THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

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

Appellate Case No. 2022-001250

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 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

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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.

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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

MRI at Belfair, LLC v. South Carolina Dept. of Health and Environmental Control,
394 S.C. 567, 716 S.E.2d 111 (Ct. App. 2011) 5

South Carolina Dept. of Revenue v. Meenaxi, Inc.,
417 S.C. 639, 790 S.E.2d 792 (Ct. App. 2016) 5

South Carolina Dept. of Revenue v. Sandalwood Social Club,
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,

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August 28, 2020

EXHIBIT B

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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.

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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 *de novo* hearings.....7

ii. In a *de novo* 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 Sandalwood 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

Page(s)

Cases

Bailey v. S.C. Dep't of Health,
388 S.C. 1, 693 S.E.2d 426 (Ct. App. 2010) 7, 8
Be Mi, Inc. v. S.C. Dep't of Revenue,
408 S.C. 290, 758 S.E.2d 737 (Ct. App. 2014) 8
Clark v. Aiken Cty. Gov't,
366 S.C. 102, 620 S.E.2d 99 (Ct. App. 2005) 5
Dep't of Health & Envtl. Control, Petitioner,
2016 WL 5867852 (Oct. 3, 2016) 4
Feldman v. S.C. Tax Comm'n,
203 S.C. 49, 26 S.E.2d 22 (1943) 9
Marlboro Park Hosp. v S.C. Dep't of Health & Envtl. Control, 358 S.C.,
595 S.E. 2d 851 (Ct. App. 2004) 8
Olson v. S.C. Dep't of Health & Envtl. Control,
379 S.C. 57, 663 S.E.2d 497 (Ct. App. 2008) 5
Reliance Ins. Co. v. Smith,
327 S.C. 528, 489 S.E.2d 674 (Ct. App. 1997) 8
S.C. Dep't of Revenue v. Sandalwood Soc. Club,
399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012) 8, 9, 10, 11
Turner v. S.C. Dep't of Health & Envtl. Control,
377 S.C. 540, 661 S.E.2d 118 (Ct. App. 2008) 5
Walker v. S.C. Alcoholic Beverage Control Com'n,
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, The Regulation of Alcoholic Beverages in South Carolina (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 & Envtl. 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 & Envtl. Control, 379 S.C. 57, 63, 663 S.E.2d 497, 500–501 (Ct. App. 2008); Turner v. S.C. Dep't of Health & Envtl.

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 of 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 of 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 cancelation 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, it is 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 or 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,

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August 12, 2020,

EXHIBIT C

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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.

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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

Bliss Columbia, LLC d/b/a Tryst v. S.C. Dept. of Revenue,
No. 17-ALJ-17-0119-CC (July 27, 2017). 3

Dolgencorp, LLC d/b/a Dollar General Store #1307 v. S.C. Dept. of Revenue,
No. 10- ALJ-17-0902-CC (Feb. 10, 2011) 3

South Carolina Dept. of Revenue v. Sandalwood Social Club,
399 S.C. 267 (Ct. App. 2012) 7

Treatises

John D. Geathers & Justin R. Werner, The Regulation of Alcoholic Beverages in South Carolina (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 permitee 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 cancelation 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.

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August 28, 2020

EXHIBIT D

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SC Court of Appeals

RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Appellant.

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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. Strzelcyzk 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.

H.W. Funderburk, Jr.

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:

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January 15, 2020
Columbia, SC

Elizabeth A. Perkins
Judicial Law Clerk

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SC Court of Appeals

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FEB - 5 2020

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.

H. W. Funderburk, Jr.
Administrative Law Judge

February 3, 2020
Columbia, South Carolina

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SC ADMIN. LAW COURT

SCANNED

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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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 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.

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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

SCANNED
RECEIVED
MAR 16 2020

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 **WRIT OF SUPERSEDEAS**

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. Funderburk, Jr.
Administrative Law Judge

March 13, 2020
Columbia, South Carolina

FILED
MAR 13 2020
SC ADMIN. LAW COURT

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

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

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
SC ADMIN LAW COURT

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 cancelation 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 is 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)
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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

JANET CHILES NOTARY PUBLIC SOUTH CAROLINA COMM. EXP. 03-11-2029

FILED

JAN 23 2020

SC ADMIN LAW COURT

BURNETTE SHUTT MCDANIEL
Moving law forward

Kathleen M. McDaniel – Partner
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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 is 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.

GROUNDS 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 is 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 expeditios 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 Supersdeas 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)
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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: _____

Print name: Jon E. Starkey

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

_____
Notary Public for South Carolina
My commission expires: 03/26/2023

DORIAN S HOLMES
COM. EXP.
NOTARY PUBLIC
03-26-2023
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.

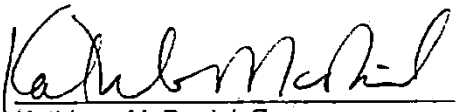
CERTIFICATE OF SERVICE

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
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ATTORNEY RESPONDENT SOUTH CAROLINA DEPARTMENT OF REVENUE



Kathleen McDaniel, Esq.
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March 11, 2020
Columbia, South Carolina

Exhibit 1

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 **FINAL ORDER**

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

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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).

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[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

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M 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. 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.[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.[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. 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.

H.W. Funderburk, Jr.

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:

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January 15, 2020
Columbia, SC

Elizabeth A. Perkins
Judicial Law Clerk

Exhibit 2

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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

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.

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SC ADMIN LAW COURT

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 cancelation 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 is 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)
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PO Box 1929
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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

JANET CHILES COMM. EXP. NOTARY PUBLIC 03-11-2029 SOUTH CAROLINA

FILED

JAN 23 2020

SC ADMIN LAW COURT

Exhibit 3

66

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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.

H. W. Funderburk, Jr.
Administrative Law Judge

February 3, 2020
Columbia, South Carolina

FILED
2020
SC ADMIN. LAW COURT

FILED
MAR 11 2020
SC ADMIN LAW COURT

Exhibit 4

68

SCANNED

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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2020

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 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.

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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

Exhibit 5

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.

SOUTH CAROLINA DEPARTMENT OF REVENUE

Patrick McCabe
Counsel for Litigation
Litigation & Appeals
803-898-5056 | Patrick.McCabe@dor.sc.gov
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Exhibit 6

76

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.

RECEIVED
MAR 10 2020
SC Court of Appeals

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.

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ATTORNEY FOR APPELLANT STUDY HALL, LLC

March 10, 2020
Columbia, South Carolina

Other Counsel of Record:

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ATTORNEY RESPONDENT
SOUTH CAROLINA
DEPARTMENT OF REVENUE

EXHIBIT 1

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,	)	Docket No. 19-ALC-[illegible]
	)	
Petitioner,	)	
	)	
vs	)	**FINAL ORDER**
	)	
Study Hall, LLC, d b a Study Hall, LLC,	)	
	)	
Respondent.	)	
	)	

RECEIVED
MAR 10 2020
SC Court of Appeals

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 Starnes, had not filed

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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 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 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. 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. 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.[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 2.)

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.[7]

His Georgia attorney, Wesley Faulkner, 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

[7] 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:
>
> • • •

[*] 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 61-6-1103(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."[5] S.C. Code Ann. § 61-6-1103(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

[5] 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." *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

---

"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. GEVERS & 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:

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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-ALJ-17-0269-CC **ORDER DENYING RESPONDENT'S MOTION TO RECONSIDER**

RECEIVED
MAR 10 2020
SC Court of Appeals

RECEIVED
MAR 9 2020

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

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:

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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

RECEIVED
MAR 10 2020
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

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.

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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.

APPEARANCES

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INDEX

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

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 though 9 and Respondent's Exhibit Numbers 1 though 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)

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.

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

CALL TO ORDER:

THE COURT: Okay. We're on the record this morning. Case Number 19-ALJ-17-0269. This is a contested case in the matter of the South Carolina Department of Revenue, Petitioner, and Study Hall, LLC -- d/b/a Study Hall, LLC. Petitioner's represented by Patrick McCabe.

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

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

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

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

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

MS. McDANIEL: None, Your Honor.

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

THE COURT: All right.

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

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

MR. McCABE: Yeah.

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

THE COURT: Okay. All right. Opening statements?

PETITIONER'S OPENING STATEMENT:

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

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

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

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

THE COURT: Ms. McDaniel.

RESPONDENT'S OPENING STATEMENT:

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

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

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

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

THE COURT: Mr. McCabe.

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

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

CHIEF BRYAN: I do.

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

CHIEF BRYAN - DIRECT EXAMINATION BY MR. McCABE:

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

A: Morning, doing well.

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

A: Robert Bryan.

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

enforcement?
A: 22 years.
Q: All right. And where are you currently employed?
A: City of Statesboro.
Q: All right. And what is your role with the Statesboro Police Department?
A: The Deputy Chief.
Q: All right. And how long have you served as the Deputy Chief?
A: 2015, 2016 somewhere the end of the year is the Deputy Chief and then also as an Interim Chief.
Q: All right. What other positions have you have you held with Statesboro Police Department?
A: I was the Investigations Bureau Commander, also the Sergeant in Charge of our Street Crimes Unit, K-9 Officer, Detective, Patrol Officer, Traffic Officer, pretty much everything but Training.
Q: Okay. So we wanna talk about an investigation that you conducted when you were a Lieutenant. Did you conduct an investigation into administrative violations for a business in Statesboro named Rude Rudy's?
A: Yes, sir.

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

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

Q: All right.

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

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

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

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

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

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

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

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

THE COURT: Let me see it.

MR. McCABE: Yes, sir.

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

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

MR. McCABE: Thank you, Your Honor.

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

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

A: Yes, sir.

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

A: Mr. Starkey.

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

A: Yes, sir.

Q: All right. And what is that document?

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

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

A: For administrative investigations, yes.

Criminal investigations are done at RMS.
Q: Okay. And does your department normally keep records of memorandums that are issued by officers?
A: Yes.
Q: All right. Are you authorized to testify as a Document Custodian for your department?
A: I am currently the Document Custodian for our ---
Q: All right.
A: --- department.
MR. McCABE: Your Honor, we would offer what we have marked as Exhibit Number 3 into evidence.
MS. McDANIEL: No objection, Your Honor.
THE COURT: Without objection, Petitioner's Exhibit 3 is evidence.
(Petitioner's Exhibit Number 3 was introduced into the record at this time.)
MR. McCABE: Thank you.
Q: Could you please read the first two paragraphs of the September 3rd, 2014 memorandum?
A: On 9/2 of '14 I began reviewing our records regarding the conduct at Rude Rudy's. During this review I've determined at least nine violations of the City of Statesboro Alcohol

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

Q: All right.

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

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

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

MS. McDANIEL: Okay.

MR. McCABE: As Exhibit 4.

THE COURT: So Exhibit 4's ---

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

THE COURT: Second page of Exhibit 3?

MR. McCABE: Correct, Your Honor.

THE COURT: Any objection to us ---

MS. McDANIEL: No, Your Honor.

THE COURT: --- entering it that way?

MR. McCABE: I apologize for that.
THE COURT: We'll admit that as part of Exhibit 3.
MR. McCABE: Thank you, Your Honor.
Q: And could you read the last paragraph of your September 3rd memorandum?
A: During the past 12 months from 8/28/14 till 8/28/13, Statesboro PD Officers have been dispatched to Rude Rudy's for nine fight-in-progress calls, one murder/ aggravated battery, two affrays, three batteries or simple batteries, two disorderly conducts, two intoxicated persons or public drunkenness. These totals do not reflect other calls for service that SPD Officers have responded to at this location.
Q: Okay. Thank you. Let me see that document. If I could have you look at what we have marked as Exhibit Number 4. You can take a moment to look at that and make yourself familiar with it.
MS. McDANIEL: Would this be 5 now?
THE COURT: Right.
MR. McCABE: It'd be Number -- Number 4.
THE COURT: Well, now -- Number 4's part of Exhibit 3 so we got a different one, that's the

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

COURT REPORTER: I just corrected his.

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

COURT REPORTER: Yes, sir.

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

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

THE COURT: Tell me what it is, sir.

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

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

Q: Okay.

THE COURT: Ms. McDaniel?

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

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

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

A: 9/17.

MS. McDANIEL: 9/17.

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

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

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

THE COURT: We're back on the record.

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

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

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

A: Yes, sir.

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

A: Yes, sir.

Q: All right. And are you authorized to testify

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

A: Yes, sir.

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

THE COURT: Ms. McDaniel.

MS. McDANIEL: No objection, Your Honor.

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

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

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

A: On 9/2 of '14 I began reviewing our records regarding conduct at Rude Rudy's. During this review I determined at least 28 violations of the City of Statesboro Alcohol Ordinance. I also began interviewing subjects tied to some of the reported incidents. I've learned the 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 the number would be vast and represents a pattern of continuous illegal conduct. The

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

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

A: Yes, sir.

Q: And how -- how many is that?

A: At least 20.

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

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

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

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

Q: Well, what were your observations?

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

MS. McDANIEL: Objection, Your Honor, hearsay.

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

You can tell us what you saw or heard yourself.
A: Yes, sir. He did not appear to be working, he appeared to be there; however, some of his actions made it see work related. However ---
MS. McDANIEL: Objection, Your Honor. If those were his observance or if that was based upon what people told him.
MR. McCABE: Excuse me, Judge.
Q: Chief, did -- did you observe these?
A: On video, yes, sir.
Q: All right.
MS. McDANIEL: No ---
THE COURT: Okay.
MR. McCABE: Thank you.
A: Those observations being he did go behind the bar. He was -- he was engaged in what would appear to be some work related functions however not while -- again, this is a -- we were told he was not compensated.
Q: Please -- please just keep it to the things ---
A: Okay.
Q: --- that you observed on the video. And you -- let me ask you, you personally viewed the video footage of Michael Gatto's attack?
A: Yes, sir, and many others there.

Q: Okay. What happened to Michael Gatto after he was knocked unconscious? From your observation of the video.

A: He -- it's ugly to say but he was drug outside like a -- a -- to be disposed of. I mean -- and I hate to say that with Mr. and Ms. Gatto present but there's no other way to describe that, how his lifeless, unconscious body was treated was not what I would believe to be humane.

Q: Okay. Who carried him out of the bar?

A: I believe Mr. Spencer was one of them, I don't have the file in front of me. There was one or two people, I -- I can't testify to that without being able to review something.

Q: But can you testify that you observed Mr. Spencer ---

A: Yes.

Q: --- carry him out of the bar? All right. According to that video, was Mr. Spencer allowed back in the bar after fighting?

A: Yes.

Q: So it's your testimony that after Mr. Spencer drug Mr. Gatto outside the building he came back in as if nothing occurred?

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

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

A: Yes, sir.

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

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

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

A: I am, yes.

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

A: Administrative, yes, sir.

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

A: Yes.

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

A: Yes, sir, I am.
Q: All right.
MR. McCABE: Your Honor, I would offer Exhibit Number 5 into evidence.
MS. McDANIEL: Your Honor, I have to object that Mr. -- that Detec- -- Lieutenant Bryan's document contains hearsay within it and contains a report of what he was told rather than his own observations, so I'd object to this document coming in.
MR. McCABE: Your Honor, you can clearly choose to disregard the hearsay statements within it. We're offering it for the fact that there was a violation issued on that day. And -- I mean, th- -- we're offering it for -- for the fact that there was -- not for the hearsay statements that may be contained within, just the fact that there's a violation issued on that day.
MS. McDANIEL: Officer Bryan can certainly testify to the existence of a violation issued but not have a documentary replete with hearsay come in to support that.
THE COURT: I tend to agree with you, Ms. McDaniel. I -- I will let him testify ---

MR. McCABE: That's fine, Your Honor.
THE COURT: --- but -- but let's -- let's -- let's avoid the -- the hearsay aspect.
MR. McCABE: And that's fine. Okay.
THE COURT: I'm going to sustain that objection.
MR. McCABE: All right.
Q: So according to your memorandum, how many violations of furnishing alcohol were -- were discovered on September 10th, 2014?
A: One.
Q: All right. So is it your testimony that even after the death of Michael Gatto, where we had individuals under the age of 21 that led to the death of an individual, even after that occurred, Rude Rudy's was still serving under the age of 21 illegally?
A: Yes, sir.
Q: All right. Did your department attempt to gather security footage from the -- by the September 10th, 2014?
A: Yes, sir.
Q: Were you able to get that footage?
A: Eventually.
Q: You were?
A: Are you ---

Q: All right. And what did that footage show?
A: I'm sorry. You're talking about the September ---
Q: I'm sorry. September -- the -- the footage from September 10th.
A: September 10th?
Q: The date of this -- this memorandum references.
A: We were -- we were told ---
Q: Okay. You ---
MS. McDANIEL: Objection.
Q: --- can only -- you can't testify ---
A: I- -- I'm sorry. I caught myself.
Q: Yes.
A: There was no video available at a period of time.
Q: All right. So the video was not there for some reason?
A: That's correct.
Q: Okay. So what was the result of your investigation into these administrative violations?
A: Everything was compiled, and the -- a hearing was about to occur in reference to that, and as a result of the violations and before the hearing started, Mr. Starkey surrendered his

alcohol license through the City -- to the City through his attorney and a -- in some type of negotiation.

Q: All right. So Mr. Starkey did not personally appear at this -- this hearing?

A: I want to say he was there. I -- I don't recall.

Q: Okay.

MR. McCABE: Your Honor, we would offer as Exhibit Number 6 certified copies from the City of Statesboro that referenced the Settlement Agreement between Mr. Starkey and the City of Statesboro in which he surrendered his license.

MS. McDANIEL: Your Honor, these are certified. We don't have an objection to that.

THE COURT: Okay. Without objection, Exhibit 6 is admitted.

(Petitioner's Exhibit Number 6 was introduced into the record at this time.)

Q: So let me ask you this: based on your personal perception, in your opinion, do you feel that Mr. Starkey is fit ---

MS. McDANIEL: Objection ---

MR. McCABE: Excuse me.

MS. McDANIEL: I'm sorry -- sorry.

Q: --- is fit to hold an alcohol license?
A: No, sir.
Q: .All right.
MR. McCABE: No further ques- -- yes, Your Honor?
THE COURT: Nothing.
MR. McCABE: Oh, okay. No further questions.
THE COURT: All right.
CHIEF BRYAN - CROSS-EXAMINATION BY MS. McDANIEL:
Q: Hi. Detective Lieutenant Bryan, what is the appropriate way to address you? Is it ---
A: An- -- any way ---
Q: --- Officer, Lieutenant Bryan?
A: --- Deputy Chief, you could call me Rob, it -- I'm ---
Q: Okay.
A: --- not caught up in titles.
Q: Very good. Deputy Chief Bryan, let's go back to what was shown to you as Exhibit 3, I believe you have that.
A: No, ma'am.
MR. McCABE: Right up there.
Q: All right. So this is a document where you outlined a list of alleged violations. Now, did you issue any citations or tickets or any form of -- any type of ticket for any of these

violations?
A: There -- there were some issued, I believe. And the reason I'm gonna say I believe, I was not the author of the tickets but from knowing the investigation and some other offshoot internal investigations, yes, ma'am, there were some citations issued but I'm not the one that issued those citations.
Q: But this document doesn't indicate which -- if any of those were issued based on these violations, is that correct?
A: No, ma'am.
Q: Okay. So Exhibit 3 is just essentially reports that you found not tickets. Where did you find the information for this?
A: Our RMS System has not only the reports but if citations are issued, if warnings are issued, everything lives in that Records Management System.
Q: So if you looked in the RMS System for this information you would've seen if a citation or warrant -- warning had been issued, correct?
A: Yes, ma'am.
Q: And you would have included that on this information if you had seen that, correct?

