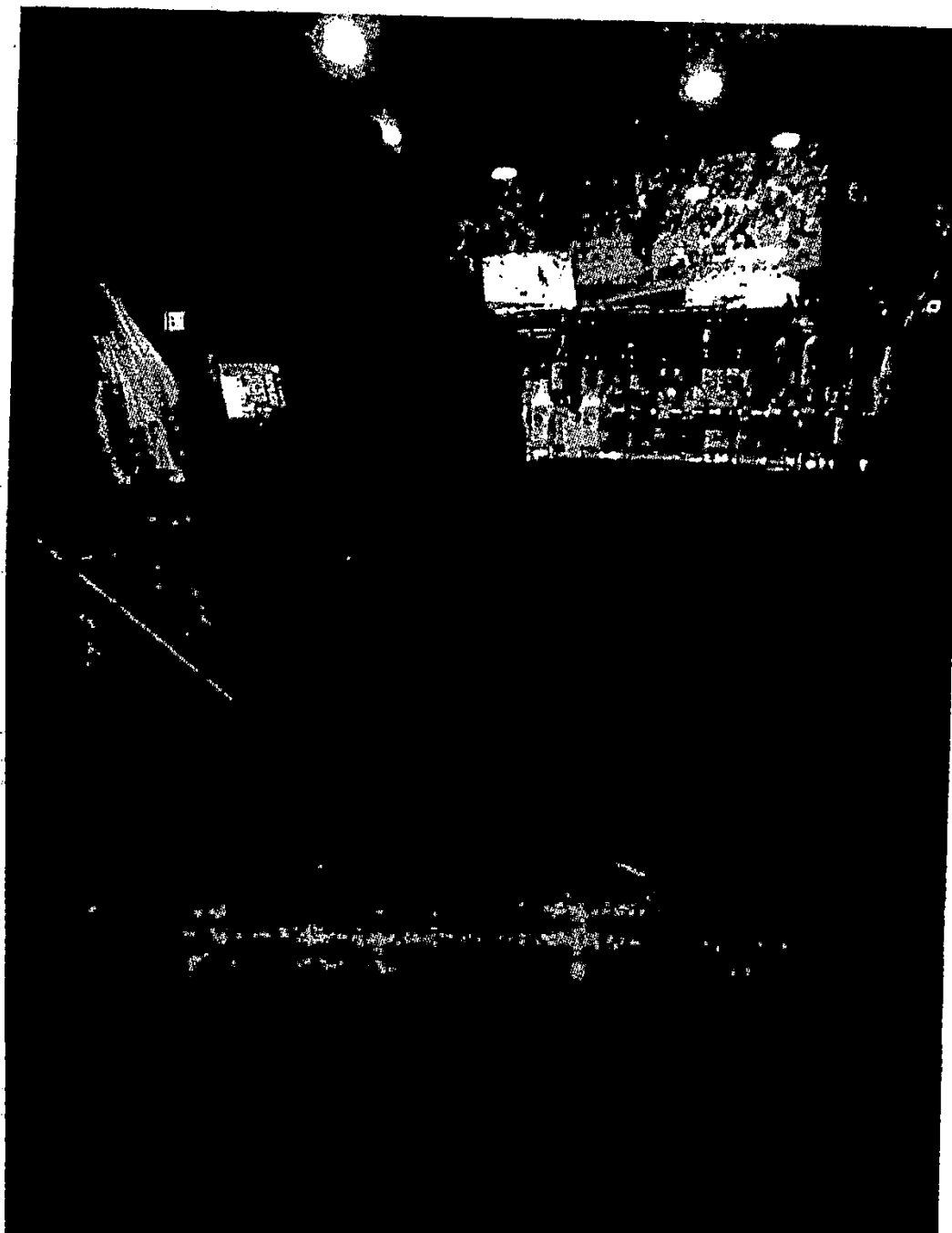
The evidence, consisting of the sample of vodka and Red Bull, empty plastic cup, and "over 21" wristband, remains secure with SA Dorman until all initial court proceedings and appearances are completed.