A: No, ma'am. Just simply stating that there was a violation, I was not delineating whether there was a -- a citation issued or an arrest made, just that there was in fact a violation of the Municipal Alcohol Ordinance for administrative purposes.
Q: And to the extent that there was nothing issued -- no citation issued, these were simply the alleged violations, correct?
A: If that were the case, but on these from 2014 there -- without -- I can't say 100 percent there were violations issued on some of these.
Q: But we don't have any documentation of that do we?
A: No, ma'am, we don't.
Q: Okay.
A: Not -- not here, not that I'm aware of.
Q: Okay. All right. And can you explain to me the geographic layout of Rude Rudy's in comparison to where other bars and areas that were located in Statesboro?
A: Yes, ma'am. There is University Plaza which is where it was located. And one of the better ways to say it, it's kind of a horseshoe of businesses. Many of those businesses being,

you know, licensed alcohol establishments. There's a -- one across the street and it sits kind of in the middle of an area that you can only really term as a university area. The University is directly across the street from that area. Then you have student housing all in that area.

Q: And do you have any indication from this document that you provided as to whether these alleged violations took place inside of Rude Rudy's or outside in that plaza area?

A: What -- in the memo, no, ma'am. But ---

Q: Well ---

A: --- can I ---

Q: --- that's what we have here.

A: --- clarify that?

Q: Certainly.

A: One of the things that was looked at when I wrote this memo was only things that could be attributed to occurring within the structure of Rude Rudy's itself. There are numerous other violations that would have occurred in the parking lot area of University Plaza. And one of the things that we take a lot of -- give a lot of information to the officers, make sure

that they've got good guidance is, if it can not be attributed to a certain location it is written up as University Plaza 'cause it would not be fair to hold Mr. Starkey accountable for something that one of the other owners or one of the other licensees within University Plaza was doing; and we saw that some. Some could not be attributed to exactly where patrons were, if there was a fight in the parking lot. So only the violations listed here were linked to Rude Rudy's. There's not any of the other ones that were specific to University Plaza.

Q: All right. Let's take a look what has been marked as Exhibit 4. This is your memo dated 9/5/14. You've got a number again of alleged violations. How many -- I believe you testified that there was only one citation written based on -- or I could be wrong so let me ask you that. Based on the information contained in the Exhibit 4, were there any citations or tickets written to anyone arising out of the occurrences listed here?

A: If you'll give me a minute just to re-- -- review them so I can ... The alcohol violation as far as the underage possession cases, those

were not cited. I actually did those interviews myself and received clearance from the City Attorney who was also the Prosecutor in Municipal Court to offer the person that was being interviewed basically cooperate and you have immunity on the charge of possession of alcohol by a person under 21. So no citations were issued due to -- due to that agreement. And the others -- I believe there are a couple that would've actually been done by indictment contained in this thing, and then the noise violations, and I can't testify to how many, but some of those noise violations there were citations issued.

Q: Okay. But we don't have any information about how many or when or which ones?

A: No, ma'am.

Q: Okay. You mentioned the indictment, who was indicted?

A: Mr. Spencer.

Q: I'm sorry?

A: Mr. Spencer.

Q: Was there any indictment issued against Mr. Starkey?

A: No, ma'am.

Q: Was there any citation issued against Mr. Starkey?
A: No, ma'am. Everything was done administratively before counsel.
Q: Okay. And so -- yeah. Had you ever taken any administrative action against Study Hall previous to this?
A: Rude Rudy's?
Q: I'm sorry, Rude Rudy's.
A: I- -- I'm trying to think. Give me one second here. And I -- just to give you right -- a reason why it's taking a second here. I've known Mr. Starkey for a long time, he's been associated with several establishments there. So we've -- we've had discussion over the years, there may have been a- -- an underage ci- -- but nothing that I can testify to that I can say I've issued him a citation previously outside of this. Without being able to look back further, I -- I don't wanna say something that I just can't confirm.
Q: Okay. So the -- let me ask that a different way. You said that you've known Mr. Starkey for how long?
A: God, a number of years.

Q: Okay. Do you remember when Rude Rudy's opened?
A: Yes, ma'am.
Q: And when was that?
A: I -- I remember when, I couldn't give you a date or a year, but I -- I remember when he had the -- the building built. So yes, ma'am, but I just don't know the date.
Q: Had it been about ten years?
A: That sounds about right.
Q: And so in that ten years you don't recall any other administrative action against Mr. Starkey or Rude Rudy's until the death of Mr. Gatto, is that correct?
A: That would be correct, and that -- there were no administrative actions being done at that time.
Q: Okay. And do you recall any other tickets being issued to Mr. Starkey?
A: The noise violations, and -- and I was not the person that issued those citations, and unle- -- unless I was allowed to review further information I- -- I'm not prepared to answer that.
Q: Okay. All right. Let's take a look at Exhibit 2. That was admitted over my objection, but

admitted. And that's a Bill of Indictment against whom?

A: Grant James Spencer.

Q: Okay. And what has happened to Mr. Spencer? Do you know the disposition of his -- of this criminal matter?

A: Yes, ma'am.

Q: And what is that?

A: I- -- I'd have to look at the sentence but he was sentenced in reference to this indictment.

Q: Okay.

A: I was in court the day it happened.

Q: During the time that you have known Mr. Starkey working at Rude Rudy's, has there ever -- has he always been forthcoming with you about issues?

A: Ye- -- yes, ma'am.

Q: Okay. Do you feel like he's ever tried to hide anything from you?

A: I will say this, the -- the one thing that I would say on the negative of that ---

Q: Uh-huh.

A: --- is the disappearing video. That still kinda bothers me to this day.

Q: All right. The -- are bars required to

maintain video in Statesboro?
A: They are not required.
Q: Okay.
A: But ---
Q: So -- so that wasn't a requirement?
A: It wasn't a requirement but if it was there and -- and then it's for some reason deleted after being given notice ... I'm not saying that that was done, it is just ---
Q: Is that ---
A: --- it is a suspicious circumstance within there. But in ---
Q: So let me ask you this: the video that you were looking for ---
A: Uh-huh.
Q: --- what is that video that you are talking about?
A: It is the video of, I believe her name Helena, and it is an alcohol violation post Mr. Gatto's death.
Q: Okay. And did you ultimately get that video?
A: I think parts of it.
Q: Okay. So it wasn't lost or deleted, you did eventually get parts of it, correct?
A: That -- well again, parts and pursuant to an ex

parte order. But outside of that I will say this, Mr. Starkey has, in -- in the past if there has been an issue he has owned up to that rather quickly.

Q: Good. You testified you reviewed the video and saw that people under -- and when I said video I mean the video the evening Mr. Gatto died. All right. Let me backup, did you have any trouble obtaining that video?

A: No, ma'am.

Q: Okay. So Mr. Starkey was forthcoming with that video, correct?

A: Yes, ma'am.

Q: And you would agree with me that the death of a patron is far more significant than being sold a underage alcohol, correct?

A: Yes, ma'am.

Q: Okay. So the night that Mr. Gatto died you say that you witnessed on the video multiple people under 21 consuming alcohol. Were you able to tell their ages from the video?

A: I was able to determine who they were, and they -- my observations they appear to be under 21, and then after confirming the identity of the person, learning that they were in fact under

21.

Q: Okay. And Mr. Gatto was under 21, correct?

A: Yes, ma'am.

Q: And he was there with a fake ID, correct?

A: Yes, ma'am.

Q: And isn't it the case that he was currently serving -- he was participating in a pretrial intervention program that barred him from being in bars at all?

A: I know that there was a sentence that -- without reviewing that I -- I don't wanna talk to the terms of it, but there -- yes, ma'am, he was under some type of pretrial whether it be diversion or pretrial sentencing or some type of plea.

Q: Okay. All right. Let me double check that I haven't forgotten to ask you anything, I'll be right back.

MS. McDANIEL: All right. Thank you, Your Honor. No further questions.

THE COURT: All right. Mr. McCabe, you have any re-direct?

MR. McCABE: Yes, Your Honor, just a couple.

CHIEF BRYAN - REDIRECT EXAMINATION BY MR. McCABE:

Q: You said that, in response to one of the

questions, that administrative violations were not being done. Could you expand on that a little bit, what do you mean by that they were not being done?

A: You have to go back to some previous cases. I actually received instruction from the City Attorney after checking on previous cases in Statesboro, the City Council was no longer going to hear the administrative violations and that has been investigated.

Q: All right. So the City Council was no longer hearing administrative violations, is that correct, that's your testimony?

A: That is correct.

Q: All right. Despite Mr. Starkey's demeanor, helpfulness, do you still believe that he is not fit to hold an alcohol license?

A: Yes, sir.

Q: All right.

MR. McCABE: No further questions, Your Honor.

MS. McDANIEL: Nothing, Your Honor.

THE COURT: All right. You may return to your seat and ---

MR. McCABE: Yes, I'm finished with him, Your Honor.

THE COURT: Would we like to release him to return

to Statesboro?

MR. McCABE: Yes. I mean, Chief, if you're -- if you're ...

CHIEF BRYAN: Thank you.

THE COURT: Ms. McDaniel, do you?

MS. McDANIEL: That's fine, Your Honor.

THE COURT: All right. Thank you for coming up, sir.

CHIEF BRYAN: Yes, sir. Thank you, Your Honor.

MR. McCABE: Your Honor, at this time I would like to call Katherine Gatto to the stand.

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

MS. GATTO: I do.

COURT REPORTER: Thank you.

KATHERINE GATTO, having been duly sworn, testifies as follows:

MS. GATTO - DIRECT EXAMINATION BY MR. McCABE:

Q: Morning Ms. Gatto, thank you for coming ---

A: Good morning.

Q: --- we appreciate it. Could you please tell the Court where you live?

A: Cumming, Georgia.

Q: All right. And how ---

THE COURT: Mr. McCabe, just one moment. Ms. Gatto, could you spell your first name for us?

A: Certainly, it's K-A-T-H-E-R-I-N-E.

THE COURT: Thank you.

MR. McCABE: Thank you, Your Honor.

Q: Now, I'm gonna ask you some questions and I want you to remember that you can't talk about things that you've heard, this is only from your personal observations, okay? How are you familiar with Mr. Starkey's former business, Rude Rudy's?

A: My 18 year-old son, Michael Joseph Gatto, was murdered inside Rude Rudy's by a Rude Rudy's employee on August 28th, 2014.

Q: Okay. And what happened to Rude Rudy's after the death of your son?

A: Initially it remained opened, however the City was under tremendous scrutiny for their failure and unwillingness to enforce their own alcohol ordinances and they were finally forced to hold an administrative hearing to review the fate of Mr. Starkey's liquor license. It was scheduled on September 24th, 2014.

Q: Okay. And what happened -- did anything --

well, let me ask you, what happened to Mr. Starkey after the death of your son?

A: To my knowledge, he -- he -- there was a hearing and he entered into an agreement with the City of Statesboro's Department of Public Safety, and Rude Rudy's was permanently closed, and he agreed to a lifetime ban to ever hold a liquor license in Statesboro, Georgia again.

Q: Okay. Let me ask you, opposing counsel said that -- in their opening statement that there was never an attempt to name Mr. Starkey as a defendant in a lawsuit. Could you explain why that is?

A: I think she's familiar with apportionment but I -- the -- I believe the fish rots from the head down, and just because the City of Statesboro was negligent in their responsibilities to, you know, for oversight of -- of this man, it doesn't excuse his behavior; one does not excuse the other.

Q: Okay.

A: It can't exist without their enablement.

Q: Okay. What do you know about Mr. Starkey's current establishment here in Clemson?

A: I know the name is the Study Hall at 101 Sloan

Street, I believe, in downtown Clemson. Appears to serve food and alcohol and have occasional music entertainment I believe. I know that it was in development while Rude Rudy's was still open.

Q: Okay. You learned that the Department of Revenue was seeking to cancel Mr. Starkey's license. What was your response in that -- to that when you learned that information?

A: I wrote a letter to the South Carolina Department of Revenue and attached documentation.

Q: Okay. Was that the first time that you've ever reached out to the Department of Revenue?

A: Here in South Carolina?

Q: Ye- -- yes, ma'am.

A: Yes.

Q: South Carolina Department of Revenue.

A: It is.

Q: So prior to that there had been no attempts to inform the Department of Revenue of the conduct in Georgia?

A: Not by me.

Q: Not by you. All right. So let me ask you, why did you agree to travel from Statesboro to

testify today?
A: From Cumming ---
Q: Yeah.
A: --- Georgia.
Q: I'm sorry.
A: For several reasons. First, I'm shocked and angered that Mr. Starkey seemingly has learned nothing from my son's death and continues to disregard local alcohol ordinances and State law. Secondly, I want to make sure that what happened to my son in Georgia, due to the lack of oversight of Mr. Starkey, does not happen here to someone else's loved one in South Carolina. You know, what -- what my family goes through on a daily basis, no- -- nobody should have to endure.
Q: Okay. Did Mr. Starkey ever reach out to you and express any type of remorse to your or your family?
A: Not direct- -- I've had no direct conversation ---
Q: Right.
A: --- with Mr. Starkey ever.
Q: Ha- -- has Mr. Starkey done anything to make amends to you and your family?

A: No.
Q: All right. Based on your personal perceptions, in your opinion do you feel that Mr. Starkey is fit to hold an alcohol license?
A: I think Mr. Starkey has a long and well documented history of disregard of local alcohol ordinances and State law. Mr. Starkey -- despite the fact that the City should have revoked Mr. Starkey's license well before my son's death, Mr. Starkey continued to run his business irresponsibly and ---
MS. McDANIEL: Objection, Your Honor. She does not have personal knowledge of that.
A: My son's dead body is per- -- is kno- -- is knowledge of that.
THE COURT: Just a moment. I -- she kept -- restate your objection, please.
MS. McDANIEL: Your Honor, I object to Ms. Gatto testif- -- speaking about previous -- I think she's tried to say numerous violations that happened at the place. She doesn't have personal knowledge of that. All she has knowledge of is what happened to her son and that's what she can testify to.
THE COURT: All right. Mr. McCabe, do you have any

response to that?

MR. McCABE: No, Your Honor. I -- I do agree that -- that her testimony should be limited to her personal observations.

THE COURT: Okay. I'll sustain the objection. Ms. Gatto, focus on what you know of your personal knowledge, not what you've heard from other people.

A: Yes, sir. Mr. Starkey felt no moral obligation to ---

MS. McDANIEL: Objection, Your Honor. She doesn't know what Mr. Starkey felt or didn't feel.

THE COURT: Ma'am, I'm sorry, but she's right. You -- you can't talk about what -- what you think he thinks or thought or didn't think. You can only say what -- what you saw, heard, or -- or believe yourself not based on what you think he might've thought or should've thought.

A: I don't believe he possesses the moral cab- -- character to run an establishment within the parameters of the law. My son was not the vir- -- first person to be beaten and hospitalized by a Rude Rudy's employee, they were involved in several previous incidences.

MS. McDANIEL: Objection, Your Honor. I don't know

that she knows that through personal knowledge.
A: There are documentations in Court.
Q: If we could just focus just -- I -- I understand ---
A: My apologies.
Q: --- you're very emotional. No, and I understand completely; I understand. So your testimony is based on your personal observation and your perceptions. Am I correct in saying that you believe that Mr. Starkey is not fit to hold an alcohol license anywhere?
MS. McDANIEL: Ob- -- objection, Your Honor. That's a leading question. I- -- I'm sorry ---
THE COURT: Well ---
MS. McDANIEL: --- to keep objecting.
THE COURT: --- yes and no. I think that's what she said.
MS. McDANIEL: Okay.
THE COURT: Although he's embellished it a little bit.
MR. McCABE: I'm sorry. Your Honor, I'll -- I'll rephrase that.
THE COURT: All right. That objection's sustained.
Q: Ms. Gatto, is it your testimony that Mr. Starkey is not fit to hold an alcohol license?

A: That would be my opinion. I believe his actions and act- -- and inactions speak for themselves.

Q: All right.

MR. McCABE: No further questions, Your Honor.

MS. GATTO - CROSS-EXAMINATION BY MS. McDANIEL:

Q: Good morning, Ms. Gatto.

A: Good morning.

Q: I'm Kathleen McDaniel. I represent John Starkey in this matter of Study Hall. Ms. Gatto, isn't it the case that you did not sue John Starkey or Study Hall -- or Rude Rudy's for the death of your son?

A: Rude Rudy's no longer existed after the death of my son.

Q: Okay. And did you pursue Mr. Starkey for any li- -- liability for the death of your son?

A: I pursued the City of Statesboro.

Q: Okay. So the only entity that you sued, the only person that you sued, was the City of Statesboro, is that correct?

A: The one responsible for him, yes.

Q: Okay. And isn't it the case that that lawsuit was dismissed on Summary Judgement in 2018?

A: That lawsuit's in Appellate Court.

Q: Okay. Well, I'm going to show you what has been marked as Ex- -- Respondent's Exhibit 3 -- well, we haven't admitted it yet but I'll show it to you, if you would take a look at that.

A: I wish I could. I need my glasses, I apologize.

Q: Okay.

A: Can you grab my glasses for me? Thank you.

Q: So, Ms. Gatto, if you would, is this a copy of the Order on the City of Statesboro's Motion for Summary Judgement?

A: Yes.

Q: And if we look up at the top, was this filed on October 23rd, 2018 in the Clerk of State Court [*sic*] for County of Georgia?

A: Yes.

MS. McDANIEL: Your Honor, we would move to enter this into evidence.

MR. McCABE: Your Honor, I would object as to relevance. This is a -- a lawsuit between Ms. -- Ms. Gatto and the City of Statesboro. Also, I'm not sure this is a certified copy of a court record. It looks like this was printed strictly from the website, it's not certified by the Clerk of Court.

MS. McDANIEL: The party to this case is here, she has testified that this is the order that was recorded in the Court's records.

MR. McCABE: Your Honor, it's -- it's -- clearly it's not a certified copy and it does not -- does not come in under that exception.

MS. McDANIEL: Your Honor, it doesn't need to be a certified copy if she's here and testify's to the ---

THE COURT: She is here.

MS. McDANIEL: --- authenticity of it.

THE COURT: She is a recipient of that order?

MS. McDANIEL: Yes, Your Honor. She is the Plaintiff.

THE COURT: Mr. McCabe ---

MR. McCABE: Yes, Your Honor?

THE COURT: --- and Ms. McDaniel, as far as I can tell, and I -- with all due respect to the -- the Gatto family's loss in this situation, we're going awfully far afield. I'm gonna -- I -- she's -- I'm gonna allow her to testify about -- about this -- about this but just -- just remember ladies and gentlemen, what we're dealing with is a South Carolina License and Mr. Starkey's business behaviors in South

Carolina. I understand where you're going, Mr. McCabe.

MR. McCABE: Okay. Thank you, Your Honor. I just wanted to make it clear ---

THE COURT: But I just wanna -- I just gotta be focused on what we have here.

MR. McCABE: In this ---

THE COURT: A certain -- a certain amount of this background may have relevance in Mr. Starkey's fitness to hold a liquor license or a beer and wine permit but I don't wanna get too far into history when we've got things to deal with that are much more relevant ---

MR. McCABE: Completely understand, Your Honor.

THE COURT: --- for wha- -- for what I can deal with.

MR. McCABE: Yes, Your Honor.

THE COURT: I'm gonna ---

MS. McDANIEL: Thank you, Your Honor.

THE COURT: --- look back -- you -- she's testified about this lawsuit. If you want to ask her specific questions with reference to that order ---

MS. McDANIEL: Yes, sir.

THE COURT: --- you can ask her the questions ---

MS. McDANIEL: Uh-huh.

THE COURT: --- I -- and I don't think you need to have the order in as an Exhibit to ask those questions.

MS. McDANIEL: Well, Your Honor, I -- I do think -- I -- I appreciate your position on the Statesboro incident and I certainly agree with you. We are simply responding to the evidence that they are trying to put in and defending against it. So the -- I will -- I will ask Ms. Gatto the question and I think that will explain the significance of the order coming in, with your permission, Your Honor.

THE COURT: Go.

Q: Ms. Gatto, if you would, please turn to -- there -- the pages aren't numbered but I'll count them for you. It's 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, page 11, on numbered page 11. All right. In the -- let's see, I guess it should be starting on page 10 previously. The order states that it's undisputed that decedent, that would be your son, was arrested by Athens-Clarke County Police Department on July 4th, 2014 and was charged with theft of services and underage possession of alcohol, is

that true?
A: That he was arrested? Yes, that's correct.
Q: And then it goes on and says on August 5th, 2014, decedent entered into a pretrial intervention program agreement in which he agreed not to violate criminal laws, consume alcohol and enter bars or locations whose primary purpose is the sell of alcohol- -- alcoholic beverages, is that true?
A: That is true.
Q: Okay. And then it goes on to say it's undisputed that decedent was present in Rude Rudy's on the evening of August 27th, 28th, 2014 less than a month after entering the pretrial diversion agreement, is that true?
A: It is true but that's where it gets tricky. City has called Rude Rudy's a restaurant where less than 50 percent of sales is alcohol.
Q: Okay. Then it says following Rude Rudy's, the decedent was drinking and in possession of a driver's license bearing a name other than his own, is that true?
A: I have no way of knowing whether that was true. I know he didn't need one to get a bracelet, but.

Q: Okay. But he -- he was not -- he was under a Court Order not to go into bars, correct?
A: Not to go into bars, but ---
Q: Okay.
A: --- Rude Rudy's was a restaurant according to the City, so.
Q: Okay. And so ---
A: I'm not sure you can make that argument.
Q: Okay. And so, Ms. Gatto, my -- I just wanna make it clear, you and your family have not pursued any legal action against Mr. Starkey, have you?
A: No, we have not.
Q: Okay.
MS. McDANIEL: Let me ask -- let me check my ...
Q: Okay. So Ms. Gatto, were you aware that Mr. Starkey was building or developing a new bar in Clemson?
A: I was.
Q: When did you become aware of that?
A: It's after my son's death sometime.
Q: A year after his death, two years after his death?
A: I don't remember.
Q: Do you remember how you became aware of it?

A: Online. There were some construction modifications put through to the City Council of South Carolina that wasn't -- was online.
Q: Okay. And at that time did you submit any information to the South Carolina DOR regarding Mr. Starkey?
A: No. I just assumed he'd be denied the license.
Q: Okay. And how did you learn about this proceeding, how did ---
A: A Clemson student notified me that something was happening at that establishment. I then found out again online that Mr. Starkey's establishment had been shut down by authorities and that he would have to reapply for a license.
Q: Okay. And then -- and then that's when you reached out to DOR?
A: Correct.
Q: So before, when you knew that he was getting a license, you didn't reach out before then?
A: I believe he'd already received the license.
Q: And you did not reach out before that even though you knew that he was in the process of opening?
A: No. I believe when the construction was

happening I believe he had already had a license or it was my understanding that he already had a license.

Q: But until recently, you didn't take any action to contact DOR regarding this construction?

A: I didn't need to, I knew of people that already done so.

Q: Okay. Thank you.

THE COURT: Redirect?

MR. McCABE: Just one brief question.

MS. GATTO - REDIRECT EXAMINATION BY MR. McCABE:

Q: Ms. Gatto, did Rude Rudy's have liability insurance?

A: It was my understanding they were no longer insurable due to multiple incidences and lawsuits.

MR. McCABE: No further questions, Your Honor.

THE COURT: Okay. Ms. Gatto, you may return to your seat.

A: Thank you.

THE COURT: Thank you for coming.

MR. McCABE: At this time we call our next witness.

COURT REPORTER: Do you solemnly swear or affirm the testimony you're about to give will be the truth, the whole truth and nothing but the

truth so help you God?

MS. STRZELCZYK: I do.

COURT REPORTER: Thank you, ma'am, appreciate it.

KRISTA STRZELCZYK, having been duly sworn, testifies as follows:

MS. STRZELCZYK - DIRECT EXAMINATION BY MR. McCABE:

Q: Good morning. Could you please state your name and spell it for the Court Reporter?

A: Krista Strzelczyk, K-R-I-S-T-A S-T-R-Z-E-L-C-Z-Y-K.

Q: All right, Krista. And where are you employed?

A: South Carolina Department of Revenue.

Q: And what is your title?

A: I am one of the Alcohol Beverage Licensing Supervisor.

Q: And what roles are assigned to an ABL Supervisor?

A: It is our role to basically monitor the employees, make sure that they are performing their job duties. Also review any type of files or anything that is in question and basically review anything that would be in the process of going to out Litigation Department.

Q: Okay. And based upon that have you -- have you reviewed and are you familiar with the license

for Study Hall, LLC?
A: I am.
Q: Okay. Does this location currently hold a license and a permit?
A: They do.
Q: All right. And who was the sole principal for that license and permit?
A: Mr. Starkey.
Q: Okay. Now, has this location continuously held a license and permit since December of 2018?
A: No.
Q: Why did this location's license and permit expire -- or excuse me. Did this location's license and permit expire on November 30th, 2018?
A: Yes.
Q: Okay. And why did it expire on that date?
A: Based on the County that the business is located, he would have had to renew by that date and we did not receive renewal for his location.
Q: Okay. Was this business notified that their license had expired?
A: We don't notify them that it's expired but they receive a renewal packet letting them know that

it's up for renewal 60 days before the renewal.
Q: Okay. Let me have you take a look at what I have marked as Petitioner's Exhibit Number 7. If you could take a look at that and make yourself familiar with that document.
A: Okay.
Q: What is the document that I've handed you?
A: This is an ABL Renewal Notice of Denial.
Q: All right. And what is the date on that document?
A: December 7th, 2018.
Q: All right. And was this document created by an ABL Analyst with knowledge of the Study Hall file?
A: It was.
Q: All right. And are you ---
MS. McDANIEL: My apologies, Your Honor. I try -- I'm not sure that I have a copy of that. I'm trying to find it in my stack of documents that you handed me.
THE COURT: I think they've referred to Exhibit 7, so.
MS. McDANIEL: I'm looking for -- oh, here we go, my apologies.
Q: And is it the normal course of business to keep

documents such as this?
A: Yes.
Q: All right. And is there any reason not to trust the authenticity of this document?
A: No.
MR. McCABE: Your Honor, I'd offer Exhibit Number 7 into evidence.
MS. McDANIEL: No objection, Your Honor.
THE COURT: It is, without objection, submitted.
(Petitioner's Exhibit Number 7 was marked for identification purposes.)
Q: Does Exhibit Number 7 notify Study Hall that it's license and permit was expired?
A: It does.
Q: All right. Could you please read the sentence that gives notice not to sell alcohol?
A: It says you must cease all sales of beer, wine and/or liquor until you receive your renewed license.
Q: Is this sentence in bold print?
A: It is.
Q: Is this sentence repeated anywhere else on this letter?
A: It is.
Q: And where is that?

A: On page 2, at the bottom it says you must cease all sales or beer, wine and/or liquor until you receive your renewed license.
Q: Okay. So what date was Study Hall issued it's license, when did they eventually get their license?
A: I believe it was March 7th of 2019.
Q: Okay. Were you informed that SLED had made an arrest and seizure of contraband alcohol from this location?
A: Yes.
Q: Prior to -- prior to the license being issued?
A: Can you repeat that?
Q: Yes. Prior to the license being issued, did you have knowledge that SLED had gone and made an arrest and seized contraband alcohol?
A: No.
Q: Okay. If the ABL Department had been aware that Study Hall had been selling without a license would you have issued the license and permit?
A: No.
Q: And why not?
A: If Mr. Starkey cannot hold up to the laws and regulations of South Carolina and prove to us

that he's of good moral character then the Department would not issue a license to somebody that doesn't present good moral character.

Q: Okay. Was there a mistake on the license and permit when it was eventually issued -- when he came in, got his license, was there a -- a mistake on that applica- -- or on that license and permit?

A: There was.

Q: And what was that mistake?

A: The issue date that was listed on the license was incorrect.

Q: All right. And how was that remedied?

A: I contacted Mr. Starkey myself after being contacted by the office that issued the license and advised him that the wrong date was on his license and if he could please bring it into the Department so we could issue him the correct license with the correct issue date.

Q: All right. So despite this mistake, is there any doubt that Mr. Starkey did not have a license on February 28th, 2019 when SLED made the arrest and seizure of contraband alcohol?

A: No.

Q: All right. What is an LOP, we're gonna talk a little bit about that, what is that?

A: An LOP is if -- if you carry a liquor-by-the-drink license and you're in an approved County for Sunday sales, it allows you to sell liquor during restricted hours on Sunday.

Q: Okay. Does Study Hall currently have an LOP?

A: They currently do.

MS. McDANIEL: And Your Honor, I'm going to object to testimony regarding that. We're here based on the Department determination that -- the only basis for this determination for, in this matter was the sale of the -- sale on February 28th, 2019. The issue about a Sunday sales, all of those other issues that Mr. McCabe presented in his opening statement, none of that was part of determination. That's nothing that we've ever been informed about would be an issue and it would be unfair, and I would argue a violation of due process, for us to have to address those matters when they were never a part of the original determination that we're here concerning.

MR. McCABE: Your Honor, if I may. This is a de novo hearing. The Department became aware that

this violation occurred after the Department determination was issued, and those documents were provided in discovery to Ms. McDaniel, so she had fair notice that this was on the table. And you can not ask the Department to turn their eyes to a continuing violation.

MS. McDANIEL: Your Honor, I would simply say the determination is what the determination is. We're here on a de novo review of the determination, not my client's entire life history of alcohol licensing.

THE COURT: Yes, ma'am, I understand that. The local option issue, I don't believe -- and Mr. McCabe, I- -- I'm not going to make your argument. Assuming that the February 28th was not a Sunday ---

MR. McCABE: Correct.

THE COURT: -- what do you plan to accomplish by talking about the local option issue?

MR. McCABE: Our purpose is to show that even after the February 28th, when Mr. Starkey supposedly came in to compliance, even then he didn't come into compliance because he continued to sell without a license -- or an LOP for -- for 95 Sundays. He's gone since 2000 -- I believe

2016 without a local option permit; so, he still is not in compliance with the law.

MS. McDANIEL: Your Honor, this determination was issued on July 15th, 2019. If that had been a part of their consideration, if -- if -- if what Mr. McCabe says is true, they could have made that a part of this. They did not. They only focused on the -- the February sale not the Sunday sales.

MR. McCABE: Your Honor, if I may. We were not aware -- when the Department was issued there had not been a citation issued, SLED had not received a complaint, they had not done an investigation. Once again, Ms. McDaniel received all of these documents in discovery. She could've simply conducted maybe a little bit further discovery then instead of just asking for documents, she would've been able to know what we were looking at.

MS. McDANIEL: Your Honor, we weren't required. That was certainly not within the scope of what the determination was and that was not something that would have been necessary for us to do.

THE COURT: All right. This is a de novo hearing

and I'm gonna -- I'm gonna to allow this testimony. I'm not sure that -- well, I'm gonna allow the testimony. Now, I admit that that's not part of their original determination. It does go to the issue of whether Mr. Starkey has complied with State law. And I'm -- and to the extent that this is the -- a de novo hearing, I'm going to allow this -- I'm going to allow that testimony for the purpose of showing the appearance of compliance or noncompliance. What she's said so far is that he's got one.

MS. McDANIEL: That's correct, Your Honor. Thank you, Your Honor.

MR. McCABE: Thank you.

THE COURT: Proceed, and I'll overrule that objection.

Q: When did Study Hall obtain their LOP?

A: I don't know the exact date but I believe it was after his re- -- his license was issued, his renewal.

Q: All right. Did anything happen at Study Hall before -- the week before the LOP was purchased?

A: I believe there was a violation issued.

Q: Okay. Was Study Hall -- well, let me ask you this: did Study Hall have an LOP from November 26th, 2017 until October 20th, 2019?
A: No.
Q: All right. Would Study Hall been permitted to sell alcohol on those 95 Sundays if it did not have an LOP?
A: They would not.
Q: All right. How much is a single LOP?
A: It's $200 per Sunday.
Q: All right. So, per Sunday. How much is it if you buy that at the year -- for a year -- 52 weeks?
A: $3,050.
Q: Okay. So by not purchasing LOP's, Mr. Starkey could have potentially -- is -- is it your testimon- -- well, let me ask you this -- I'm getting ahead of myself. If Mr. Starkey were to have purchased a single Sunday LOP, what amount of money would have been due to the Department, just a rough estimate that you'd think?
A: $19,000.
Q: Okay. If Mr. Starkey had purchased the 52 week LOP, what would have been due to the

Department?
A: Maybe about $6,100.
Q: All right. So in 2019, how many licenses were purchased by Study Hall?
A: Three.
Q: All right. And let me ask you, what preceded the purchase of each of these licenses?
A: I'm sorry, can you say that again?
Q: Did something occur before these license were purchased?
A: Yes.
Q: What -- what occurred?
A: I believe he was issued -- he was selling without a license before that.
Q: Okay. And before he purchased the LOP, what happened there?
A: He was issued a violation.
Q: For?
A: For sale on Sundays.
Q: All right. So did ABL have any concerns about a business that fails to obtain the appropriate licenses and continues to sell alcohol beverages?
A: Yes, we do.
Q: All right. And what are those concerns?

A: Our concerns would be if Mr. Starkey cannot hold up to the South Carolina law, it -- it would ma- -- it would -- it would determine that he would not be of good moral character to hold a license in the State based off of his history of selling without a license.

Q: Okay. I know we're talking about South Carolina, but visit Georgia here just for a quick second here. Was ABL aware of Mr. Starkey's business activities in the state of Georgia when it issued it's original license?

A: We were not.

Q: All right. If the Department had been aware that Mr. Starkey's business activity in the State of Georgia ---

MS. McDANIEL: Objection, Your Honor. Purely speculative.

MR. McCABE: I'm sorry?

MS. McDANIEL: I- -- I would say if a question of if you had been aware, that calls for speculation.

THE COURT: I agree.

MR. McCABE: All right.

THE COURT: Sustained.

Q: Well, let's go to -- yeah. How does the Department of Revenue treat revocations from

other states?
A: If it's a revocation against the license holder it would ban them from being able to sell beer and wine in the State for two years and liquor for five years.
Q: All right. So Department -- so it's your testimony that if someone from out of state received a revocation against their license they would not be able to obtain a license here within the State of South Carolina?
A: That's correct.
Q: All right. Does the Study Hall have any violations for underage sales?
A: I believe there is one.
Q: You remember when that occurred?
MS. McDANIEL: And, Your Honor, I'm just going to make the same objection just to put it on the record that these are matters that were not part of the initial determination and are beyond the scope of this hearing.
MR. McCABE: Your Honor, once again this is a de novo hearing and she -- she received all of the violations, including the one from 2017, as part of discovery. If she requests everything from the Department's file regarding her client

I believe that we should be able to ask about those things that are within the Department file.

THE COURT: Just because you furnish them in discovery I don't know that that carries over to what you can do in court. But I- -- I'm gonna allow -- I'm gonna allow for her to answer that question simply because it -- I don't think if all he has in, since opening the business in 2017 is one violation for underage sales, well frankly I think that benefits him, but ---

MS. McDANIEL: Thank you, Your Honor.

THE COURT: So I'm gonna let him answer -- ask -- he's asked that question so I'm gonna let her answer.

MS. McDANIEL: Thank you, Your Honor.

Q: The question was does he have a violation for underage sales?

A: He did.

Q: All right. And what was the penalty for this violation?

A: It was a $500 fine.

Q: All right. And did the Study Hall contest this violation?

A: I don't believe so.
Q: Okay. When you review an application, does the ABL Department review taxes to make sure there's no back taxes owed, anything of that sort with the applicant?
A: We do.
Q: All right. Does this mean that you're familiar with the Department's tax record systems?
A: I am.
Q: Okay. What is an admissions tax?
A: Admissions tax is ---
MS. McDANIEL: Your Honor, I'm going to continue my objection. This is information that was not part of the determination and it's certainly nothing that we've ever been provided any documentation regarding the issue of this admissions tax. This is a completely new issue that I had never heard about until today.
MR. McCABE: Your Honor, once again this is a de novo hearing and the Department learned of this on Friday.
MS. McDANIEL: And did not provide us the information regarding it at that time.
THE COURT: Okay. Mr. McCabe, we've got to cut -- cut off for it somewhere and we're -- we're at

least gonna cut it off there.

MS. McDANIEL: Thank you.

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

Q: Is Mr. Starkey compliant with all the tax records?

A: No.

Q: All right.

MR. McCABE: No further questions, Your Honor.

MS. STRZELCZYK - CROSS-EXAMINATION BY MS. McDANIEL:

Q: All right. Good morning. It's my understanding that you're testimony is that when you contacted Mr. Starkey to return the license that was initially issued, you said with an incorrect date, tell me about that conversation.

A: I contacted him to let him know that when he went into I believe it was the Greenville DOR Office they issued him a license with the incorrect start date on it, and if he could please bring that license back into the Department to get the correct issue date applied on the license.

Q: Okay. And did Mr. Starkey come in and turn that in?

A: He did.

Q: Did he come personally and turn that in?
A: I believe so.
Q: Okay. And did he say no, I'm not going to turn it in, I -- you're -- you're crazy, I've got my license? Did he object in any way?
A: Other than it taking him a few days to do it, no.
Q: Okay. And how long, do you know -- when did he return that back in?
A: I actually left him a couple voice mails ---
Q: Uh-huh.
A: --- and called him quite a few times till he finally called me back.
Q: Uh-huh.
A: But it had been at least two to three days before he went in to actually get it corrected.
Q: Okay. But he did bring it in ---
A: He did.
Q: --- voluntarily? Okay. And you testified regarding the Sunday sales license, Mr. Starkey did obtain that license, correct?
A: Eventually he did, yes.
Q: Okay. And do you know the date of that?
A: I don't recall.
Q: Would it have been in October?

A: I believe it was probably October of 2019.
Q: Okay. So it was after this proceeding was already initiated, it was after you had alleged that he was selling without a license, correct?
A: Correct.
Q: And it was after you'd already alleged that he was not of good moral character, correct?
A: I didn't allege that.
Q: Well, I'm sor- -- I apologize. The Department in the determination?
A: I did not see the determination.
Q: Okay. And who issu- -- how is the Sunday sales license issued?
A: They would fill out a form, bring the form into the Department, we would make sure they're compliant with all tax laws at that time, and any violations they may have on record, and then we would issue them the LOP.
Q: Okay. So considering all of that, the LOP was issued, correct?
A: It was.
Q: And doesn't that also require a finding of good moral character to be issued an LOP?
A: Yes.
Q: Thank you. No further questions. Oh, perhaps

one question.

THE COURT: Re-direct?

MR. McCABE: Thank you, Your Honor.

MS. STRZELCZYK - REDIRECT EXAMINATION BY MR. McCABE:

Q: Did the Department feel it was appropriate to not issue a license when the question of the applicant's moral character was in front of the Court, was to be determined?

A: I'm sorry, say that again.

Q: Did the Department feel it was appropriate to not issue a license when the applicant's moral -- the applicant's moral character was in question -- was in litigation at that point?

A: No. We -- well, we wouldn't -- because there's been no deter- -- there's -- there's not an outcome to that case, it would not for -- we wouldn't be able to not give him a license until of course we're here today.

Q: So it's your testimony that because the issue had not been determined, we -- the Department is required?

A: If we didn't have any other reason as far as tax compliance, yes.

Q: All right. And at that time was the Department aware of the tax issues?

MS. McDANIEL: Objection, Your Honor.
THE COURT: I want him to ask that question a little differently because I -- Mr. McCabe, you've asked about tax issues.
MR. McCABE: Yes, Your Honor.
THE COURT: Let's be more specific. What tax issues ---
MR. McCABE: All right,
THE COURT: --- are you asking about? Don't answer, ma'am. Just ask her what ---
MR. McCABE: Okay.
Q: My question is, at that time did anyone look to see that Mr. Starkey had complied with the admission tax requirements?
MS. McDANIEL: And, Your Honor, that's what I'll object to, Your Honor.
THE COURT: Okay. I'll sustain the objection.
Q: Was there anything at the time he came in and applied for the LOP, was there anything that was in his file that would have stopped the Department from issuing the license?
A: From issuing the LOP?
Q: I'm sorry. Yes, for issuing the LOP.
A: No.
MR. McCABE: No further questions, Your Honor.