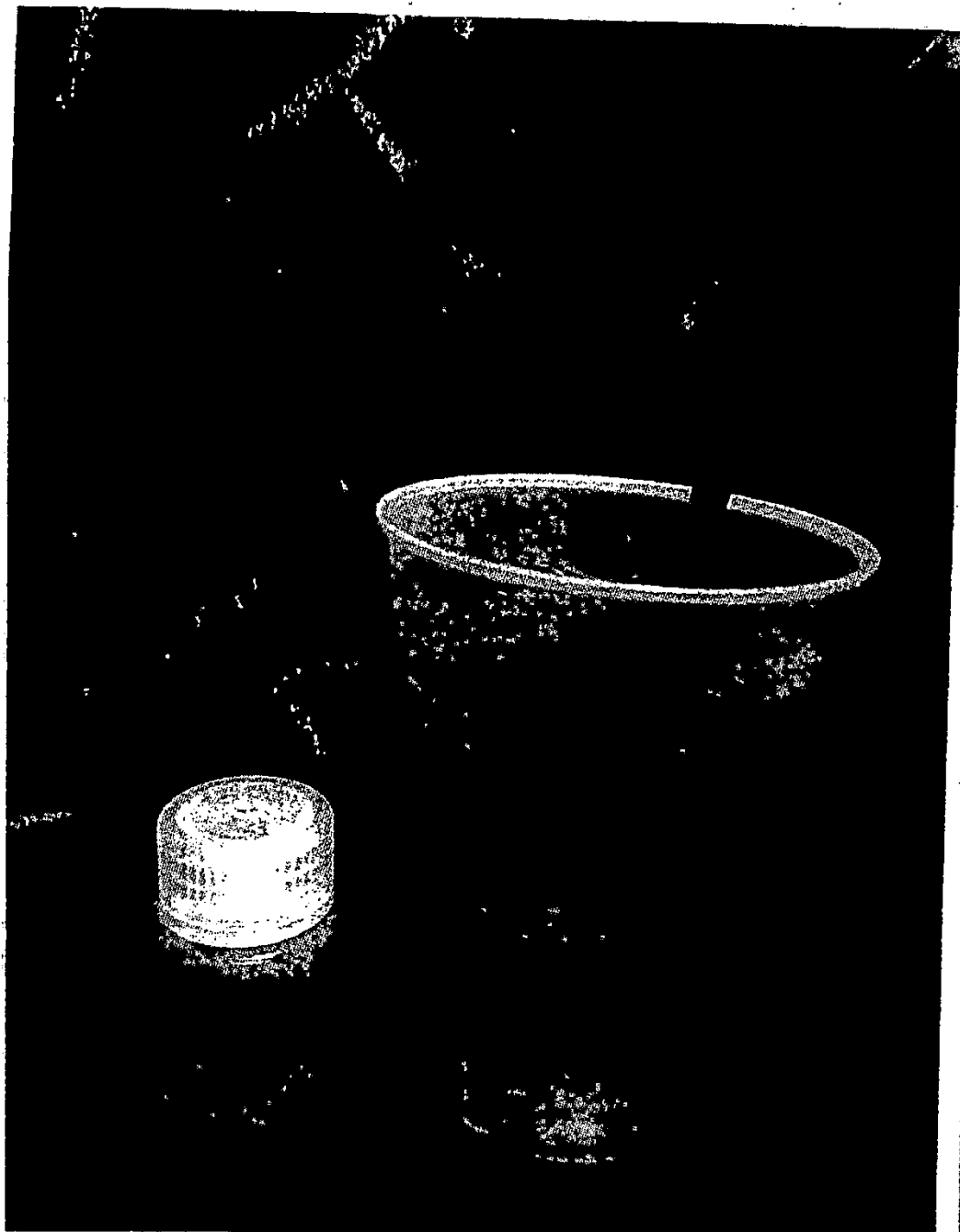
END OF REPORT

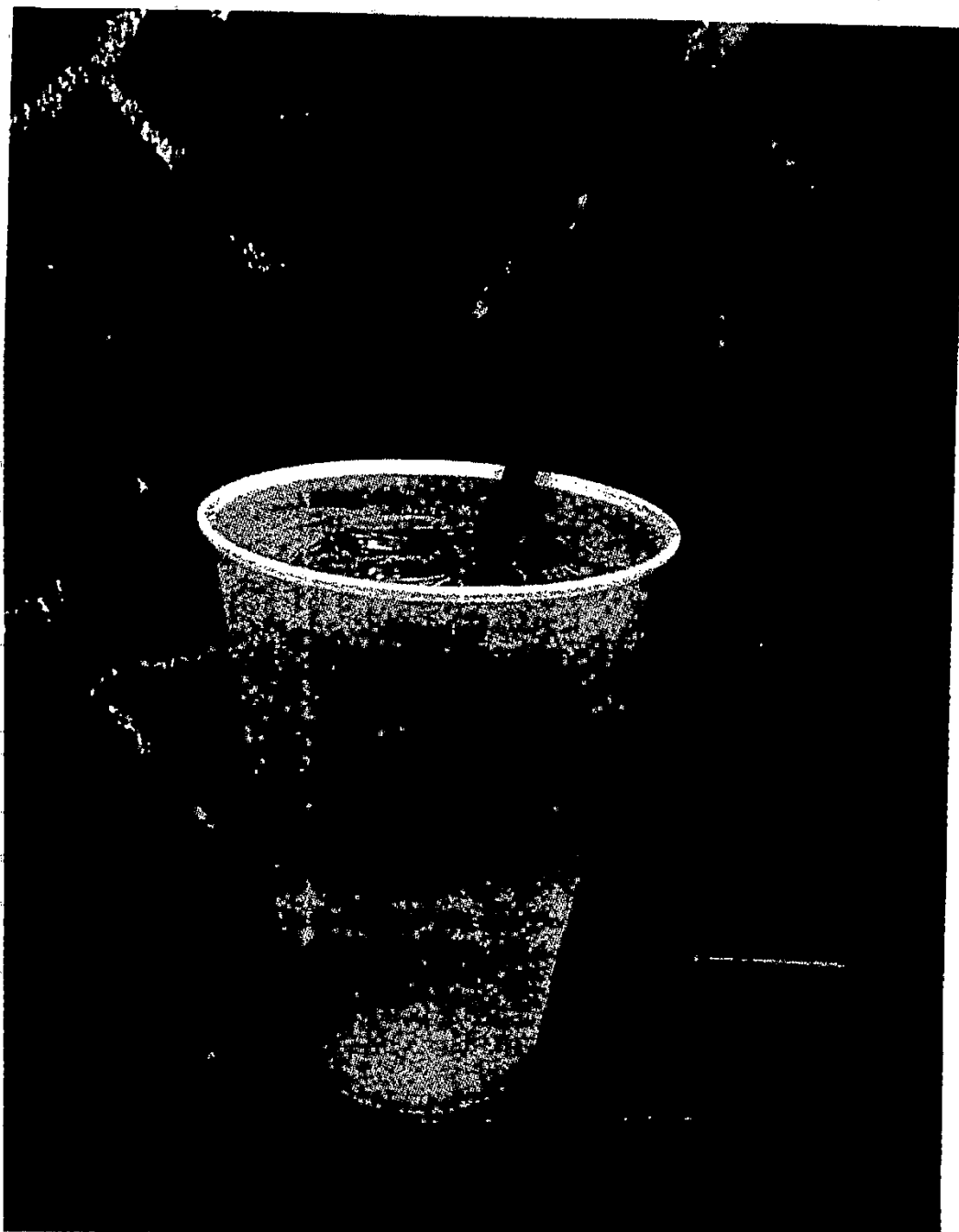
SA Keith Dorman

VIOLATION REPORT	
SOUTH CAROLINA LAW ENFORCEMENT DIVISION	
LICENSEE Sturdy Hall LLC	
BUSINESS ADDRESS 101 Liberty St. Charleston SC 29631	
MAILING ADDRESS IF DIFFERENT 390 Palmetto St. Charleston SC 29631	
LICENSE NO: 370701852	
PLB	80 BW EL EC SB
BUSINESS NAME Sturdy Hall LLC	
OFFENSE Sale of T-1100 Drug Restricted Haves	
STATUTE 6-1-60 (1)(1)(2)	REGULATION
DATE 10/13/19	TIME 12:55 AM
ASSISTING OFFICERS Det. Simon	
SUMMONS ISSUED	
AGENT D. Simon	NO. 977
SIGNATURE OF LICENSEE OR OPERATOR	
CASE NO. SC-19-13413	DATE 10/13/19
DEF. CODE 304	









470

518

E004873

SLED Case #: 54-19-1343Informant Control #: Agent Buy

Lab File #: _____

CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL**CONFIDENTIAL FUND EXPENSE VOUCHER**Subject's Name: Study Hall LLCDate of Expenditure: 10/13/19 County: Pickens, 39Place of Expenditure: Study Hall LLCType of Investigation: Alcohol, After Hours Liquor saleVoucher Amount: Seventeen Dollars & 50/100 Dollars (\$ 17.50)**Classification of Expenditures:**

- ☐ CATEGORY A - Rental of space and equipment in connection with regular criminal investigations, both undercover and non-undercover.
- ☒ CATEGORY B - Purchases of evidence in regular criminal investigations. This includes the use of funds as a "flash roll".
- ☐ CATEGORY C - Undercover operational funds which are used by an agent to purchase those items necessary for the continuation of his undercover role during a criminal investigation.