THE COURT: Anything else?

MS. McDANIEL: I have no further questions, Your Honor.

THE COURT: Ma'am, you can go to your seat.

MR. McCABE: At this time, Your Honor, we would call Special Agent Keith Dorman to the stand.

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

MR. DORMAN: Yes, sir.

AGENT KEITH DORMAN, having been duly sworn, testifies as follows:

AGENT DORMAN - DIRECT EXAMINATION BY MR. McCABE:

Q: Morning Keith, could you please state your name for the record?

A: Yes, sir. Keith Dorman.

Q: All right. And where are you employed?

A: SLED, South Carolina Law Enforcement Division.

Q: And what are your job roles?

A: Primarily Alcohol Enforcement Unit within SLED.

Q: All right. And how long had you been in this position?

A: Six years.

Q: All right. What did you do before taking this

position with SLED?
A: I was in Accounts Management.
Q: Okay. What areas of the State are you responsible for?
A: Well, the whole state but primarily Greenville, Pickens and Oconee Counties.
Q: All right. And do your job duties require you to conduct compliance inspections of locations within those counties?
A: Yes, sir.
Q: All right. How many inspections do you conduct a month?
A: Minimum of 75.
Q: All right.
A: 75 licenses.
Q: Okay. So, 75 licenses. And what types of things are you looking [*sic*] when you conduct an inspection?
A: It varied between location. For a restaurant purposes we're looking for -- just for example it's not limited to, but size of liquor bottles, where alcohol is being purchased, both beer and liquor, the restaurant requirements to maintain your business at that place, just to name a few.

Q: Okay. And on February 28th, 2019, did you conduct an undercover -- or did SLED conduct an undercover investigation of the business located at 101 Sloan Street, Clemson, South Carolina?
A: Yes, sir.
Q: And what is the name of this business?
A: Study Hall.
Q: All right.
A: LLC.
Q: Why did you conduct an undercover investigation of this business?
A: I received information from a wholesaler in that beer district that this place or that this location, they weren't gonna deliver alcohol to due to their license expiring.
Q: Okay. Did you confirm with the South Carolina Department of Revenue whether or not this location had a valid license to sale beer, wine and alcohol?
A: Yes, sir.
Q: All right. And who did you confirm that with?
A: Ms. Strzelczyk with Dr- -- Department of Revenue.
Q: So what was the result of this investigation?

A: Well, the beer was purchased at the location without a license being -- being valid, and the -- all the alcohol was seized as a result of the investigation.
Q: Okay. Did you place the results of this investigation into a report?
A: Yes, sir.
Q: All right. Let me have you take a look at what we've marked here as Petitioner's Exhibit Number 8. Do you recognize that document?
A: Yes, sir.
Q: And what is it?
A: The report that I typed after -- after the events unfolded.
Q: All right. As the author of this -- this document, do you have knowledge of this investigation?
A: Yes, sir.
Q: All right. And is it normal procedure for SLED to document the results of an investigation?
A: Yes, sir.
Q: And is it normal practice for SLED to keep records of their investigations in the ordinary course of business?
A: Yes, sir.

Q: And are you authorized to testify as a Records Custodian for SLED?
A: Yes, sir.
MR. McCABE: Your Honor, at this time I would offer Exhibit 8 into evidence.
THE COURT: Ms. McDaniel?
MS. McDANIEL: If you could point me to which document you're looking at. Is it ---
THE COURT: Exhibit 8, I'm not sure what ---
MS. McDANIEL: Well, it's -- mine ---
MR. McCABE: It's the SLED ---
MS. McDANIEL: --- aren't marked, sorry. Which one is Exhibit 8?
MR. McCABE: February 28th.
MS. McDANIEL: So you have -- are these the -- these are the ---
MR. McCABE: This is October 13th.
MS. McDANIEL: Okay. So we're talking about ---
MR. McCABE: This one. Yep.
MS. McDANIEL: The one dated March 7th, 2019?
MR. McCABE: Correct.
MS. McDANIEL: Okay.
MR. McCABE: For the investigation on February 20 --
-
MS. McDANIEL: All right. And it's 40 pages long?

Is that the correct one?

MR. McCABE: Yes -- yes, ma'am.

MS. McDANIEL: Okay. Your Honor, I -- we don't have any objection to this coming in.

THE COURT: Okay. Without objection, Exhibit 8 is admitted.

(Petitioner's Exhibit Number 8 was introduced into the record at this time.)

Q: Could you look at page -- what I believe is page 8 of this Exhibit?

A: Okay.

Q: And what is that you're looking at?

A: A letter that was sent to the licensees stating that all sales of beer, wine and/or liquor must cease until you've reneed- -- received your renewed license.

Q: Okay. And who presented you with this document?

A: Alvin Dark, who was the manager at the time.

Q: So is it your testimony that the manager of the location had this letter in his possession at the time SLED made the arrest?

A: He presented this letter to me, yes, sir, on the evening that we were in there and -- and made the sale. Yes, sir.

Q: Okay. Did Mr. Dark provide you with any other documentation?
A: Yes, sir.
Q: All right. Let's look at page number 30 of Exhibit 8.
A: All right.
Q: And what is that document?
A: Patrick, do you mind if I take this clip off?
Q: No, go -- please, go right ahead. Probably make it a little bit easier to get there.
A: All right.
Q: What is that on page 30?
A: This is a sales report from December the 1st going through the month of December -- December the 1st through the 31st of 2018.
Q: All right. Under the heading of beer, what was the total amount of beer sales for the mount -- for the month of December.
A: $6,730.
Q: All right. And under the heading of liquor, what was the total amount of liquor sales for the month of December?
A: $18,371.59.
Q: Okay. If you do some rough math, what does that make, just an estimate, the total amount

of alcohol sales for December?
A: Well excluding wine, which would have been 1875, 20 -- about $25,000 and some change.
Q: Okay. And do you know what date Study Hall's license and permit expired?
A: Their biannual permit expired November the 30th, 2018.
Q: All right. There's a signature on that document, who's signature is that?
A: Mr. Dark's, Alvin Dark's.
Q: Okay. And why did he sign that document?
A: He -- he voluntarily provided it to me and I wanted to make sure that I explained to him, you know, this is -- you know, this is why you're signing this document, that we're not taking it from you, you know, by any sort of order or anything like that.
Q: Right.
A: He voluntarily provided it for me so I -- I wanted to make sure he initialed it.
Q: Okay. Could you look at page number 31 of Exhibit 8?
A: Okay.
Q: Once you get there, what is that document?
A: Another sales report for the month of January,

January 1st through the 31st, 2019.
Q: Okay. And under the heading of beer, what was the total amount of beer sales in the month of January?
A: $14,000 -- or $14,588.36.
Q: All right. And under the heading of liquor, what would the total amount of liquor sold in the month of January?
A: 4- -- $43,144.90.
Q: And is there a heading for wine there as well?
A: Yes, sir.
Q: What is that amount?
A: $30.
Q: All right. Guess wine wasn't a big seller that month. What does that make the total amount for alcohol sales in January?
A: Roughly $57,700, something like that.
Q: Okay. Was this document signed by Mr. Dark?
A: Yes, sir.
Q: All right. And let's look at page 32 of Exhibit 8. What is this document?
A: Again, it's another sales report for the month of February, the 1st through the 28th of 2019.
Q: All right. And under the heading of beer, what was the total amount of beer sold for February?

A: $10,910.50.
Q: And under the heading of liquor, what was the total amount of liquor sold for February?
A: 36,000 -- $36,993.45.
Q: Okay. What about wine, was there any heading for wine?
A: $3.75.
Q: Okay. So quick math, what does that make the total sales for alcohol in February?
A: 40- -- 47,000 almost 48,000.
Q: Okay. So the records show that -- or do the records show that Study Hall conducted alcohol sales for January -- for December, January and February without a license?
A: Yes, sir.
Q: All right. Did -- upon this investigation, did SLED petition the Court for a search warrant?
A: Yes, sir.
Q: An- -- and why did that occur?
A: The -- the location at that point to me, at least being an investigator, wasn't licensed, therefore as far as our inspection powers went I felt like that would've been a safe bet for me just to have -- make sure we have that search warrant in place.

Q: All right. And what did that search warrant allow you to do?
A: Search the business for contraband beer -- beer, wine and liquor.
Q: And when you discovered the contraband, what -- what happened?
A: It was seized.
Q: Okay. Is this the only times that SLED has found Study Hall operating without a license?
A: No, sir.
Q: When else did we find -- did SLED find Study Hall operating without a license?
A: They were operating without a local option permit about -- don't know exact time that I found out about it but I received a -- a -- a phone call from the Police Chief of Clemson.
Q: All right. And what was the result of this investigation?
A: We issued a violation for the sale of liquor during restricted hours.
Q: All right. And did you place the results of this investigation into a report?
A: Yes, sir.
Q: All right. Let me have you look at what we've marked as Exhibit Number 9. If you could take

a look at this. This one is dated October 14th, 2018.

A: Okay.

Q: Okay. What is this document?

A: The document is a report that I had typed up after the events unfolded.

Q: Okay. And is it normal procedure for SLED to document the results of an investigation?

A: Yes, sir.

Q: And who was the author of this document?

A: I was.

Q: All right. And as the author do you have knowledge of the investigation?

A: Yes, sir.

Q: And what does this document indicate?

A: Essentially that a sale of liquor was made during the restricted hours on Sunday, I guess that would have been Sunday the 14th, would -- would have been the date or it may have been the 13th, I'm sorry.

Q: Okay. And is it normal procedure for SLED Agents to document the results of these investigations?

A: Yes, sir.

Q: All right. And is it normal practice for SLED

to keep these records in the ordinary course of business?

A: Yes, sir.

Q: And are you authorized to testify as a Records Custodian for SLED?

A: Yes, sir.

Q: All right.

MR. McCABE: Your Honor, at this time I would offer Exhibit Number 9 into evidence.

MS. McDANIEL: Your Honor, we simply reiterate our objection that this is outside the scope of the determination.

MR. McCABE: Your Honor, if I may. The determination was that Mr. Starkey is not of good fit moral character. That was the determination. These are all facts that go into that determination.

THE COURT: What's the date of that document?

A: The date that it was typed, Your Honor?

THE COURT: Well ---

MS. McDANIEL: Is there a ---

THE COURT: --- the date of the Sunday sale.

A: It's October the 13th.

THE COURT: October?

A: And I'm sure it -- brought up but I -- I'm --

the 13th is Saturday, I put -- it's just a typo. So -- but it'd have been October the 13th the violation was issued.

THE COURT: Okay. I -- I'm gonna allow that because of the -- the issue is how obedient is he to the law as -- in so far as that impacts that, the date issue, I think that it's relevant for us today as a -- in a de novo hearing so I'm gonna allow it. So, that's admitted over your objection.

MS. McDANIEL: Thank you, Your Honor.

(Petitioner's Exhibit Number 9 was introduced into the record at this time.)

Q: Exhibit Number 9, does it mention anything about cover charge?

A: Yes, sir.

Q: Okay. And what does that indicate?

A: The Agent that I had sent in to -- to purchase the liquor paid a -- a cover charge of $10 to enter Study Hall.

Q: All right. Have there been any other violations at Study Hall?

A: Yes, sir.

Q: And when was that?

A: I don't know the exact month, I know it was in

2017.

Q: Okay. And what were the results of that investigation?

A: We sent a confidential informant -- an underage confidential informant into Study Hall that was under the age of 21 and they purchased -- and without looking at the report I don't remember exactly what it was, but they purchased sort of alcohol beverage at Study Hall on that date.

Q: Okay. And when SLED uses an underage cooperating individual, do these individuals use fake ID's?

A: No, sir.

Q: Do they engage in any type of trickery, are they -- are they -- are they allowed to lie if asked their true age?

A: No, sir.

Q: All right. What are they instructed about if they're asked their age?

A: If they're asked their age we tell them to tell them their ages, their real age.

Q: All right.

MR. McCABE: Your Honor, if I could have one moment?

THE COURT: Yes, sir.

MR. McCABE: No further questions, Your Honor.

THE COURT: All right. Ms. McDaniel.

AGENT DORMAN - CROSS-EXAMINATION BY MS. McDANIEL:

Q: Good morning, Agent Dorman. I'm Kathleen McDaniel representing Study Hall. Thanks for being here today. What has been your interaction with Mr. Starkey since he opened Study Hall?

A: Well, we've had -- I mean, we've had many -- we've been in there just to pop in say hello, check- -- check the bar out, that type of thing. Of course we've also had times when we've dealt with him as far as the administrative stuff goes. I've never -- as you and I have talked, I've never had any -- as far as negative experiences go, he hasn't cussed law enforcement out and said get out of my bar or anything of that nature. So the interactions that he and I've had -- he and I have had face to face have been positive as far as vibes go.

Q: When you have asked him for information has he always provided it?

A: Yes, ma'am.

Q: Do you feel like he's ever tried to hide anything from you?

A: No, ma'am.
Q: Has he always been cooperative with any information that you requested?
A: Yes, ma'am.
Q: Okay. When -- let's say on the night of February 28th, were you present during the undercover operation?
A: Yes, ma'am.
Q: Okay. And was Mr. Starkey at that property?
A: On that night?
Q: Uh-huh.
A: No, ma'am.
Q: Okay. Did you get in touch with him when you were getting ready to -- when you found out that there had been the sale?
A: I'm -- did I get in touch him that night?
Q: Uh-huh.
A: Yes, ma'am.
Q: Okay. And what -- how did you get in touch with him?
A: Cell phoned him, he wasn't -- he wasn't there so we called him.
Q: Okay. So you called Mr. Starkey to let him know what's going on?
A: Yeah. And -- and it may have been the manager,

I believe the manager called him that night ---
Q: Okay.
A: --- as far as what initiated the whole -- the whole process.
Q: Okay.
A: Yes, ma'am.
Q: And then he called you right back, is that correct?
A: I -- I believe so, yes, ma'am.
Q: Okay. But -- but you and he talked back on that night, is that correct?
A: Yes, ma'am. Yes, ma'am.
Q: Okay. All right. And if he -- was he cooperative ---
A: Yes, ma'am.
Q: --- with you during that investigation? When you requested the information about the beer sales, the alcohol sales, did Mis- -- you -- Mr. Alvin Dark ---
A: Yes, ma'am.
Q: --- signed that, but are you aware that he contacted Mr. Starkey first to get permission to release that information?
A: I don't recall the timeline of events, when he provided that to me. I do know that we were in

the office of -- of Study Hall and an unspecified period of time had passed, I don't remember if it was 30 minutes or an hour, there was a lot going on that night.

Q: Okay.

A: Yes, ma'am.

Q: Mr. McCabe asked you about the document that is shown -- let's see, which page is it? I believe it's page 8 of Exhibit 8.

A: Okay. Yes, ma'am.

Q: Okay. Who provided you this document?

A: I believe Mr. Dark provided it to me. And it was af- -- I don't know -- can't remember if it was on-premise or -- or what, but Mr. Dark provided it to me.

Q: So you think it might not actually have been on-premises, is that right?

A: I don't -- I can't recall.

Q: Okay.

A: I don't recall. I tell -- I took a picture 'cause I didn't want to do anything with an original copy ---

Q: Uh-huh.

A: --- that -- you know.

Q: But it's your testimony that this might not

actually have been on-premises, is that correct?
A: Well, I know that that's me holding the -- the letter. I mean, that's my hand and I took it with my phone.
Q: I'm being unclear about that. I'm sorry.
A: That's okay.
Q: That it wasn't originally, that Mr. Dark went and got it somewhere?
A: Yes, ma'am.
Q: Okay. Okay.
A: Yeah. Well, as opposed to ...
Q: Okay.
A: No, ma'am.
Q: All right. Since the undercover operation on the night of February 28th, have you had any further conversations with Mr. Starkey?
A: I mean, we've -- we've talked, yes, ma'am.
Q: Uh-huh.
A: Both in person and -- and on the phone, sure.
Q: Okay. And what has been his demeanor regarding the -- the sale, the February 28th sale?
A: Again, it hasn't been negative ---
Q: Okay.
A: --- if that's what you're asking. He hasn't

been ugly to me, and I'm only gonna speak for myself, but I haven't had any -- any negative dealings in person or on the phone with him.

Q: Uh-huh.

A: No, ma'am.

Q: And how does Study Hall compare in size to the other bars at Clemson?

A: Now, I don't know an exact number but it's just a fairly large -- large bar in Clemson as far as compared to some of the other ones.

Q: Is it one of the largest?

A: In the downtown area I would say so.

Q: Okay. And how often are you in there?

A: In Study Hall?

Q: Uh-huh.

A: It varies. I don't know, there's not a -- there's not a set time but it varies. I mean, I've been in there ---

Q: Is it once a week, is it once a month?

A: It -- I don't put a set time on anything. I would say probably depending on the -- the time of year and if school was in and all that as far as the student's being downtown, once a month, once every -- every two months unless I have a reason to go in there otherwise.

Q: All right. And in that time you've issued the one underage citations?
A: At the time of February 28th?
Q: Uh-huh.
A: The one prior, yes, ma'am.
Q: And that was in 2017, correct?
A: Yes, ma'am.
Q: And there were none issued before that or after that ---
A: Not by me as far as administrative violations.
Q: Okay. All right. If -- it's my understanding that page -- let's see here. Yeah, let's look at page 37 of Exhibit 8. Is this an arrest warrant?
A: Yes, ma'am.
Q: Okay. And is this an arrest warrant that you issued to Mr. Starkey?
A: Well, I -- I was the -- the affiant on the warrant, I didn't serve my own warrant.
Q: Okay. Why did you issue an awes- -- an arrest warrant?
A: The parameters of one of the -- the statutes that I'd issued would- -- would've had to go on a warrant as well as the fact that he wasn't in town that evening, and I didn't feel -- I

didn't want to write on a blue ticket something that wasn't -- that didn't happen that evening.

Q: Okay.

A: Yes, ma'am.

Q: And so if Mr. Starkey had been in town, you would have issued a -- a ticket instead of an arrest warrant, is that correct?

A: Well, for the unlawful sale of beer a ticket would have been issued and ---

Q: Okay.

A: --- unlawful storage of liquor would have gone on the warrant.

Q: Okay. So there would have just been the -- the ticket for that unlawful sale of beer? Not -- not an arrest warrant?

A: Normally if -- if -- if that's already on, a ticket would be issued.

Q: Okay. Very good. All right. Let me -- let me double check and see if I have any other questions to ask of you. No further questions, thank you.

MR. McCABE: Redirect real quick.

AGENT DORMAN - REDIRECT EXAMINATION BY MR. McCABE:

Q: Just to clarify, beer and alcohol -- are -- are beer and alcohol treated differently under the

statute?
A: Beer and?
Q: Beer and alcoholic liquors, are they treated differently under the statute?
A: Yes, sir.
Q: All right. And the penalty for -- well, I guess my question is can you explain why there's a difference with a warrant being issued for the liquor sales versus a ticket for the beer sales?
A: The penal- ---
Q: Can you clarify that?
A: --- the penalties -- the penalties imposed or potential penalties that could be imposed by a judge and the time -- I guess this time of a sentence that -- time would be served for some reason or something like that are different for the two statutes.
Q: But it is your testimony that both were issued on that evening?
A: Arrest warrants, yes, sir; both were issued, yes, sir.
Q: All right. And it's your testimony that Mr. Starkey's been polite and compliant with you wh- -- when you've spoken with him?

A: Yes, sir.
Q: But has Mr. Starkey complied with the law?
A: No, sir.
Q: All right.
MR. McCABE: No further questions, Your Honor.
THE COURT: Mr. Dorman ---
A: Thank you
THE COURT: --- you can step down.
MR. McCABE: Your Honor, we just have -- just one second real quick.
THE COURT: Sure.
MR. McCABE: We just have one final witness, Your Honor. We would call Police Chief Dixon to the stand.
COURT REPORTER: Do you solemnly swear the following testimony you're about to give will be the truth, the whole truth and nothing but the truth so help you God?
CHIEF DIXON: I do.
COURT REPORTER: Thank you, sir.
CHIEF JIMMY DIXON, having been duly sworn, testifies as follows:
CHIEF DIXON - DIRECT EXAMINATION BY MR. McCABE:
Q: Good morning, sir. Thank you for coming.
A: Morning.

Q: Could you please state your name for the record.
A: Jimmy Dixon.
Q: All right. And who is your employer?
A: City of Clemson.
Q: And what is your position with the City of Clemson?
A: I am the Chief of Police for the Clemson Police Department .
Q: All right. And how long have you served as the Police Chief?
A: 17 years.
Q: All right. How many establishments that serve alcohol are in the City of Clemson?
A: That have -- on-premises or all establishments?
Q: I'm sorry. On-premises.
A: On-premises we have approximately 40.
Q: All right. Are they located within a close proximity to each other? Or is there an area that -- is there an area that has a -- a close or numerous establishments near -- a particular area in the city that has a -- a number of establishments in close proximity?
A: Yes, sir. Our downtown business district.
Q: Okay. And are you familiar with the business

located at 101 Sloan Street?
A: Yes, sir.
Q: All right. And are you aware of how many times Study Hall had been cited for operating without the appropriate license?
A: Only from the information that I received from Agent Star- -- on excuse me, from Agent Dorman.
Q: Okay. Let's talk about the first violation in March, did your officers assist with the SLED investigation into the sale without a license?
A: Yes, sir. We have a detective that is assigned to narcotics and alcohol violations.
Q: Right. And did your officers assist with the seizure of the contraband alcohol?
A: Yes, sir. Several of 'em did.
Q: All right. How many hours were expanded seizing and documenting that -- that contraband?
A: All total before it finally left our location probably close to 35 or 40.
Q: All right. And when did it leave your location?
A: I'm not sure, sir.
Q: Okay. Do you know where it went?
A: Agent Dorman picked it up and took it to

wherever their facility is.
Q: Okay. Did the -- the owners of Study Hall reach out to the police department following the seizure of the contraband alcohol?
A: They did not reach out to the police department, they reached out to Detective Brown.
Q: Okay. What were your thoughts when you saw that Study Hall had reopened so shortly after they had been closed by the seizure of all the alcohol?
A: I was mad.
Q: And can you explain why you were mad?
A: Simply because I felt like the Department of Revenue as well as Mr. Starkey himself had just made a mockery -- a mockery of law enforcement.
Q: Could you expand a little bit further on that?
A: We spent countless hours because we have 16 on-premise locations within our downtown business district. Those 16 locations are within a one square mile radius and all directly across the street from campus. We know that we've got underage people who are gonna go downtown. We spend countless hours trying to make sure that

all of our bars operate, as we call it, off of the same sheet of music as well as operate within the parameters and the regulations of the Department of Revenue.

Q: Okay. Did your Department assist with the investigation into the LOP violation in October?

A: Yes, sir.

Q: All right. And what role did they -- did they assist or how did they assist in that role?

A: Anytime that Agent Dorman comes into the city he sets up an operation in conjunction with Detective Brown and they in turn go out and do alcohol compliance checks.

Q: All right. Did you contact the Department of Revenue after the LOP violation occurred?

A: I did, sir.

Q: And how did you contact the Department?

A: By letter.

Q: All right. And what was the purpose of that letter?

A: To say what is it gonna take to get this man's attention.

Q: Okay.

MS. McDANIEL: And Your Honor, I will simply just

continue my objection to the LOP issue coming in so that we don't waive that. I believe ---

THE COURT: Okay.

MS. McDANIEL: --- that it's beyond the scope of the determination.

THE COURT: I'm not sure that's an effective way to preserve your objection.

MS. McDANIEL: Okay.

THE COURT: I think you need to make it every time.

MS. McDANIEL: Okay.

Q: So you wrote -- it's your testimony you wrote ---

THE COURT: Overruled this time.

Q: You wrote a letter to the Department. Do you feel that monetary fines have an impact on establishments like Study Hall or establishments in the Clemson area in that -- that entertainment district, do you feel that monetary fines have an effect?

A: Not on any of 'em, no, sir.

Q: And why not?

A: Seven Saturdays out of the year we're the fourth largest city in the state, and I can guarantee you whatever amount of fine that they were gonna levy on 'em they gonna make it up on

that Saturday.

Q: All right. Are you aware of Mr. Starkey's history of operating an alcohol establishment in Georgia?

A: Somewhat. Yes, sir.

Q: All right. Does Mr. Starkey's prior history cause you concern?

A: It did, which is why we met with him prior to him opening up.

Q: Okay. And what is Mr. Starkey's reputation in the local community?

A: Starkey himself? Has a fine reputation.

Q: All right. What about Mr. Starkey's business?

A: It's the place for high schoolers to go and gang bang a bar.

Q: Okay. Do Mr. Starkey's repeated violation of the South Carolina Alcohol Laws cause you concern?

A: Absolutely, sir.

Q: And based on your personal perceptions, in your opinion, your interactions with Mr. Starkey, do you feel that Mr. Starkey is fit to hold an alcohol license in the State of South Carolina?

A: No, I do not.

MR. McCABE: No further questions, Your Honor.

CHIEF DIXON - CROSS-EXAMINATION BY MS. McDANIEL:

Q: Chief Dixon, I just have a few questions for you. When you contacted DOR about your concerns about Mr. Starkey, were you informed that you could file a protest?

A: I sent 'em a letter ---

Q: Uh-huh.

A: --- I did not call 'em.

Q: All right. And did you receive an email or di-- weren't you informed that you could file a protest concerning Mr. Starkey, a formal threat protest?

A: I'm not sure if I was or not. I knew that these cases were gonna be coming up so ---

Q: All right.

A: --- I wouldn't have.

Q: Are you aware of what a Alcohol License Protest Form is?

A: No, ma'am. I'm not.

Q: Have you not ever participated in the renewal of any alcohol licenses for the locations in your jurisdiction?

A: No, ma'am. I have not.

Q: Okay. Did you -- so you did not file any sort of form ---

A: No, ma'am. I did not.
Q: ---- of protest with dr- -- DOR?
A: No, ma'am.
Q: Okay. Tell me about your meeting with Mr. Starkey prior to him opening up.
A: Prior to him opening up on September the 25th, 2014 my phone was vibrating off of my side, getting phone calls from people in Statesboro I think is where it was, and telling me that Mr. Starkey was opening up a bar in the city and I should not allow him to open it up.
Q: Okay.
A: And after -- I was trying to -- you go how do you know the specific date, it's the date that my third granddaughter was born. So I'm trying to get to my granddaughter being born and I'm having to answer phone calls.
Q: Uh-huh.
A: Shortly thereafter I met with Mr. Starkey and said look -- and he tried to show me a video, I did not want to see the video. I said I don't want to get into it, it's all under litigation. I said I just want to inform you I hope you can make a million dollars down there, we just want you to do it the way that

DOR tells you to do it and the way the laws and regulations tell you to do it.

Q: So was Mr. Starkey forthcoming with you about what happened?

A: He wanted to be but I wouldn't let him be.

Q: Okay. So he attempted to show you the video of what happened?

A: That's correct.

Q: He attempted to tell you what happened so that you would know, correct?

A: He did.

Q: And you refused to let him tell you?

A: Yes, ma'am. Because it was all under litigation.

Q: Okay. And at that time did you have concerns about what had happened in Statesboro -- did you report any of that to the Department of Revenue?

A: No, I did not.

Q: And why not?

A: I quite frankly did not think to.

Q: Okay. But as the Chief Law Enforcement Officer in your town, now if you had serious concerns about an alcohol license being issued shouldn't you have let DOR know about that?

A: I'm -- in the way you put it, yeah.
Q: Don't think I have anymore questions for you but let me be sure. Nope, no further questions. Thank you.
THE COURT: Mr. McCabe?
MR. McCABE: Yes, Your Honor.
THE COURT: Redirect.
CHIEF DIXON - REDIRECT EXAMINATION BY MR. McCABE:
Q: Chief, you -- do you have concerns about Mr. Starkey's operation in the City of Clemson?
A: Yes, sir.
Q: Does Mr. Starkey's operation, the way that he operates his business, does it make it difficult for law enforcement?
A: Yes, sir.
Q: Can you explain why it makes it difficult for law enforcement?
A: Because ---
MS. McDANIEL: Objection, Your Honor. This is beyond the scope of my cross-examination.
THE COURT: All right. You asked him about meeting with Mr. Starkey before opening.
MS. McDANIEL: Okay.
THE COURT: And if -- and you asked him if he was cooperative.

MS. McDANIEL: Uh-huh. In -- in providing information about what happened in Statesboro.
THE COURT: Right. And now Mr. McCabe is asking ---
MR. McCABE: I'm asking him if Mr. Starkey's behavior makes it difficult.
THE COURT: I'm gonna allow that question. So, I'm gonna overrule that objection.
MS. McDANIEL: Thank you, Your Honor.
Q: Does Mr. Starkey's behavior in his operation make it difficult for the -- for law enforcement?
A: Yes, sir. It does.
Q: And can you explain why?
A: Sure. Because if he's continued to allow to operate outside the boundaries of what the regulations say and only have to pay a fine or not pay a fine, what recourse do we have for any of the others when we're going down and trying to conduct compliance checks and enforcement checks?
A: Thank you
MR. McCABE: No further questions, Your Honor.
THE COURT: And he's -- he's already said fines don't work so I don't think he's added much to that. Okay. All right, Chief. You -- you're

-- return to your seat, thank you, sir ---

A: Thank you

THE COURT: --- for coming down.

MR. McCABE: Your Honor, that's all the witnesses that the Department has today.

THE COURT: All right. Ms. McDaniel?

MS. McDANIEL: Yes, Your Honor? Your Honor, I -- I will tell you our first witness is Mr. Starkey and he will probably take quite some time. I'm happy for us to go do lunch, let's see it's 12:15, if we want to take a lunch break.

THE COURT: Well, thank you for -- for doing that. I -- I have to confess I don't care much about lunch but I do care about people being able to feed meters.

MS. McDANIEL: Uh-huh.

THE COURT: And generally speaking, this -- we're at a two hour meter area so we need to go feed -- feed meters, we're a lit- -- hurry, please. We'll be back -- what do you say for lunch ---

MS. McDANIEL: Forty ---

THE COURT: --- about an hour and a half?

MS. McDANIEL: Oh, sure an hour and a half is fine, Your Honor.

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

THE COURT: All right. So it is 12:00 -- getting different times up here, I think the official time is 12:13 so let's be back let's say 1:30 -- 1:40, let's say 1:40.

(Off the Record from 12:14 p.m. until 1:40 p.m.)

THE COURT: We're back on the record in South Carolina Department of Revenue versus Study Hall, LLC. Case Number 19-ALJ-17-0269. Ms. McDaniel, I believe it's your turn.

MR. MCDANIEL: Thank you, Your Honor. We call as our first witness Mr. Jon Starkey.

COURT REPORTER: Do you solemnly swear the testimony you're about to give is the truth, the whole truth and nothing but the truth?

MR. STARKEY: Yes, sir.

JONATHON STARKEY, having been duly sworn, testifies as follows:

MR. STARKEY - DIRECT EXAMINATION BY MS. MCDANIEL:

Q: Good afternoon, Mr. Starkey. If you want some water there's some right here. Mr. Starkey, you know, obviously this hearing today is in regard to your alcohol license for the Study Hall Bar in Clinton, South Carolina. When did you open Study Hall?

A: 2000 -- it's been four years. 2017.

Q: Okay. Do you remember getting a conditional license in 2016?
A: It's been four years; it's my fourth football season, ---
Q: Okay.
A: --- so.
Q: All right. And what I will show you is what has been marked as Exhibit 1. If you will take a look at that. Is that your application -- your initial application for an alcohol license?
A: Yes, ma'am.
Q: Okay. And what is the stamped date on that?
A: The stamped is 12/1/16 -- well that's the signature date. Where's the stamped date at?
Q: The -- where it's -- just the date of the -- yes, there you go.
A: December 2014.
Q: Okay.
A: I mean, it's hard to read right there.
Q: Okay. That's fine. That's fine. But that is your application; is that correct?
A: Yes.
Q: We would ask to put that into the record, Your Honor, as evidence.

THE COURT: Mr. McCabe?
Q: As Exhibit 1.
MR. MCCABE: Which copy are we looking at here?
MR. MCDANIEL: The 2016 -- the one we marked as Exhibit 1.
MR. MCCABE: Okay. Your Honor, I would object. This is an ABL renewal form. The copy that I have.
MR. MCDANIEL: Oh, I apologize. It is a renewal form. There you go.
MR. MCCABE: So this is not the original?
Q: It is a -- it is the renewal form, Your Honor. Is that -- my apologies. Mr. Starkey is that your renewal form of that date?
A: Yes. Yes, ma'am.
Q: Okay.
MR. MCCABE: I'm sorry. What's the date now?
A: It was December 1st, 2016.
Q: Yes.
MR. MCCABE: No objection, Your Honor.
THE COURT: All right. Without objection.
MR. MCDANIEL: Thank you, Your Honor.
THE COURT: Respondent's Exhibit 1 is admitted.
MR. MCDANIEL: Okay. And I apologize for giving you that out of order.

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

Q: So, Jon, in 2016 -- December of 2016 you were getting your license renewed; is that correct?

A: Yes, ma'am.

Q: And so when did you first get the license? Was it during the summer of 2016?

A: It was right before -- right before football season started.

Q: Okay. So it would have been?

A: So in August I guess.

Q: Okay. Of 2016; is that correct?

A: Yes.

Q: Okay. Prior to getting your license in 2016 what procedure did you go through to obtain that license?

A: Just the necessary paperwork that had to be filled out with the Department of Revenue for South Carolina.

Q: Okay. And did you meet with any of the -- any agent of the Department of Revenue to complete that paperwork?

A: Yeah, it was Jason Stone.

Q: Okay.

A: The Greenville office.

Q: And what did -- what did you do with Mr. Stone?
A: I just -- he was kind of the one that was -- that area to walk me through and everything if I had any questions or anything with my license.
Q: Okay.
A: To get it all of it filled out correctly so I complied.
Q: Uh-huh. And did he ever come out to the Study Hall location?
A: Yes, ma'am. He came out three times I think.
Q: Okay. And what did you all do when he came out?
A: Well each time I had put an application because I think they expired.
Q: Uh-huh.
A: And so we would a lot of times we were walkin' it off. There was a church down the street so we had to walk it off and just make sure they could get a alcohol permit.
Q: Okay. Your Honor, can you hear Mr. Starkey? I think he's speaking sort of low. Are you?
THE COURT: I can but it wouldn't ---
MR. MCDANIEL: Okay.
THE COURT: --- bother me if he spoke a little

louder.

MR. MCDANIEL: Okay.

Q: And, Mr. Starkey, if you would speak up a little bit.

A: That's fine.

Q: That would be -- so that everyone can hear. And during the time that you met with Mr. Stone did you tell him about the incident that occurred in Statesboro?

A: Yes, ma'am.

Q: What did you tell him?

A: I told him basically about the -- basically what happened with Michael there.

MR. MCCABE: Your Honor ---

Q: Uh-huh.

MR. MCCABE: --- I'd object. He's testifying as to what someone else said.

MR. MCCABE: No, he's testifying as to what he said to someone else.

MR. MCDANIEL: Yes, Your Honor, that's correct.

MR. MCCABE: Maybe I misheard him.

THE COURT: He said what he told Mr. Stone.

MR. MCCABE: Okay.

Q: So what did you disclose to Mr. Stone about the incident in Statesboro?

A: Just the incident and in general what happened.
Q: Okay. And did he ask you -- did you tell him that Mr. Gatto had died?
A: Yes.
Q: Okay. And did you tell him that you had voluntarily surrendered your license in Georgia?
A: Yes.
Q: Did he ask you any further questions about that?
A: No.
Q: Okay. Have you continued to work with Mr. Stone on renewing your licence?
A: I have, yes.
Q: Okay. How does the size of your bar compare to the other bars in Clemson?
A: I don't know the square footage across the street but I'd say probably one of the biggest if not the ---
Q: Okay.
A: --- the biggest. I don't know their square footage.
Q: Uh-huh. Okay. Let's talk about the -- your attempted renewal in 2018, December of 2018.
A: Okay.

Q: So when did you go to renew your alcohol license?
A: December 7th.
Q: Of?
A: In the Greenville office, of 2018.
Q: Okay. And where did you go?
A: To the Greenville location for the Department of Revenue.
Q: And where did you go inside?
A: Oh, I thought -- it's the third floor. I went to the Department of Revenue just whatever floor they are on. I think it's the third floor.
Q: Is there sort of a counter with a window?
A: Yeah, there's a counter and I think there's -- don't quote me, but two -- two or three window slots you can talk to somebody.
Q: Okay. And when you went to the window what did you provide to the person sitting there?
A: Provided my renewal application and then -- and slid it to her and then she did basically some research ---
Q: Uh-huh.
A: --- she slipped me something back with two things on it with two things on it. One was

insurance and one was taxes.
Q: Uh-huh.
A: On the insurance I had corrected before I ever left there. She didn't give me a new sheet that said that but I did correct the insurance that day.
Q: Okay.
A: And actually an e-mail showing that.
Q: Okay. Well let's take a look. I think we have a copy of that letter. It should be -- oh, your right, that's it. Okay. Let's take a look at Exhibit 7.
A: Okay.
Q: Petitioner's Exhibit 7. Can you tell me what that letter is?
A: It's the renewal notice of denial.
Q: Okay. And what's the date on that?
A: That date is December 7th, 2018.
Q: Okay. And when you read that letter now do you see that it says that you must cease sales?
A: Yes, ma'am.
Q: Okay. At the time that you received that letter did you see that?
A: No, I didn't really read the letter. I was talking to her through the window.

Q: Okay.
A: And when I got the insurance stuff to her 'cause I had to send it over three times 'cause she wanted it to read at the bottom of her occurrence.
Q: Uh-huh.
A: So I got that to her. That took a little while just getting my insurance agent on the phone. I had insurance, it just took a little while to get it how she perfectly wanted it to read.
Q: Okay.
A: So when I handed that to her I said, so now I am -- what else do I got to do. I said -- I gave her my check with that as well and she said you have 90 days to get me the rest of this information.
Q: Uh-huh.
A: And so when she said that I didn't read this letter.
Q: Okay.
A: And so I thought I had 90 days from the date of December 7th to get basically the tax stuff returned to her.
Q: Okay. And so it was your understanding that you had 90 days to get the tax information to

her but you did -- did you understand that you couldn't operate during that time?

A: No, ma'am.

Q: Okay. While you were there you mentioned that there are two issues. One income tax returns?

A: Uh-huh.

Q: And then two, liability insurance?

A: Correct. That was corrected that day.

Q: Okay. And tell us how that got -- the issue of insurance, how did that corrected that day?

A: I had insurance. I just didn't have to be bring a copy with me ---

Q: Okay.

A: So I had to call Phyllis and basically get her to send me a copy.

Q: And who is Phyllis?

A: Phyllis is my insurance ---

Q: Okay.

A: --- I guess agent.

Q: Uh-huh. And so what did Phyllis do?