- ☐ CATEGORY D - Other expenditures.

Amount Received: Twenty Dollars & 00/100 Dollars (\$ 20.00)

I certify that I have received the above amount of monies to be utilized only for the purpose of evidence, that any unused funds shall be returned to the South Carolina State Law Enforcement Division upon demand and that misappropriation will render me liable for prosecution.

Name: Tiffany Tortello (Print Name) Tiffany Tortello (Signature)Identification #: Agent Buy Date: 10/13/19Submitted By: Keith Dorman (Print Name) [Signature] (Signature) 10079158 (Employee #)Witnessed By: Alvin A. Brown (Print Name) Clemson PD Ali A. Brown (Signature)

Approved By: _____ (Print Name/Captain) _____ (Signature)

Approved By: _____ (Print Name/Major) _____ (Signature)

Received for Posting By: _____

CF - 3

SLED AEU SEIZURE REPORT

SLED CASE NUMBER 54-19-1343 CASE AGENT K. Dorman

SUMMONS NUMBER: _____

DATE OF SEIZURE 10/13/17 TIME 12:35 AM

1. Registered owner(s) and name of operator, address in control of property at time of seizure

Study Hall LLC101 Sloan St. Clemson SC 29631If licensed DBA: Study Hall LLCAI# _____ LIC# 3207018522. Description of property seized: (1) sample of contents of Vodka & Bull mixed drink, empty plastic cup containing co
of mixed drink, (1) over 21 wristband3. Current location (storage) of the property seized: With agent

4. Chain of Custody

Relinquished by

[Signature]

Received by

[Signature]

Date

10/13/175. Case disposed on: _____
(date)6. Evidence destroyed on: _____ / _____ Place: _____
(date) (time)