A: She basically sent it over to me and then it wasn't -- I guess the bottom right corner she wanted the -- the Department of Revenue wanted to say per occurrence and the she -- I guess put per occurrence ---

Q: Uh-huh.
A: --- and then she wanted them to say for each occurrence, per occurrence. I don't know. It took three times and finally Phyllis got me the right one and I submitted the e-mail to the Department of Revenue right then when I was standing there.
Q: Okay. And so what you were providing to the Department of Revenue at that time that was the Declaration page ---
A: Yes.
Q: --- on your insurance? Okay. So you got that issue cleared up immediately. When did you get your -- the tax returns issue cleared up?
A: We worked on it after this, and then when everything came in with Keith Dorman and all that came to light I had it done that following week.
Q: Okay. And so who did you work with to get your tax returns?
A: My CPA.
Q: Okay. And so you have a regular CPA that is your regular CPA?
A: Yes, ma'am.
Q: And who is that?

A: Art. I don't Art's last name.
Q: Okay. Would it be Thompkins?
A: Yeah. I mean, yeah.
Q: Okay.
A: I just didn't want to say it if I was wrong.
Q: Okay. All right. And so when you left the Department of Revenue on December 7th it was your understanding that it was okay for you to continue selling beer, wine and liquor, correct?
A: Yes, ma'am.
Q: Okay. While you were in operation following December 7th, did you collect revenue for alcohol sales?
A: Yes, ma'am.
Q: Okay. And did you remit income sales tax -- I'm sorry, not income sales tax, sales tax to the Department of Revenue for those sales?
A: Yes, ma'am.
Q: And did you did that how often?
A: Every month.
Q: Every month?
A: And hospitality tax.
Q: Okay. And for the hospitality tax, how much is that?

A: It's two percent of all my sales.
Q: Okay. And who did you ---
A: It was City ---
Q: --- who did you remit that payment to?
A: --- City of Clemson.
Q: Okay. And so you were operating just as you've always operated, correct?
A: Yes, ma'am.
Q: Okay. Remitting your taxes, doing everything that you thought you were supposed to do, correct?
A: Yes, ma'am.
Q: Okay. During this period did you have any lapse in insurance coverage?
A: No, ma'am.
Q: Where did you keep that letter?
A: At my house.
Q: And in the meantime did you still have the 2000 -- the previous alcohol license posted in your facility?
A: Yes, ma'am.
Q: Okay. Did you ever take that down?
A: No, ma'am.
Q: Okay. Did you ever replace it with that letter?

A: No, ma'am.
Q: Okay. And where do you keep the alcohol license in your business?
A: Sunday sales is right when you walk into the door.
Q: Uh-huh.
A: To the left, kind of if you look up at it, and then the other ones are up next to the bathroom. There just wasn't enough room to put the all in one location.
Q: But they're visible to anyone who would be in the building, correct?
A: Yes, ma'am.
Q: Okay. Did you try to hide those licenses?
A: No, ma'am.
Q: Okay. When you submitted the check to DOR for the renewal did you submit that on December 7th?
A: Yes, ma'am.
Q: And did DOR cash that check immediately?
A: Yes, ma'am. Two days later or three days later.
Q: All right. Did DOR cash your -- accept your payments for sales taxes?
A: Yes, ma'am.

Q: During the December to February period?
A: Yes, ma'am.
Q: Okay. And did the City of Clemson accept your hospitality tax payments from December to February?
A: Yes, ma'am.
Q: During the period from December 7th to February 28th, are you aware of any SLED officers or police officers or anyone coming in to the bar at anytime before February 28th?
A: Yes, ma'am.
Q: Are they in there fairly regularly?
A: Yes, ma'am.
Q: Okay. So there have been people in there who would recognize the out of date license, correct?
A: Yes, ma'am.
Q: Did anyone bring that to your attention?
A: No, ma'am.
Q: Let's take a look at Exhibit 1. If you'll turn to page 51.
THE COURT: Just for clarification, you're referring to Petitioner's 1?
MR. MCDANIEL: Petitioner's Exhibit 1. Yes, Your Honor.

Q: All right. And have you got page 51?
A: Yes, ma'am.
Q: Okay. So there has been some testimony about when DOR obtained information about the undercover unlicensed sales matter that was reported to DOR, and then DOR requested that you send back the license that had been originally issued to you, correct?
A: Yes, ma'am.
Q: All right. And at the bottom of that letter does it state that you were contacted on March 11th and returned the license on March 12th?
A: Yes, ma'am.
Q: Okay. And is that accurate?
A: Yes.
Q: Okay. So you returned the license the day after it was requested by DOR; is that correct?
A: For the wrong date, yes.
Q: Okay. And did you express any concern about that? Did you fuss about it? Did -- or did you simply comply with what DOR asked you to do?
A: I complied and returned it and got a new license.
Q: Okay. All right. Let's talk -- turn now to

February 28th, the day of the sale.
A: Okay.
Q: Where were you on that date?
A: I was in Georgia.
Q: Okay. So you were not in Clemson; is that right?
A: No, ma'am.
Q: All right. How did you find out that Agent Dorman and -- had come into the facility and issued a arrest warrant?
A: A phone call from my general manager.
Q: Okay. And speak up a little bit.
A: A phone call from my general manager.
Q: All right. And who was that?
A: Alvin Dark.
Q: That was -- that's Mr. Dark that we've seen his name?
A: Correct.
Q: Okay.
A: Yes.
Q: All right. And what -- and Mr. Dark what did he tell you?
A: He just told me that SLED was in there and they basically were shutting us down ---
Q: Okay.

A: --- due to not having a current alcohol license.
Q: And what did you do?
A: I thought -- I told Alvin, I said we have one. We have 90 days from December 7th ---
Q: Uh-huh.
A: --- to get the compliance and Art should have -- had my taxes back and I'm gonna grab them when I get back.
Q: Uh-huh. Okay. And so did you direct Mr. Dark to go pick anything up to demonstrate that you had the license?
A: I thought I had one at the restaurant itself but I couldn't -- he couldn't find it there in the file cabinet ---
Q: Uh-huh.
A: --- so I directed him to go to the house which I don't know if it was Tate Brown or Keith that gave him permission to leave.
Q: Uh-huh.
A: He had to get permission to leave to go to the house to pick up the piece of paper.
Q: Uh-huh. Okay. And when -- what piece of paper did he pick up?
A: Exhibit 7.

Q: And Exhibit 7 you thought that that was ---
A: The renewal notice, yeah.
Q: --- and you thought that that was the ---
A: The 90 days.
Q: Giving you 90 days to operate; is that correct?
A: Yeah.
Q: Okay. And so did you -- once Mr. Dark gave that to Agent Dorman ---
A: Yes.
Q: --- what happened?
A: Agent Dorman -- like I said I don't know who let him go to the house ---
Q: Uh-huh.
A: --- but Agent Dorman told me this is not a 90 day extension. I think it was a -- and don't quote me exactly what his words were but it wasn't basically -- it didn't count to be able to sell beer, wine and liquor.
Q: Okay.
A: So.
Q: And was that the first -- was that your -- when you became aware that you did not have the license ---
A: Yes, ma'am.
Q: --- that you thought you had?

A: Yes.
Q: Okay. All right. Did you give Mr. Dark permission to print out the sales information for Agent Dorman?
A: Yes.
Q: And did you stop sellin' alcohol after you received -- after that incident?
A: Yes.
Q: Okay. Let's see. All right. Let's talk about Statesboro. So we know that that occurred in 2014, correct?
A: Yes.
Q: All right. Had you already begun working on developing Study Hall when the incident with Mr. Gatto occurred?
A: Yes, ma'am. Probably about a year into it. Maybe a little over.
Q: Okay. And how long -- when did you open Study Hall? Oh, not Study Hall. I'm sorry. Rude Rudy's?
A: 2004. I want to say January 2004.
Q: Okay. So you had operated from 2004 to 2014, correct?
A: Yes, ma'am.
Q: Had there ever been any other significant

incident at that location?
A: There was two lawsuits but neither one -- were battery ---
Q: Uh-huh.
A: --- they were both -- one was -- was a slip and fall when the bouncer went to grab somebody ---
Q: Uh-huh.
A: --- and they both fell.
Q: Uh-huh.
A: And then there was one where a kid was gettin' jumped ---
Q: Uh-huh.
A: --- and one of the bouncers flung another guy off and he ended up breaking his collar bone.
Q: Okay.
A: But no -- there was no -- and there was videos from both and there was no direct hits or punches or ...
Q: Okay. What -- did you ever receive any criminal citations for those?
A: No, ma'am.
Q: Did you ever receive any administrative citations for those?
A: No, ma'am.
Q: Okay. So the gentleman who hit Mr. Gatto, Mr.

Spencer, correct?
A: Yes.
Q: Was he an employee of Rude Rudy's?
A: He was.
Q: Okay. Was he on duty working when the incident occurred?
A: No.
Q: When Mr. Gatto was hit, what happened after that? Did anyone call the police or call an ambulance?
A: My -- the two bouncers that were on called the ambulance, yes, after they got him outside.
Q: Okay. And so you ---
MR. McCABE: Your Honor, I bring an objection. He's testified that he was not there in -- when this occurred. So how is he able to testify what the bouncers -- what the bouncers did after the assault?
MR. MCDANIEL: Well, I think that might -- the objection might be too late.
THE COURT: I'm agreeing with you. I think you're -- you should have popped up a little bit quicker. He's already answered the question now, but I understand -- I understand your objection.

MR. McCABE: Right. Thank you, Your Honor.

THE COURT: And -- okay.

Q: Okay. So when you came to open Study Hall in Clemson you testified that you talked to Mr. Stone, the DOR agent, about the incident; is that correct?

A: Yes.

Q: Who else did you tell about it?

A: I went and actually requested a meeting with the Chief of Police and I think he -- him and Tate Brown were in there and the Captain might have been in there. I don't -- I'm not sure about that. Just to let them know what had happened.

Q: Uh-huh.

A: I didn't want them to hear anything from anybody else besides me.

Q: Okay. And when you said the Chief of Police, is that Chief Dixon ---

A: Chief Dixon.

Q: --- that was here before?

A: Yes. Yes. Chief Dixon.

Q: Okay. And did you attempt to show him the video of what had happened?

A: I did.

Q: And why did you do that?
A: Just to let them make their own opinion of the situation.
Q: Okay. And did he refuse?
A: Yes.
Q: Okay. All right. Going back to the Statesboro incident, after Mr. Gatto was killed did you operate after that? Did Rude Rudy's open after that?
A: I think two more times, maybe two to three more times and then we were -- I had talked to Wes, my counsel down there, and we just decided to go ahead and basically terminate Rude Rudy's.
Q: Okay. All right. Did the State of Georgia ever attempt to revoke your alcohol license?
A: No, ma'am.
Q: Okay. Did they ever suspend it?
A: No, ma'am.
Q: Okay. Had you ever had any type of administrative action with the Department of Revenue or Georgia alcohol licensing?
A: No, ma'am.
Q: Okay. Did anyone file a lawsuit against you for the incident that occurred at Rude Rudy's?
A: No, ma'am.

Q: Okay. Have you ever been found liable for anything?
A: No, ma'am.
Q: Okay. You did enter into an agreement with the City of Statesboro; is that correct?
A: Yes.
Q: And what was the outcome of that agreement?
A: Well basically I would not apply for a alcohol license ever again.
Q: Okay. And was that any sort of admission of guilt on your part?
A: No, ma'am.
Q: Okay. Have you ever been arrested for anything prior to February 28th?
A: No.
Q: Have you ever been charged with anything?
A: No.
Q: What is the current status of that criminal charge?
A: For the one I got from ---
Q: Uh-huh.
A: --- SLED?
Q: Uh-huh.
A: It's ongoing as of right now.
Q: Okay.

A: I -- yeah.
Q: Have you applied for PTI?
A: I did apply for PTI, yes.
Q: Okay. Have you paid the application fee?
A: I have, yes.
Q: All right. And you understand that if you're accepted into the PTI program that it would require a significant amount of community service?
A: Yes.
Q: And are you ready, willing and able to conduct that community service?
A: Yes.
Q: Okay. Since opening Study Hall what actions have you taken to protect the life and safety of the -- your customers?
A: There's multiple steps. I've got breathalyzers. I do ID reader. I bought two ID readers.
Q: Uh-huh. And now let me go back to the breathalyzers. Who do you use the breathalyzers one?
A: My staff if I feel they've been drinking.
Q: Okay. And then for the card readers, what -- how do you use those?

A: With the patrons that are trying to get in to make sure they're over 21 years old.
Q: Okay. Are the card readers equipped to identify fake ID's?
A: They say they are.
Q: Okay.
A: I don't think they prevent all fake ID's.
Q: Uh-huh.
A: Even talkin' to Keith Dorman and all Tate ---
Q: Uh-huh.
A: --- and they seem to say that, you know, ones can get by.
Q: Okay. And when you say Tate, who is Tate?
A: Tate Brown.
Q: And what is his position?
A: I think alcohol and drugs for the City of Clemson.
Q: Okay. So he's a police officer for Clemson.
A: Yes, sir. I mean, yes, ma'am. Sorry.
Q: That's fine. Okay. So you have the Breathalyzer that you use for your staff. You have the ID readers to prevent as many fake ID's as you can. What other -- have you -- on game days how do you manage crowd control?
A: I put gates. So when I talked to Chief Dixon

a long time ago he said half of the sidewalk has to be open for patrons.

MR. McCABE: Your Honor, I make an objection. He's talking as to what Chief Dixon has testified to or has said.

THE COURT: Okay. I agree.

MR. MCDANIEL: All right.

THE COURT: Now that one you get -- got to quick enough.

MR. MCDANIEL: Fair enough.

THE COURT: So, Mr. Starkey, please limit your response to what you've done or said, not what you've heard from other people.

A: Yes, sir.

Q: So what have you done to have better crowd management on game days?

A: Crowd control gates.

Q: Uh-huh.

A: Down the sidewalk.

Q: Uh-huh.

A: And more employees on to basically regulate the sidewalk in the entrance and exits.

Q: Okay. And when you say the entrances and the exits, is that inside the going -- leaving from the building? Coming and leaving the building,

is that correct?
A: That's both. Yes, ma'am.
Q: Okay. And so you say you have extra people. What do those people do?
A: Basically make sure the doorways are basically free of people if there God forbid was ---
Q: Uh-huh.
A: --- an emergency of some sort that ---
Q: Uh-huh.
A: --- they can get in and out.
Q: Uh-huh. Okay. Did you install a sprinkler system?
A: Yes, ma'am.
Q: And was there a special inspection for that?
A: There was a special inspection. Yes, ma'am.
Q: All right. And is that something that was required of you?
A: No.
MR. McCABE: Your Honor, I'd make an objection as to the relevancy of the sprinkler system. We're here to discuss the culpability of Mr. Starkey's character, and I'm not sure that a sprinkler system has any relevance.
THE COURT: Well, I'm going to allow the question, Mr. McCabe, because I suspect there's a

connection here.

MR. MCDANIEL: Uh-huh.

THE COURT: --- and I'm going to give her a little leeway there.

MR. McCABE: Thank you, Your Honor.

THE COURT: Overruled for now.

Q: Okay. Are your staff allowed to drink on the job?

A: No, not at all.

Q: Okay. Whenever you -- are there laws regarding promotions or games that you can do as a bar?

A: Yes.

Q: Okay. And you're aware of those laws?

A: Yes.

Q: Okay. Whenever you want to do some sort of special promotion or a game what do you do to make sure that you're in compliance with those laws?

A: I'll either read up on it or I personally call Keith Dorman and Tate Brown before and ask them if my special are okay or what we're doing is okay.

Q: Uh-huh. Okay. Have you equipped the bouncers at your front door with any type of special equipment?

A: I have. So all my staff down there has basically walkie talkie ear pieces and the front door guys have body cameras on them.
Q: Okay. How do you keep track of the number of people coming in and going out?
A: We use clickers. We have a total of -- counting the front door we have a total of five exit -- four exits.
Q: Uh-huh.
A: And so the guys keep basically if you leave out the other doors are exists only; the front door is an entrance and exit.
Q: Uh-huh.
A: And they basically deduct from who's leavin' with the walkie talkies to find out how many have left compare to how many have entered the building.
Q: Okay. And why is it important for you to keep track of how many people are in the building.
A: For -- because of our fire code.
Q: Okay. And so you're aware of the fire code and what it requires, correct?
A: Yes, ma'am.
Q: And so you are using the clickers and the crowd control to make sure that you're in compliance

with the fire code, correct?
A: Yes, ma'am.
Q: Okay. In terms of staying in compliance with the City's ordinances and requirements how do you maintain communication with the City police?
A: As far as what do you mean by that?
Q: Do you have any meetings with them?
A: We have a yearly meeting.
Q: Uh-huh.
A: Yes. We've had a yearly meeting.
Q: And do you attend that meeting?
A: I have not missed one yet. Yes.
Q: Okay. And what is discussed at that meeting?
A: Pretty much it's right before football season.
Q: Uh-huh.
A: They discuss -- it's not just me, it's pretty much all the bar owners and employees and managers. And they come, basically, and they give us kind of the gist of what they expect from us ---
Q: Uh-huh.
A: --- and if we need help, where to get it from and kind of remind us of the laws in general.
Q: And when you attend those meetings do you

participate? Do you have questions?
A: Yeah, I mean, sometimes.
Q: Okay. And do you take -- is it just you that goes or do other staff members go with you?
A: All my staff goes.
Q: Okay. Are you aware of any type of gang problems in Clemson?
A: Yes. Yes, ma'am.
Q: Okay. And would that -- is gang activity is that against the law?
A: Against the law as far as gang activity, I mean.
Q: Well does that cause you concern that there could be criminal activity associated with gang activity?
A: Yes, ma'am.
Q: Okay. And what steps have you taken to prevent gang activity or other criminal or other criminal activity on your property?
A: We have a dress code at the front door and sometimes we do a college ID upon request sometimes depending on the crowds that are out.
Q: Okay. Have you put anybody on trespass notice?
A: Yes, multiple.
Q: Okay. Let's take a look at that. I may not

have -- okay, yeah. Let's see.

MS. McDANIEL: Didn't I give you a copy of that, Patrick?

MR. McCABE: Yes.

Q: Okay. Good. Let's see. I don't want to get the Exhibit wrong if we've already marked it. I don't have -- let's see. Where are my marked Exhibits? Can we take a second and show the court reporter and see if we've already marked this?

THE COURT: Yes, ma'am.

(Off the Record Discussion)

Q: Mr. Starkey, I just handed you a packet of documents. Can you tell me what those documents are?

A: Clemson Police Department. It's basically a trespassing notice.

Q: Okay. And so when would a trespass notice be issued?

A: When I -- I guess when I management requests somebody to not come in the building.

Q: Okay. And how to you obtain a trespass notice?

A: You call the Clemson Police Department and basically notify them that you need an officer down there and then who they -- who you want

off the property.

Q: And so the officer comes down and you all produce this trespass notice; is that correct?

A: Yes, ma'am.

Q: Okay. And are these true and accurate copies of trespass notices that you have issued -- have had issued for your property?

A: Yes, ma'am.

Q: Okay. Your Honor, we would request that these be entered into evidence as Exhibit 7 for Respondent.

MR. MCCABE: Your Honor, we would object as to hearsay. Also these documents have not been authenticated by anyone from Clemson Police Department. The Complaintant on this is Devon Bradford. Mr. Bradford I don't believe is here to testify as to these documents that he signed. Mr. Starkey's signature is contained nowhere on these documents, and they have not said that these are business records or any of the other exceptions to hearsay, Your Honor.

MR. MCDANIEL: Your Honor, Mr. Starkey just testified to the process by which these were produced and that they were produced at his request in conjunction with the police

department. He's testified that he recognized them as trespass notices that he was aware of having been issued.

MR. MCCABE: Your Honor, Mr. Starkey's signature is nowhere on these documents.

THE COURT: Okay. I'm not going to admit those but he can testify that he's ---

MR. MCDANIEL: Sure.

THE COURT: --- had them issued ---

MR. MCDANIEL: Sure.

THE COURT: --- and if he knows how many he's had issued he can testify to that.

MR. MCDANIEL: Okay.