(witness)

(witness)

7. Evidence given to The Department of Revenue on _____
(date)ATTACH A COPY OF SEARCH WARRANT
revised 7-2-98.NUMBER: 30921

INSPECTION CASE # 54-19-1319CASE # 54-19-1343STAT CODE 2000TIME 12:35 ^{AM}DATE 10/13/19COUNTY # 39AGENT # 927ALCOHOL
INSPECTION REPORTLOCATION NAME Study HallADDRESS 101 College Ave, Clemson SC 29631LICENSEE NAME Study Hall LLC

TYPE OF BUSINESS

☐ Convenience Store / Gas Station☐ Restaurant☒ Bar / Tavern☐ ABC☐ Other _____☐ General Merchandise☐ Grocery Store☐ Convenience Store☐ Drug StoreLICENSE # 320701852 -PLB

LICENSE # _____

LICENSE # _____ -PBW

RETAIL LICENSE # _____

SALE COMPLETED YES ☒ NO ☐ YOUTH'S AGE ASKED YES ☐ NO ☐AGE VERIFIED: YES ☐ NO ☐ YOUTH'S ID REQUESTED YES ☐ NO ☐CLERK'S NAME John Starkey CLERK'S SEX ☒ M ☐ FCLERK'S RACE ☐ Black ☒ White ☐ Hispanic ☐ Other

SUMMONS TICKET # _____

COMMENTS

10/07/13

ALCOHOL STATS

CHARGE: 304 DISTRICT: UPSTATE AGENT #: 927 CHARGE DATE: 10/14/19LICENSEE: Study Hall LLCAI OR FILE #: N/A LIC #: 320701852 SUM #: N/A CONF #: 30921-AS L E D CASE #: 54-19-1343 CROSS REFERENCE #: N/ATRADE NAME: Study HallADDRESS: 101 College Ave, Clemson, SCCITY: Clemson STATE: SC COUNTY #: 39

CHARGE: _____ DISTRICT: _____ AGENT #: _____ CHARGE DATE: _____

LICENSEE: _____

AI OR FILE #: _____ LIC #: _____ SUM #: _____ CONF #: _____

S L E D CASE #: _____ CROSS REFERENCE #: _____

TRADE NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ COUNTY #: _____

CHARGE: _____ DISTRICT: _____ AGENT #: _____ CHARGE DATE: _____

LICENSEE: _____

AI OR FILE #: _____ LIC #: _____ SUM #: _____ CONF #: _____

S L E D CASE #: _____ CROSS REFERENCE #: _____

TRADE NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ COUNTY #: _____

AED-016

SLFD Case #: 54-19-1343

E004873

Informant Control #: Agent Buy

Lab File #: _____

CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL - CONFIDENTIAL**CONFIDENTIAL FUND EXPENSE VOUCHER**

Subject's Name: Study Hall LLC
 Date of Expenditure: 10/13/19 County: Pickens, 39
 Place of Expenditure: Study Hall LLC
 Type of Investigation: Alcohol, After Hours Liquor Sale
 Voucher Amount: Seventeen Dollars & 50/100 Dollars (\$ 17.50)

Classification of Expenditures:

- ☐ CATEGORY A - Rental of space and equipment in connection with regular criminal investigations, both undercover and non-undercover.
- ☒ CATEGORY B - Purchases of evidence in regular criminal investigations. This includes the use of funds as a "flash roll".
- ☐ CATEGORY C - Undercover operational funds which are used by an agent to purchase those items necessary for the continuation of his undercover role during a criminal investigation.
- ☐ CATEGORY D - Other expenditures.

Amount Received: Twenty Dollars & 00/100 Dollars (\$ 20.00)
 I certify that I have received the above amount of monies to be utilized only for the purpose of evidence, that any unused funds shall be returned to the South Carolina State Law Enforcement Division upon demand and that misappropriation will render me liable for prosecution.

Name: Tiffany Tortorella
 (Print Name)

Tiffany Tortorella
 (Signature)

Identification #: Agent Buy

Date: 10/13/19

Submitted By: Keith Dorman
 (Print Name)

[Signature]
 (Signature)

10079158
 (Employee #)

Witnessed By: Alvin A. Brown Clemson PD
 (Print Name)

Ali A. Brown
 (Signature)

Approved By: _____
 (Print Name/Captain)

 (Signature)

Approved By: _____
 (Print Name/Major)

 (Signature)

Received for Posting By: _____

CF - 3

SLED AEU SEIZURE REPORT

SLED CASE NUMBER 54-19-1343 CASE AGENT K. Dorman

SUMMONS NUMBER: _____

DATE OF SEIZURE 10/13/17 TIME 12:35 AM

1. Registered owner(s) and name of operator, address in control of property at time of seizure: _____

Study Hall LLC101 Sloan St. Clemson SC 29631If licensed DBA: Study Hall LLCAI # _____ LIC # 3207018522. Description of property seized: (1) sample of contents of Vodka Red-
Bull mixed drink, empty plastic cup containing contents
of mixed drink, (1) over 21 wristband3. Current location (storage) of the property seized: With agent

4. Chain of Custody

Relinquished by

(Signature)

Received by

(Signature)

Date

10/13/175. Case disposed on: _____
(date)6. Evidence destroyed on: _____ / _____
(date) (time)

Place: _____

(witness)

(witness)

7. Evidence given to The Department of Revenue on _____

(date)

ATTACH A COPY OF SEARCH WARRANT
revised 7-2-98NUMBER: 30921 -A

White: Violator's Copy Green: Undersecretary's Copy

1350

806916-002



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL RENEWAL FORM

ABL-685
(Rev. 10/22/14)
4278

Renew and pay online. Go to www.scbos.sc.gov.