MR. MCCABE: Thank you, Your Honor.

MR. MCDANIEL: All right.

THE COURT: But the documents themselves I'm not going to admit.

MR. MCDANIEL: Thank you, Your Honor.

Q: I want to make sure that we don't have any duplicates here.

A: I think there are some duplicates.

Q: Yeah. All right. There you go. All right, Mr. Starkey. So looking at these trespass notices, how many of these are there?

A: Nine.

Q: Okay. And tell me again why you would have a trespass notice issued to someone?
A: Depending on the -- if they're just, I guess, basically a hazard to the establishment.
Q: Uh-huh.
A: It could cause issues or problems.
Q: Uh-huh. And if someone who has been issued a trespass notice comes into the establishment what do you do?
A: If we have a -- well they're not supposed to come in, but if we do find them and we do call the cops while they're in there they will be arrested immediately.
Q: Okay. And what is the purpose of trying to keep people who have cause problems in the past out?
A: I just don't want a repeat of something tragic to happen like what happened in Statesboro, Georgia.
Q: Uh-huh. Okay. All right. On the issue of the renewal, you missed the deadline. There's no dispute of that. What are you going to do in the future to avoid missing deadlines again?
A: We have basically all the -- printed up a sheet. It sits right next to the office chair.

I have another sheet at the house in my office and basically all the dates of when these licenses expire.

Q: Okay. And where will you put that information?

A: In -- it's already in my phone and it's also in my -- and it's on my desk at the house and it's literally taped onto the wall in Study Hall next to the desk.

Q: Okay. Okay. And will you work with your CPA to make sure that you meet those deadlines?

A: Yes, ma'am.

Q: Have you ever been accused of any type of fraud?

A: No, ma'am.

Q: Ever accused of any type of deceit?

A: No, ma'am.

Q: Have you ever been accused of writing a bad check?

A: No, ma'am.

Q: Excuse me. When you renewed your license for -- in December 7th -- on December 7th when you went to renew your license for beer and wine sales and liquor-by-the-drink sales what did you think was going to happen with your Sunday sales license?

A: I thought I'd renew all my licenses at the same time.
Q: Okay. Did you obtain all of the licenses at the same time?
A: No, ma'am.
Q: Okay. But you thought that the renewal was at the same time?
A: I figured I do the same that I did before when I originally opened the business. I wanted to do the same thing.
Q: Okay.
A: The same licenses.
Q: Okay. Did you -- were you aware that you were selling alcohol on a Sunday without a license?
A: No, ma'am. Not at all.
Q: Okay. So in the future if you get a letter saying that you must cease sales what will you do?
A: Stop selling immediately. Figure out the issue and correct it.
Q: Okay. And would this be worth putting your business in jeopardy for?
A: No, ma'am.
Q: Okay. And can you explain that a little bit?
A: I mean, it -- I guess to explain it is one of

those things that I -- there's certain things I thought and I should have read up on more and I didn't.

Q: Uh-huh.

A: And I just won't make that mistake twice. I realize how the Department of South Carolina operates and I realize my licenses -- I mean, 'cause your liquor license is bi-yearly but then your Sunday sales are only per year ---

Q: Uh-huh.

A: --- so I -- you know, certain stuff that I definitely, you know, realize now: all the licenses and when they're due.

Q: Okay. All right. In terms of further making sure that you provide a safe location, what do you have your -- do you have your staff sign any documents ---

A: Yes. They ---

Q: --- during the hiring process?

A: Yes, ma'am.

Q: Let me let you take a look at these. It's two separate documents. All right. And what are those two documents that we're looking at there?

A: Employee requirements and guidelines.

Basically if you do work there it kind of gives you the layout of what I expect from you.

Q: Okay.

A: And then the other one is basically for the bouncers to read over and for the floor staff and security to read over and know exactly what I expect of them as well.

Q: Uh-huh. Well let's take a look first at the document that has the Study Hall logo on it?

A: Okay.

Q: Okay. And what does that state as a requirement of your bouncers?

A: Basically to follow these guidelines or they'll be let go.

Q: Okay. Is this a document that you prepared?

A: Yes.

Q: Okay. And is this the template that you provide to each of your bouncers that you require them to sign?

A: Yes.

Q: Okay.

MS. McDANIEL: Your Honor, we would ask that this be admitted into evidence.

THE COURT: Mr. McCabe?

MR. MCCABE: Your Honor, we -- I'm sorry, Your

Honor.

THE COURT: Go ahead.

MR. MCCABE: We bring an objection as to hearsay. This document is not signed nor dated. It's not a business record that's kept in the ordinary course of business. This is a blank document. This has not been kept in the ordinary course of business. This -- I would agree that a signed copy by employees, yes; that is clearly a business record. This is a plain piece of paper that is not kept in the ordinary course of business.

MS. MCDANIEL: Your Honor, this is simply the documentation of the requirements that my client, you know, provides to his staff members to make sure that they are nonviolent.

THE COURT: Did he prepare those documents?

A: Yes.

Q: Did you prepare this document?

A: Yes.

MS. MCDANIEL: Yes.

THE COURT: And they -- and he uses them in his business?

A: Yes.

THE COURT: All right. I'm going to allow those.

MR. MCCABE: Thank you, Your Honor.
THE COURT: What the -- we got a number for those?
MS. MCDANIEL: I believe this will be Exhibit 8 -- they're already marked. They're marked as Exhibit 5 and 4.
THE COURT: Okay. Respondent's Exhibit 4 and 5?
MS. MCDANIEL: Uh-huh.
Q: All right. So, Mr. ---
THE COURT: Admitted over objection.
(Respondent's Exhibit Number 4 and 5 were introduced into the record at this time.)
Q: Mr. Starkey, the document that is for your bouncers can you tell me how it explains to them they're supposed to diffuse problems?
A: Just in -- basically it states that, you know, a member of the security of Study Hall, their job is to maintain a safe and fun environment, and basically if they get hot-headed or something like that dealing with intoxicated people, if it -- get somebody else like another bouncer to help you and take yourself out of the situation ---
Q: Uh-huh.
A: --- or remove yourself totally and figure another situation out.

Q: And does it warn them that if they become violent then they'll be subject to disciplinary action?
A: They'll be -- yes, they'll be let go.
Q: Okay. So when you say they'll be let you you would fire someone for that?
A: Yes, ma'am.
Q: Okay. And is that the case all the time when they're working and not working?
A: Yes, ma'am.
Q: Okay. Now let's take a look at the other document?
A: Yeah. Is that 4?
A: Yes. Number 4. Uh-huh. And is that a document that you prepared?
A: Yes, ma'am.
Q: All right. And what does it state as the -- does it provide that there could be Breathalyzer tests?
A: Yes, ma'am.
Q: Okay. Ad do you have each of your employees sign that?
A: Yes, ma'am.
Q: Okay. What is your participation in the community at large? Do you make donations to

events in the community?
A: I have in the past, yes, ma'am.
Q: Okay. Have you done anything for a police raffle?
A: Yes. I used to do the golf tournament.
Q: Okay. And have you donated to the Rotary Club?
A: I have.
Q: Are there donations that you make just to individuals?
A: Yes. I've donated, yeah.
Q: Okay. Tell us more about that.
A: Just sororities and fraternities who've come up and they'll do fund raisers and stuff like that. Most of the time we just give them a donation.
Q: Okay. And how about just members of the public that you meet out and about?
A: Yeah. I've done that as well. Yes, ma'am.
Q: Okay. Can you tell us more about that?
A: It just depends on the situation. I do stuff for the -- for some of the Sheriff's department in Seneca.
Q: Uh-huh.
A: I don't know exactly what it is. I don't really ask for any tax returns or anything for

it, so.
Q: Okay.
A: But I can get that stuff if you need it.
Q: Okay. How about donating like food to people or bicycles? Have you done that in the past?
A: I have for different families. Yes, ma'am.
Q: Okay. And how did that come to pass?
A: Just different people I've come across. You know, got to know through people or through other people in the community and that are kind of down on their luck.
Q: And what do you do?
A: I just bought different stuff from video games to bicycles to turkey dinners ---
Q: Uh-huh.
A: --- I mean, or turkeys. I mean, just different stuff.
Q: Okay. Do you have a pet?
A: I do, yes.
Q: What kind of pet do you have?
A: A dog.
Q: And do you have a regular veterinarian?
A: I do. Clemson Veterinary.
Q: Do you make any donations to the veterinarian?
A: I have, yes, in the past.

Q: Such as?
A: They do like a kitty thing for cats and stuff like that. Most of the time they hit me up when I'm in there for takin' my dog into the vet, so.
Q: Okay. All right. And do you track those donations in any way?
A: I don't, no.
Q: I'm sorry?
A: No, ma'am.
Q: Okay. And why not?
A: I -- for the hundred dollars -- I don't know. Just for money -- I'm not lookin' for anything out it.
Q: Okay.
A: So, I guess.
Q: All right. Okay. I think that's all the questions. Let me check with my co-counsel, make sure I haven't forgotten to ask you anything. So we did hear testimony earlier that there had been one ticket since you've been open for underage drinking, correct?
A: Yes, ma'am.
Q: All right. And what did you do when you found out that one of your staff members had sold to

an underage person?
A: We -- I had to let him go.
Q: I'm sorry?
A: I let him go.
Q: Okay.
A: Yeah.
Q: So you fired that person?
A: Yes, ma'am.
Q: Okay. And is that the standard that you would do anytime you found that -- that someone had sold to someone underage?
A: Yes, ma'am.
Q: Okay. All right. No further questions. If you'll answer any questions Mr. McCabe might have.

MR. STARKEY - CROSS-EXAMINATION BY MR. MCCABE:

Q: Mr. Starkey, where do you reside?
A: In Clemson, South Carolina.
Q: Okay. And how long have you lived there?
A: I was building a place. I think I got a place at the Clemson Towers in 2013 or '14. '13. I don't know the exact date.
Q: Okay. And is restaurant owner the only thing you do for a living? Any side jobs, anything like that?

A: I do construction here and there but just for -- just myself and my friends.
Q: Okay. So you do have some type of supplemental employment?
A: No. I mean, I just do it to help out.
Q: Oh, just to help out?
A: Right.
Q: Okay. Well I have a question. There was some testimony that there were some tax issues that needed to be resolved before your license was approved. Isn't it true that you've reported no taxable income in this State since 2016?
A: Yes, ma'am -- yes, sir.
Q: Okay. How do you explain that?
A: My family. My family's helped me out tremendously.
Q: So your family's providing you money to be able to give these donations to?
A: Well, I mean, I would say that no they don't give me that money.
Q: Okay. Where's that money come from?
A: Out of my business.
Q: Oh, that's coming out of the business?
A: Yes. Yeah.
Q: But you're not reporting any taxable income; is

that correct?
A: I guess -- I mean, yes.
Q: Okay. Since 2016?
A: Yes?
Q: Okay. Does Study Hall charge cover charges?
A: Well we have in the past, yes, sir.
Q: You have in the past?
A: Yes.
Q: Okay. How long have you been doing that?
MS. MCDANIEL: Objection, Your Honor. This goes to the -- to the extent that it goes to taxation on cover charge we object because that's outside the scope of this hearing.
MR. MCCABE: Your Honor, I would say that she opened the door to taxes in her examination. She asked that if he was compliant with all of his taxes. I'm simply inquiring.
THE COURT: You know what I'm going to allow that.
MS. MCDANIEL: Your Honor, if I may, the tax issue is what was in the notice of -- the denial notice and it went to income taxes not to admission taxes. That's a completely separate tax issue outside the scope of this determination. We did not open the door to that.

MR. MCCABE: Your Honor, if I may ---
THE COURT: You're right about that. That's where I drew ---
MR. MCCABE: If I may ---
THE COURT: --- the line wasn't it. What's the -- repeat your question?
MR. MCCABE: I asked if he -- if he -- how long has he been charging a cover charge.
THE COURT: All right. That ---
MR. MCCABE: And, Your Honor, if I may, one of the requirements to have a license is that all taxes are compliant. I believe their testimony she asked him -- and I may have to have it read back maybe I misunderstood -- but she said all of your taxes are compliant. That would mean that he is in good standing with the Department of Revenue and we have information that that is not the case.
MS. MCDANIEL: Your Honor, the question was specifically about his personal income taxes related to getting the license issued.
THE COURT: You know, Ms. McDaniel, I don't think you restricted the question that way.
MS. MCDANIEL: Your Honor, it was limited ---
THE COURT: I think you asked about ---

MS. MCDANIEL: --- I'm sorry.
THE COURT: Let's get him to read it back.
MS. MCDANIEL: Okay.
THE COURT: That was one of your last two or three questions.
(Testimony was read back.)
THE COURT: Are we back on the record?
COURT REPORTER: Yes, sir, we're back on the record.
THE COURT: All right. I'm not sure we can talk about taxes and claim that we're not talking about all taxes.
MS. MCDANIEL: Your Honor, I limited it specifically.
THE COURT: I understand.
MS. MCDANIEL: And ---
THE COURT: I see what you're trying to do ---
MS. MCDANIEL: Yeah.
THE COURT: --- and I understand what you thought you'd done.
MS. MCDANIEL: Right. This opens up -- if this opens the door then it is a completely separate issue that we had no notice of. Mr. McCabe had the information on Friday and never produced it to us.
THE COURT: All right. I understand that, and I'm -

- Mr. McCabe, I believe this morning I kind of put a line out there on the -- on the admissions tax. I understand what you're saying.

MR. MCCABE: Yes, Your Honor.

THE COURT: I understand that being current with your taxes is an issue for the -- a requirement for the license.

MR. MCCABE: Right.

THE COURT: The problem is you've got to show that he owes that tax.

MR. MCCABE: Well, Your Honor, if they would've asked those questions ---

THE COURT: And that's -- I don't think that's in this case.

MR. MCCABE: Correct. But I think if asking those questions we can make it aware -- make the Court aware that he has charged Study -- he has charged a cover charge. The statute clearly indicates that there is a five percent tax on that that he is to remit -- collect and remit to the Department. We're not looking for criminal charges or anything else ---

THE COURT: I understand that.

MR. MCCABE: --- just the acknowledgment that he has

not -- once again, not complied with the letter of the law. It's a continuing -- it's a continuing sequence.

MS. MCDANIEL: But it's not something that we are able to even respond to because they're -- they could be wrong and we don't know that. And we have ---

THE COURT: Well, I mean, you can always ask him the question.

MS. MCDANIEL: Well, that is ---

THE COURT: What he -- what his people at the door are doing?

MS. MCDANIEL: Your Honor, I believe you've already ruled that this is beyond the scope of what this determination was about.

THE COURT: I agree. I mean, really we're here with what is perhaps an issue that's not before the Court at this time.

MS. MCDANIEL: Uh-huh.

THE COURT: And I ---

MR. MCCABE: I would disagree, Your Honor.

THE COURT: I understand.

MR. MCCABE: Suitability means ---

THE COURT: I understand that.

MR. MCCABE: --- he's in ---

THE COURT: I understand that, but I ---

MR. MCCABE: --- strict compliance.

THE COURT: I understand that.

MR. MCCABE: According to the Court.

THE COURT: But ---

MR. MCCABE: And we have evidence that that is not occurring.

THE COURT: The problem is ---

MR. MCCABE: I mean, his own testimony is that they ta- -- that they collect cover charges.

THE COURT: Well, you can ask him that.

MR. MCCABE: Well I already -- I did and he answered.

MS. MCDANIEL: But, Your Honor, yes, and he answered but it can't go beyond that because it cannot become an issue in this case as to whether he complied with, you know, paying taxes on that.

MR. MCCABE: Your Honor ---

MS. MCDANIEL: You've already ruled on that.

MR. MCCABE: I would argue that I'm asking him if he's compliant with the statutes that are available to public knowledge. It's a yes or a no question.

MS. MCDANIEL: But that's not at issue in this case. That was not part of the ---

MR. MCCABE: Your Honor, the determination ---

MS. MCDANIEL: --- Agency's determination.

MR. MCCABE: --- the determination said Mr. Starkey is not fit moral character. It did not say not fit moral character because of A, B, C or D.

MS. MCDANIEL: Yes, it did.

MR. MCCABE: It said ---

MS. MCDANIEL: It said not fit moral character ---

MR. MCCABE: No, `ma'am.

MS. MCDANIEL: --- because ---

MR. MCCABE: You're incorrect.

THE COURT: One at a time.

MR. MCCABE: All right. But you read the determination, it does not say that. It does not say because of A, B, C and D. Those are all facts in the determination. But the determination itself says we find that he is not of good moral character. Now we have recently received evidence that there is another factor that needs to be considered before this Court.

MS. MCDANIEL: That you did not turn over.

THE COURT: I'd be glad to dismiss this case and send it back for you to revise your determination.

MR. MCCABE: Either -- Your Honor, I mean, if that's the case, but, I mean, we'll have to bring everybody back in to testify. I don't think that's necessary. But what I'm saying is that if we were going to have a determination of suitability and fitness, it needs a complete examination, a de novo examination. All I'm asking you is if ---

MS. MCDANIEL: Your Honor, I'd have to be aware ---

MR. MCCABE: --- he's compliant with the statute.

THE COURT: And I agree. Mr. McCabe, I'm -- I really sympathize with your argument here. The problem is we go to court with a particular issue. We let everybody know what the issues are, and if we're going to change those issues in midstream then he's entitled to some notice of that ahead of time. And I'll be glad to send this back let y'all redo your determination and have another go at him with that in it. And you could do that anyway.

MR. MCCABE: Well, yeah, absolutely.

THE COURT: But I don't believe you can bring it in to this case this late in the game.

MS. MCDANIEL: Thank you, Your Honor.

MR. MCCABE: All right. Could I have one moment,

Your Honor?

THE COURT: Yes, sir.

MR. MCCABE: All right, Your Honor. If the Court finds that we're not able ask him questions then we'll just issue a new determination at a later time as to -- as to that issue.

THE COURT: Yeah, as to that issue. If you -- and you can certainly do -- do an audit and determine what ---

MR. MCCABE: Correct.

THE COURT: --- if anything he owes ---

MR. MCCABE: Your Honor, you'd be correct.

THE COURT: --- for those taxes.

MR. MCCABE: Correct. But I would like it on the record that he has admitted -- his testimony is that he does collect cover charges.

THE COURT: I think he ha- ---

MS. MCDANIEL: That's his testimony ---

THE COURT: I think he said something of that sort.

MS. MCDANIEL: I mean, I'm not going to deny that that was his testimony.

MR. MCCABE: Okay.

THE COURT: All right.

MR. MCCABE: All right. Thank you, Your Honor.

THE COURT: Back to your cross-examination.

Q: Yeah, thank you. Could you look at Exhibit 8 for me, please?
A: Is that the orange or brown statement? Orange right here?
Q: It would be the orange.
A: Yes, sir.
Q: Number 8.
A: Okay.
Q: I'm sorry, Number 7. Number 7. So looking at Number 7, can you read that sentence that's in bold print?
A: You must cease all sales of beer, wine and liquor until you receive your renewed license.
Q: Could you look at page 2 of that Exhibit? Could you read what's in bold print there?
A: It's all the same.
Q: Could you please read it?
A: The whole thing or what's it ---
Q: The bold print.
MS. MCDANIEL: I believe the dif ---
A: I don't see bold print on here, sir. I see that bold print right there on that one but I don't see the same on here.
Q: Could you read that line, please?
A: Yeah. You must cease all sales of beer, wine

and liquor until you receive your new license.
Q: Is there any ambiguity in that statement?
A: No, sir.
Q: No confusion in that statement?
A: No, sir.
Q: But it's your testimony that somebody told you -- did you say that somebody told you that were okay or did -- you thought you were okay?
A: I thought I was okay. Yes.
Q: Okay. And where -- why would you think that?
A: When I got this handed from the window ---
Q: Uh-huh.
A: --- when I kept gettin' the insurance stuff ---
Q: Uh-huh.
A: --- and I gave her three different copies of three different e-mails, and then when she slid this out to me she said -- I said so -- I'm just talkin' to her and she slides a piece of paper out and I look at her and I said so what does this mean? She said you have 90 days to get the rest of that stuff that's on this letter ---
Q: Uh-huh.
A: --- in compliance.
Q: Uh-huh.