Mail to: SCDOR, ABL Section, Columbia, SC 29214-0907

Renewal Due Date: 31-OCT-2018 Renewal Fee 600.00

License Type 2884831-PBW

For Office Use Only

File Number 320701662

License Period Ending 11/30/2018

1. Mailing Name and Address

Any change of address should be noted to the right of the old address.

ACABL 6985576008

STUDY HALL LLC
849 TIGER BLVD UNIT 403
CLEMSON SC 29631

2. A. Owner/Corporate Name STUDY HALL LLC

(If Liquor Producer Rep, indicate the company you represent)

Federal ID #

B. Licensee Jonathan Starkey

(If Sole Proprietor)

Social Security #

C. Retail Sales Tax License # 039181818

(REQUIRED)

Email Address starkey3@mc.com

3. Trade Name (If Applicable) STUDY HALL LLC

4. Business Address 101 SLOAN ST

CLEMSON, SC 296311434

Ownership Type DLIC-C

County PICKENS

5. If there is a change in your location's address, check why: () U.S. Postal Service changed address () Moved location of business () Other - Explain.

6. Has there been a change in any principal(s), ownership, possession, or control since the date of issuance or last renewal?

☐ Yes

☒ No

If "yes", give details:

7. Have you, any partner, any principal, or any employee with day-to-day management responsibilities been convicted of a crime or had a license to sell beer, wine, or alcoholic liquors revoked or suspended in this state or any other state in the past two years?

☐ Yes

☒ No

If "yes", give details:

8. Review and sign this application. Return it with the appropriate renewal fee. If this application with the appropriate fee is not received by the S.C. Department of Revenue prior to the expiration date shown above, you must pay a filing fee along with the license fee. If your renewal is late, you may be required to file an application for a new license, publish a newspaper notice of your application, and wait on a BLEED investigation. You must cease all sales of beer, wine, or liquor upon the expiration of your license, and may not resume sales until you receive your new license. Therefore, file your renewal application promptly. *Note: For faster processing renew online. (See information sheet attached for instructions for online renewing www.SCBOS.SC.GOV).

By signing this application, I certify that all the information listed above is correct.

(Signature of applicant)

Date

Telephone number from 8 am to 8 pm

§1-6-1208: An applicant for license renewal or for a new license at an existing location shall pay a five dollar certification fee to determine if the exemptions provided for in subsection (A) apply. Subsection A refers to the distance requirements for retail liquor stores, business liquor by the drink and nonprofit private club liquor by the drink licenses.

42781021

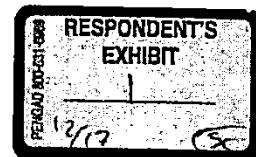
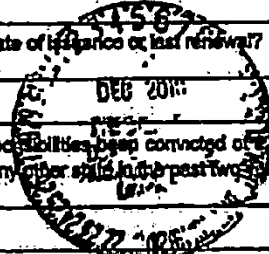
178

477

525

GREENVILLE
RECEIVED

DEC 1 2016



1350

806916-003



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL RENEWAL FORM

ABL-565
(Rev. 10/22/14)
4278

Renew and pay online. Go to www.scbos.sc.gov

Mail to: SCDOR, ABL Section, Columbia, SC 29214-0907

Renewal Due Date: 31-OCT-2016 **Renewal Fee 1,705.00

License Type 2684931-PLB

For Office Use Only

File Number 320701852

License Period Ending 11/30/2016 ✓

1 Mailing Name and Address

Any change of address should be noted to the right of the old address

ACABL 6985578008

STUDY HALL LLC
849 TIGER BLVD UNIT 403
CLEMSON SC 29631

RECEIVED
GREENVILLE
DEC 1 2016

2. A. Owner/Corporate Name STUDY HALL LLC

Federal ID #

(If Liquor Producer Rep, indicate the company you represent)

B. Licensee

(If Sole Proprietor)

Social Security #

C. Retail Sales Tax License # 039191819

Email Address

(REQUIRED)

3. Trade Name (If Applicable) STUDY HALL LLC

4 Business Address 101 SLOAN ST

CLEMSON, SC 296311434

Ownership Type DLIC-C

County PICKENS

5. If there is a change in your location's address, check why. () U.S. Postal Service changed address () Moved location of business () Other - Explain.

6. Has there been a change in any principal(s), ownership, possession, or control since the date of issuance or last renewal?

☐ Yes

☒ No

If "yes", give details:

7. Have you, any partner, any principal, or any employee with day-to-day management responsibilities been convicted of a crime or had a license to sell beer, wine, or alcoholic liquors revoked or suspended in this state or any other state in the past two years?

☐ Yes

☒ No

If "yes", give details:

8. Review and sign this application. Return it with the appropriate renewal fee. If this application with the appropriate fee is not received by the S.C. Department of Revenue prior to the expiration date shown above, you must pay a filing fee along with the license fee. If your renewal is late, you may be required to file an application for a new license, publish a newspaper notice of your application, and wait on a SLED investigation. You must cease all sales of beer, wine, or liquor upon the expiration of your license, and may not resume sales until you receive your new license. Therefore, file your renewal application promptly. *Note: For faster processing renew online. (See information sheet attached for instructions for online renewing www.scbos.sc.gov).

By signing this application, I certify that all the information listed above is correct.

(Signature of applicant)

Date

Telephone number from 8 am to 5 pm

**51-5-1208: An applicant for license renewal or for a new license at an existing location shall pay a five dollar certification fee to determine if the exemptions provided for in subsection (A) apply. Subsection A refers to the distance requirements for retail liquor stores, business liquor by the drink and nonprofit private club liquor by the drink licenses.

42781021

179

478

526

Employee Requirements & Guidelines

1. All new hires are subject to a trial basis.
2. All Fall Season Employees are required to work through graduation Dec 19th
3. All time off request are due two weeks prior to the date requested off.
4. All major events such as: home football games, ain't paddy's day, fall crawl, senior walk, and graduation weekend, are mandatory work days as Study Hall employees.
5. Your appearance should be tidy and respectable. Clothes should be clean, hair should be maintained and taken care of, simple hygiene. Attire should be appropriate for the environment. Dress accordingly, don't come to work in sweat pants and a t-shirt.
6. Promoting is a must, management has a checklist they go through to make sure every employee is promoting. First offence is a warning, second offence will result in loss of shifts, third offence you will no longer be employed. Across all forms of social media (Instagram, Snapchat, Facebook, Twitter, etc.).
7. "Jolt", the app we use for scheduling, must be downloaded by every employee. It is where you will find your shifts and be able to request time off. All shift changes go through Jolt and will be approved by management.
8. Mandatory staff meetings and bar cleanups once a month, they will be announced well in advance.
9. All employees are subjected to random breathalyzer requests if management has any inkling that you have been drinking. Zero tolerance policy. If you blow anything even a 0.01 you will be immediately asked to leave without your pay/tips and fired. If you want to take a shot with a friend for their birthday or something of that sort it needs to be approved by management. Even then you cannot get drunk, or drink enough to have your judgement and cognitive abilities impaired.
10. As an employee of Study Hall, you represent the bar and our image, conduct yourself respectfully inside and outside the workplace. You will no longer be employed if we hear otherwise. Management does not want to hear from other bars about something our employees have done.

I have fully read and acknowledge the above guidelines and requirements and agree to follow them. I have been informed of and understand the consequences that follow should any of the above statements be breached.

Company Name

Employee Printed Name

Employee Signature

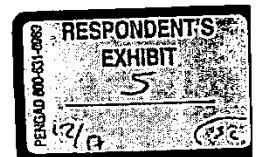
Witness Signature (Management)

Date

As a member of the security staff at the Study Hall it is your job to maintain a safe and fun environment. Due to the nature of the business sometimes you will have to deal with situations that are not ideal. This can be an unruly or overly intoxicated patron, It can also mean breaking up altercations between patrons. It is your job to maintain a level head during these situations and diffuse them in a non-violent manor. At the Study Hall we expect all of our security staff to remain friendly and level headed in every situation. If at any time any member of the security staff is violent, especially towards a customer, they will face disciplinary action. This also remains true when you are off duty. You are a representation of the Study Hall both when you are at work as well as when you are off duty. If there are any instances of violence from anyone on the security staff it will not be tolerated.

*Please sign below indicating that your manager has reviewed this page with you and you understand the contents.

Staff Member: _____ Date: _____
Witness (Manager): _____ Date: _____



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

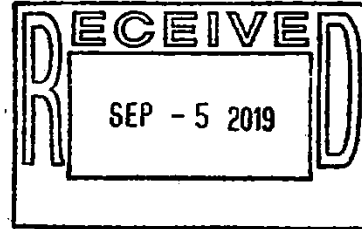


Physical Address:
300A Outlet Pointe Blvd.
Columbia, SC 29210



September 4, 2019

Mailing Address:
PO Box 12265
Columbia, SC 29211-9979



The Honorable Jana Shealy
Clerk of Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Re: South Carolina Department of Revenue vs. Study Hall, LLC, d/b/a Study Hall, LLC
Docket No. 19-ALJ-17-0269-CC
Our File Number: 190191

Dear Ms. Shealy:

Enclosed please find the South Carolina Department of Revenue's Agency Information Sheet and Notice of Appearance regarding the above-referenced matter.

Should you have any questions, please do not hesitate to contact me at 803-898-5056 or Patrick.McCabe@dor.sc.gov.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

Patrick A. McCabe
Counsel for Litigation

c: Kathleen McDaniel, Esquire

Enclosures
PAM: hch

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,	)	DOCKET NO. 19-ALJ-17-0269-CC
	)	
	)	
Petitioner,	)	AGENCY INFORMATION SHEET
	)	and
vs.	)	NOTICE OF APPEARANCE
	)	Contested Case
Study Hall, LLC, d/b/a Study Hall, LLC,	)	
	)	
	)	
Respondent.	)	
_____	)	

1. Identifying information on the matter in controversy (Name and/or title of agency proceeding, statutory provisions giving rise to the controversy, file number or any other identifying information):

Study Hall, LLC, d/b/a Study Hall, LLC

Application File Number: 320701852-PBW/PLB

Did the South Carolina Department of Revenue (Petitioner) properly cancel the Respondent's on-premises beer and wine permit and restaurant liquor by the drink license based upon the fact the Respondent's principal is not of good moral character pursuant to S.C. Code Ann. §§ 61-2-100(D), 61-4-520 and 61-6-1820(2) (2009)?

S.C. Code Ann. §§ 61-2-100(D), 61-4-520, 61-6-1820(2), 61-4-150, 61-6-2610, and 61-2-100(D).

2. Has the agency staff issued a final written decision regarding its action or inaction in this matter? X yes no _____ (if yes, please attach a copy).

See Department Determination dated July 15, 2019.

3. Name, address and telephone number of all known parties and their attorneys, if represented:

Petitioner:

South Carolina Department of Revenue
Patrick A. McCabe, Counsel for Litigation
Jason P. Luther, General Counsel for Litigation

P.O. Box 12265; Columbia, SC 29211-9979
Phone: (803) 898-5056; Fax: (803) 896-0171
Patrick.McCabe@dor.sc.gov
Counsel for Petitioner

Respondent (Physical Address):

Study Hall, LLC
d/b/a Study Hall, LLC
101 Sloan Street
Clemson, SC 29631

Attorney for Respondent:

Kathleen McDaniel, Esquire
Burnette Shutt & McDaniel, PA
912 Lady Street Second Floor
Columbia, SC 29201
Phone: 803-904-7913; 843-345-8865
kmcdaniel@burnetteshutt.law

Respondent (Mailing Address):

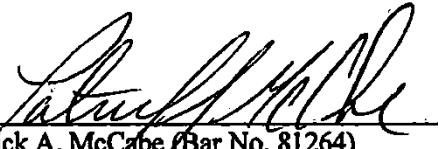
Jon Starkey
390 Ridgecrest Drive
Clemson, SC 29631
Phone: 912-541-1529
Starkey3@me.com

4. Name, address and telephone number of all known persons who have exercised their legal right to object to the issuance of the permit, and who have indicated they will appear at a hearing:

Not applicable.

Pursuant to ALC Rule 8(B), notice is hereby given that the undersigned is authorized to and will be representing the above-named agency in this matter. Further, by my signature below, I certify that a copy of this information sheet has been served on all parties, and/or protestants (without enclosures) by first class mail on the date shown below.

(Signature on next page)


Patrick A. McCabe (Bar No. 81264)
Counsel for Litigation
Jason P. Luther (Bar No. 78021)
General Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211-9979
803-898-5056 (Telephone)
803-896-0171 (Fax)
Patrick.McCabe@dor.sc.gov
Court.orders@dor.sc.gov
Attorneys for S.C. Department of Revenue

Columbia, South Carolina
September 4, 2019

RECEIVED
SEP 10 2019
S.C. DEPT. OF REVENUE

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 7, 2020

s/ Kathleen McDaniel
Kathleen McDaniel (Bar No. 774826)
Sarah J.M. Cox (Bar No. 104316)
BURNETTE SHUTT & McDANIEL, PA
Post Office Box 1929
Columbia, South Carolina 29202
P: 803.904.7930
F: 803.904.7910
SCox@BurnetteShutt.Law
Kmcdaniel@BurnetteShutt.Law

ATTORNEYS FOR APPELLANT

RECEIVED
AUG 28 2020
SC Court of Appeals

EXHIBIT E

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

South Carolina Department of Revenue, Respondent,

v.

Study Hall, LLC, d/b/a Study Hall, LLC, Appellant.

Appellate Case No. 2020-000435

Appeal From The Administrative Law Court
Harold W. Funderburk, Jr., Administrative Law Judge

Unpublished Opinion No. 2022-UP-296
Submitted June 1, 2022 – Filed July 13, 2022

AFFIRMED

Kathleen McColl McDaniel and Sarah Jean Michaelis
Cox, both of Burnette Shutt & McDaniel, PA, of
Columbia, for Appellant.

Patrick Alan McCabe, of S.C. Department of Revenue, of
Columbia, for Respondent.

PER CURIAM: Study Hall, LLC (Study Hall) appeals the Administrative Law Court's (ALC's) order requiring the South Carolina Department of Revenue to grant its application to renew its on-premises beer and wine permit and a liquor-by-the-drink license but suspending the permit and license for ninety days.

Study Hall argues the ninety-day suspension was outside the ALC's statutory authority because the ALC determined its sole principal possessed the requisite moral character for licensure. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *MRI at Belfair, LLC v. S.C. Dep't of Health & Env't Control*, 394 S.C. 567, 572, 716 S.E.2d 111, 113 (Ct. App. 2011) ("Appeals from the ALC are governed by the Administrative Procedures Act.¹"); S.C. Code Ann. § 1-23-610(B) (Supp. 2021) (stating an appellate court reviews the ALC's decision to determine if it is: "(a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion"); *Original Blue Ribbon Taxi Corp. v. S.C. Dep't of Motor Vehicles*, 380 S.C. 600, 604, 670 S.E.2d 674, 676 (Ct. App. 2008) ("The decision of the [ALC] should not be overturned unless it is unsupported by substantial evidence or controlled by some error of law."); *id.* at 605, 670 S.E.2d at 676 ("Substantial evidence, when considering the record as a whole, would allow reasonable minds to reach the same conclusion as the [ALC] and is more than a mere scintilla of evidence."); *S.C. Dep't of Revenue v. Sandalwood Soc. Club*, 399 S.C. 267, 279, 731 S.E.2d 330, 337 (Ct. App. 2012) ("In reaching a decision in a contested violation matter, the ALC serves as the sole finder of fact in the de novo contested case proceeding."); *id.* at 279-80, 731 S.E.2d at 337 ("As an administrative agency, [the ALC] is the fact-finder and it is [the ALC's] prerogative . . . to impose an appropriate penalty based on the facts presented." (alterations in original) (quoting *Walker v. S.C. Alcoholic Beverage Control Comm'n*, 305 S.C. 209, 210, 407 S.E.2d 633, 634 (1991))).

AFFIRMED.²

THOMAS, MCDONALD, and HEWITT, JJ., concur.

¹ S.C. Code Ann. § 1-23-10 to -680 (2005 & Supp. 2021).

² We decide this case without oral argument pursuant to Rule 215, SCACR.

EXHIBIT F

RECEIVED

Jul 28 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

South Carolina Administrative Law Court Case No. 19-ALJ-17-0269-CC

Appellate Case No. 2020-000435

South Carolina Department of Revenue,

Respondent,

-vs-

Study Hall, LLC, d/b/a Study Hall, LLC,

Appellant.

APPELLANT'S PETITION FOR REHEARING

Pursuant to Rule 221(a) of the South Carolina Appellant Court Rules, Appellant hereby files this petition for rehearing.

Appellant respectfully requests a rehearing on Unpublished Opinion No. 2022-UP-296, which was filed on July 13, 2022.

The basis for the request for rehearing is that the Court fails to reconcile the fact that the Administrative Law Court imposed a penalty upon Appellant with no finding of violation on the part of Appellant. The ALC's role in a contested case is to weigh the facts to determine whether a violation for which a license-holder has been cited by the Respondent has occurred and then, upon finding the violation has occurred, to determine

an appropriate penalty for such violation. The only question before the ALC at the contested case hearing was whether Respondent erred in making a determination that Appellant's principal, Jon Starkey, allegedly lacked the requisite moral character for Appellant to sell alcohol. The ALC found that Appellant had not committed the violation for which it was cited by Respondent: having a principal with deficient moral character. Just the opposite—the ALC found that Starkey is of requisite moral character.

It defies logic for the ALC to then to have the authority to impose a penalty for some undefined dissatisfaction it may have with Appellant. Regardless of how broad the ALC's jurisdiction is in contested cases, it cannot be so broad that it can impose a penalty for unknown reasons that were not even put forth by the agency. Permitting the ALC to exercise such broad discretion is a violation the right to procedural due process before an administrative agency enshrined in the Constitution of the State of South Carolina. S.C. Const. Ann. Art. I, § 22.

Appellant respectfully requests that this Court reconsider this matter, find in Appellant's favor, and determine that the ALC erred in imposing any penalty on Appellant.

Respectfully submitted,

s/Kathleen McDaniel

Kathleen McDaniel (SC Bar No. 74826)
Sarah J.M. Cox (SC Bar 104316)
BURNETTE SHUTT & McDANIEL, PA
912 Lady Street, Second Floor (29201)
PO Box 1929
Columbia, South Carolina 29202
Telephone: (803) 904-7913
Facsimile: (803) 904-7910

ATTORNEYS FOR APPELLANT

EXHIBIT G

The South Carolina Court of Appeals

South Carolina Department of Revenue, Respondent,

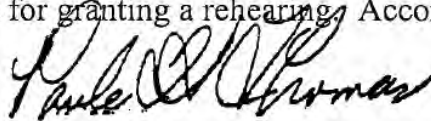
v.

Study Hall, LLC, d/b/a Study Hall, LLC, Appellant.

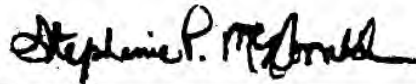
Appellate Case No. 2020-000435

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

Kathleen McColl McDaniel, Esquire

Patrick Alan McCabe, Esquire

Sarah Jean Michaelis Cox, Esquire

FILED
Aug 12 2022