A: And that was it. I never read this letter, and I'm not denying that.
Q: Okay.
A: So.
Q: So this was just on your own mis- ---
A: Well, I guess me talking to her, yes.
Q: Okay.
A: The woman in the window.
Q: But did she tell you something contrary to what was in that letter?
A: She just told me I had 90 days to get this -- this letter complete and then basically get -- basically whatever I had to get that was along here line item-wise get it complete and get it back to her at 90 days.
Q: Okay. But did she tell you that you could operate?
A: She didn't say that one way or another.
Q: Okay. Did you get the name of that employee?
A: I did not. No, sir.
Q: Did you think maybe to get anything in writing from her that said you had 90 days?
A: No, sir.
Q: Okay. So it's just your testimony that that's what occurred?

A: Yes, sir.
Q: Okay. So isn't it true that for three months you continued to sell alcohol without a license?
A: Yes, sir.
Q: All right. Isn't it true that you did that because you couldn't sell -- you could not survive, your business could not survive without selling alcohol?
A: No, sir.
Q: So your business could survive without selling alcohol?
A: I'm not -- I mean, but that's not why I did it though. I was just ---
Q: Okay, but I'm asking you -- so that's not why you did it? So why did you continue to sell alcohol without a license?
A: Because I thought I had 90 days from when I got this letter.
Q: Okay. Well you did pretty well for yourself though, didn't you? Three months, $130,000?
A: Yeah.
Q: Without a license. So after your business was raided and all the alcohol was seized, you went at that point and then made sure all your

paperwork was complete and then got your license?

A: Yes, sir.

Q: So it was only after SLED came in and seized all your alcohol?

A: I mean, we were preparing for this the whole time with Art, my CPA.

Q: Oh, so you were preparing for it but it just happened that the seizure occurred and then shortly thereafter.

A: I was -- had 90 days from the day -- yes, I was still going off of that date.

Q: Can you show me on there where it says you have 90 days?

A: It doesn't say that.

Q: Okay. So that was just your own ---

A: It's from what she told me and I think it is -- it is accurate that you do have 90 days I think from the letter. After you get the letter I think you do have 90 days.

Q: Actually you have 90 days to protest the decision of the Department.

A: Okay. So 90 days just -- okay.

Q: So this isn't the first time your business was found operating without a license, isn't it?

A: At this time, yes.
Q: That's the first time?
A: Yes.
Q: Is that the only time that that's happened that you've admitted operating without a license?
A: No, the Sunday sales ---
Q: The Sunday sales ---
A: --- yeah.
Q: Okay. Isn't it true that your business was selling on Sunday without a license for almost two years?
A: Yes, sir.
Q: All right. Isn't it true that by not purchasing the single LOP that you saved $19,000? If they're $200 a permit and there's 95, it'd be $19,000, correct?
A: I'd have -- I'd have to look at that on a piece of paper.
Q: So that's not $19,000?
A: No, no.
Q: Would you like me to add it up for you? I mean, I can get you a piece of paper if you'd like?
A: That's fine. Yeah.
Q: Here's a pen.

A: Okay. What are you saying for 24 months times two; is that what you're saying, or what are you ---
Q: No, there was 95 Sundays.
A: 95 Sundays. Okay. What are you saying it is?
Q: Well I'm asking you, is that 18,000?
A: Well, I mean, I'm guessin' you've already done it, so.
Q: Yes, your right. I have.
A: Okay. So then I guess it's 18,000.
Q: Okay. So, thank you.
A: Uh-huh.
Q: All right. So you saved $18,000, correct?
A: Yes, sir.
Q: Pretty good for somebody who makes zero income in this state that has to rely on family to get by. That's your testimony, right?
A: Yes, sir.
Q: Let's talk about your personal income tax real quick. Your Honor, I believe that the door was opened to personal income tax; is that correct?
THE COURT: Yes, sir.
Q: Okay. Do you owe -- do you currently owe personal income tax to the State of South Carolina?

A: Yes, sir.
Q: You do? How much?
A: Ball park I think it's about between 30 and 40 grand.
Q: So 30 or $40,000 ---
A: Yes.
Q: --- you owe the Department of Revenue?
A: Yes, sir.
Q: You on a payment plan right now?
A: Yes, sir.
Q: Okay. So you're making payments on that but that's a pretty large amount.
A: Yeah.
Q: How'd you get that amount?
A: How'd I get that amount?
Q: Yeah, how did that amount get that high?
A: From not paying taxes.
Q: From -- oh, from not paying taxes?
A: Yes.
Q: Okay. Isn't it true that the City of Statesboro had scheduled an administrative hearing to revoke your license?
A: Yes, sir.
Q: All right. Isn't it true that you surrendered your license in order to avoid a revocation?

A: Yes, sir.
Q: All right. Are you aware that if your license was revoked in Georgia you would not be able to obtain a license in South Carolina?
A: Yes, sir.
Q: So you knew that?
A: Yes, sir.
Q: So it was better just to surrender to save your business here in South Carolina?
A: Yes, sir.
Q: Isn't it true that as part of the settlement agreement that you personally are prevented from ever opening a business in the City of Statesboro? An alcohol establishment?
A: Alcohol establishment. Yes, sir.
Q: Okay. Is that true?
A: Yes, sir.
Q: Okay. What's the minimum age to gain entrance into Study Hall?
A: It depends on what time of day it is.
Q: Okay. Can you explain that, please?
A: So most time at about 8:00 or 9:00 o'clock at night we go 21 and up.
Q: Okay.
A: But a lot of places during the day are most of

the time all ages.
Q: Okay. So you've heard testimony earlier today that SLED agents don't use -- or, excuse me -- underage cooperating individuals or under covers -- don't use false ID's, alright? They use their ID. So can you explain how an individual -- or isn't it true -- let's do this this way -- isn't it true that a underage individual was able to get into your establishment and purchase an alcoholic beverage?
A: Yes, sir.
Q: Okay. Isn't it true that you were ultimately responsible to ensure that Study Hall complied with the various statutes and regulations?
A: Yes, sir.
Q: Isn't it true that you failed to ensure that Study Hall has had the appropriate alcohol licenses on two separate occasions?
A: Yes, sir.
Q: Isn't it true -- I can't ask that -- isn't it true that Study Hall has failed to adhere to the alcohol license of South Carolina?
A: Yes, sir.
Q: All right. Give me one second here. So have

you look at -- I think this is Exhibit Number 4 or Number 5. It's your employer requirement and guidelines.

A: Okay.

Q: Now if I remember your testimony you said your employees are not allowed to drink, correct?

A: Yes, sir.

Q: All right. Can you tell me why on that guideline it says, hey, you can have a drink. In fact it says if you want to take a shot with a friend for birthday or something of that sort then you need approval by management. Even then you cannot get drunk or drink enough to have your judgment or cognitive abilities impaired? Does it say that?

A: Yes, sir.

Q: So you do allow employees to drink?

A: Yes, sir.

Q: All right. And isn't it true that in Rude Rudy's an employee drinking, maybe off duty, maybe on duty, but an employee drinking led to the death of Michael Gatto?

A: I don't know about led to the death of him. I mean, if he was drinkin' or not drinkin' it could have been the same outcome.

Q: So -- all right. Was he -- was Grant Spencer drinking?
A: I was not there but I heard he was, yes.
Q: All right. And how old was he?
A: I heard 20 years old.
Q: All right. And he was an employee of yours, right?
A: Yes.
Q: And let me ask you about these employee guidelines. Did you have something similar to this?
A: No, I did not have any of this in place.
Q: You did not have anything similar to this ---
A: Not -- not this sheet.
Q: Not this sheet?
A: No.
Q: But you do have these same guidelines -- would you -- so there -- you didn't testify in a wrongful death suit that ---
A: I had guidelines, not these same guideline.
Q: No, sir. You're not letting me finish.
A: Okay.
Q: Did you have guidelines such as these as about not allowing employees to drink, not allowing violence, those types of things, did you have

those in place at Rude Rudy's?
A: I don't recall the exact contract but we did have something in place; yes, sir.
Q: So you had something would you say similar to this?
A: I would say similar to that, yes.
Q: And that didn't stop Michael Gatto from being killed, did it?
A: No, it did not.
Q: All right. No further questions, Your Honor.
MS. MCDANIEL: Just a few follow-up.
THE COURT: Redirect.
MR. STARKEY - REDIRECT EXAMINATION BY MS. MCDANIEL:
Q: Just a few follow-up questions, Your Honor. Mr. Starkey, have you obtained a Sunday sales license now?
A: Yes, ma'am.
Q: And when did you obtain that?
A: When after the incident I found out we did not have one.
Q: Okay. And for what time period did you obtain that license?
A: I don't know the exact date on that.
Q: Was it a year, was it a year and a half, was it two ---

A: I paid for the rest of this year and all of next year.
Q: And how much was that?
A: I don't recall the exact amount.
Q: Was it $19,000?
A: No, I think it was like 3,050. I don't -- you can't quote me on that.
Q: Okay. And I believe there was testimony previously that an annual Sunday sales license about 3,000; does that sound about right?
A: Yes.
Q: Not 19,000, correct?
A: Correct.
Q: 19,000 would be an unfair extrapolation, correct?
A: I guess.
Q: Okay. On the -- your personal income tax you said that you're on a payment plan, and how long have you been on that payment plan?
A: I don't know the exact amount of time but a little over a year.
Q: Has there been any claim that you haven't complied with that payment plan?
A: No, ma'am.
Q: Okay. And do you intend to comply with it?

A: Yes, ma'am.
Q: Okay. You testified that the settlement agreement said that you would not have another alcohol establishment in the Statesboro; is that correct?
A: Yes, ma'am.
Q: Okay. What about the rest of Georgia? Is there anything limiting you from having a alcohol license in the rest of Georgia?
A: No, ma'am.
Q: Okay. So, Mr. Starkey, if you could please read for me number 9 on Respondent's Exhibit 4?
A: All employees are subject to random Breathalyzer request if management has any inkling that you have been drinking. Zero tolerance policy. If you blow anything, even a .01, you will be immediately asked to leave without your pay, tips and fired. If you want a shot with a friend for a birthday or some -- or something of that sort it needs to be approved by management. Even then you cannot get drunk or drink enough to have your judgment or cognitive abilities impaired.
Q: So is it correct to say that the only way that an employee could have even a shot would be by

special permission ---

A: Right,.

Q: --- of the management, correct?

A: Yes, ma'am.

Q: Okay. And they still could not become impaired, correct?

A: Yes, ma'am.

Q: Okay. On the -- there was a question about the 90 day period. Did you -- what was your understanding of the purpose of the 90 days?

A: I thought it was 90 days to get basically my stuff prepared to basically turn in to them and then my license would be granted 'cause they already cashed my check.

Q: Okay. And did you comply with the requirements of that letter within 90 days?

A: Yes, ma'am.

Q: No further questions.

MR. MCCABE: Mr. Starkey ---

MS. MCDANIEL: Okay.

MR. MCCABE: I'm sorry. Were you ---

MS. MCDANIEL: Oh, no, I'm done.

MR. STARKEY - RECROSS-EXAMINATION BY MR. MCCABE:

Q: This 90 days requirement, is that just something you made up?

A: No. It's what the person in the window told me at the DOR.
Q: That's your testimony but there's nobody to verify that, is there?
A: No. No, sir.
Q: All right. No further questions, Your Honor.

MR. STARKEY - REDIRECT EXAMINATION BY MS. MCDANIEL:

Q: One last question. Is there anyone here that would contest that it's 90 days from the DOR.
THE COURT: I don't know that he knows that.
Q: Well has anyone contested that ---
A: No.
Q: --- any witness?
A: No.
Q: Okay. No further questions, Your Honor. All right. Mr. Starkey, unless the Judge has anything else?
THE COURT: No, I dare not. Mr. Starkey, you can return to your seat.
THE COURT: Ms. McDaniel, do you have another witness?
MS. McDANIEL: Yes, Your Honor. We call Wes Taulbee.
COURT REPORTER: Do you solemnly swear the following testimony you're about to give will be the

truth, the whole truth and nothing but the truth so help you God?

MR. TAULBEE: I do.

WESLEY TAULBEE, having been duly sworn, testifies as follows:

COURT REPORTER: Please state and spell your full name.

A: Wesley Taulbee. W-E-S-L-E-Y T-A-U-L-B-E-E.

MR. TAULBEE - DIRECT EXAMINATION BY MS. McDANIEL:

Q: Good afternoon, Mr. Taulbee. Just a few questions for you. What is your relationship to John Starkey?

A: I'm an attorney in Statesboro, Georgia, and I have known Mr. Starkey professionally and a little bit personally since probably 2003 or 2004.

Q: Okay. And did you assist Mr. Starkey in obtaining an alcohol license for Rude Rudy's?

A: I did.

Q: And during -- when did that alco- -- when was that alcohol license first obtained?

A: I think it was in late 2003 or early 2004.

Q: Uh-huh.

A: It was when he first applied to open Rude Rudy's and -- and start the establishment. And

the City at that time was -- was reluctant to grant alcohol licenses in that College Plaza location, and Mr. Starkey came to me to see if we could help -- help that process and -- and ultimately he was issued his license and opened the business I think in early -- late 2003 early 2004.

Q: Okay. And was he continuously licensed from that time period up until 2014?

A: He was.

Q: Okay. And during -- that was -- that would be about ten years, correct?

A: Yes, ma'am.

Q: During that ten year period did Statesboro or any other governmental authority attempt to impose any suspension of Mr. Starkey's alcohol license?

A: Not that I'm aware of.

Q: Okay. Was there any attempted revocation before February of 2014?

A: No, ma'am.

Q: Do you have any information that would lead the -- did the State of Georgia express any administrative concerns regarding Mr. Starkey's alcohol license?

A: No, ma'am.
Q: Okay. Did you assist Mr. Starkey -- did you represent Mr. Starkey in regards to dealing with the City following the death of Mr. Gatto?
A: I did. And I will say -- when I say that he had nothing -- nothing I was involved in.
Q: Uh-huh.
A: I mean, I don't know, it's possible that there was underage sale or something that was handled ---
Q: Uh-huh.
A: --- without any sort of suspension or something. I believe that if it had been anything major he would have contacted me but I am not aware of anything.
Q: Certainly.
A: I was made aware very early on when Mr. Gatto was killed, and -- and did ---
Q: Uh-huh.
A: --- represent Mr. Starkey and Rude Rudy's in connection with, you know, that -- that incident sort of, at least initially.
Q: And the -- Mr. Starkey's surrender of his Statesboro Alcohol License, was that something that the City also had to agree to, was that

part of lar -- a settlement agreement?

A: It was. Essentially -- when it happened, obviously it was a horrible tragedy. I mean everybody was trying to figure out how to address it. The -- the City sort of came in and -- and under the ordinance it was one of these things where if you had one -- you know, they could only do so much to a business owner with a first offense, and then second offense they could do a little more, and with a third offense they could do a little more. And Mr. Starkey had not had any offenses in that time frame. You know, they came in and sort of were taking the position of, you know, if one person bought three drinks that same night that that was three different violations and ultimately, you know, sort of were piling on the violations. And -- and -- and ultimately we just got together with the City and said look, you know, if -- if -- if you no longer want us there and no longer want Mr. Starkey here, he's got something else he's working on anyway. His plan was to ultimately move to Clemson full-time and permanently, and so we said, you know, rather than us fighting this in

court and everything else, what if we agreed to voluntarily surrender the license here in Statesboro. The City was amenable to that and so we reached that agreement and -- and that was about it.

Q: Okay. But had the City wanted to it could've pursued other actions against Mr. Starkey, correct?

A: Certainly. And they could've proceeded with -- I mean, they allowed us to, as part of this agreement, for him to actually surrender the license.

Q: Uh-huh.

A: I mean they could have proceeded with, you know, a suspension or hearing or whatever they wanted to. It's not a case of where we were able to unilaterally avoid anything. It was -- it was an agreement reached between both sides.

Q: Okay. Following the death of Mr. Gatto, how quickly was that settled and reached?

A: Well, very quickly. I mean, it -- it -- I guess it was tied less to -- within a very short period of time, I -- I think maybe Mr. Starkey and them were open a couple of times after that and then voluntarily closed. Then

there was a letter I believe that came from two councilmen that had called the -- they called a special hearing, and basically, you know, once we got that letter we sort of reached out to the City; and I don't remember the exact date of it but it was all -- it was all within a matter of weeks.

Q: Okay. And during the time that you have known Mr. Starkey, how would you describe his moral character?

A: I think Mr. Starkey has, from everything I have seen, has good moral character and I think as a general rule has not had a problem with -- with the -- the people in the community where he has -- has owned the bar either in -- in, you know, in Statesboro up until certainly that -- the Gatto incident. And then I don't -- I'm not aware of in Clemson, obviously.

Q: Okay. And is Mr. Starkey -- has he always been honest with you?

A: With me, yeah.

Q: Okay. Do you ever think -- have you ever gotten the sense that he was trying to hide anything from you?

A: No. He's always been very straightforward

including accepting responsibility. I mean, I -- I will say he's not always dotting I's and crossing T's.

Q: Uh-huh.

A: It would not surprise me at the same time when he does do a real good job of it. I haven't seen him make the same mistake twice and ---

Q: Uh-huh.

A: --- and I think where his focus is in terms of -- of cooperating with law enforcement and -- and trying to run a -- a good establishment, you know, I guess to the extent a bar can be a good establishment, and opinions may differ ---

Q: Uh-huh.

A: --- but I think he -- I have always felt like he is very much on the up and up with that and has done a good job with it.

Q: Okay. Has he ever been less than forthcoming with you about any issues that he had?

A: Not that I'm aware of.

Q: All right. No further questions.

A: Thank you.

THE COURT: Mr. McCabe?

MR. McCABE: Yes, just a couple questions.

MR. TAULBEE - CROSS-EXAMINATION BY MR. McCABE:

Q: With the representation in -- in Statesboro, Mr. Starkey paid you to represent him, correct?
A: I -- yes. And that -- yes, I think so. I'm not a hundred percent sure that -- that I ever sent him a bill and it got paid. It was relatively short but -- but yes, in theory he paid me. I've not gone back and checked my bill. But I would've been hired and was his counsel.
Q: You were his counsel ---
A: Yes. I was his, yes, correct.
Q: So as his counsel, of course you are obligated to zealously represent him and his interest, correct?
A: In that incident yes, I tried to.
Q: Okay. And he called you as a witness today, correct?
A: I -- he called -- yes, actually his counsel called to ask about that incident and I told them that I would be willing to drive up here and testify if they thought ---
Q: Okay.
A: --- it'd be helpful.
Q: So why -- you wouldn't really -- maybe we'll come back to that. But -- but they asked you

to come up and -- and to testify, is that correct?

A: They did ask me if I would come up, yes.

Q: Okay. Were you aware that Mr. Starkey was operating without a license?

A: I was not.

Q: Were you aware that Mr. Starkey was operating without a local option permit?

A: I was not.

Q: All right. Wouldn't you agree that compliance with the law, is it an important factor in determining fitness and suitability to sell alcohol?

A: I would agree with that as a statement. Yes, sir.

Q: All right.

MR. McCABE: No further questions, Your Honor.

MS. McDANIEL: No further questions, Your Honor. If we could release Mr. Taulbee?

THE COURT: I think we can probably do that.

A: May I be excused, Your Honor?

THE COURT: We need some lawyers in South Carolina but we'll have to let you go.

A: Listen, y'all are well served, Your Honor. I appreciate it. I'm gonna go make a basketball

game.

THE COURT: Good luck.

MS. McDANIEL: All right. And, Your Honor, we'll call our last witness, Chris Cartee.

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

MR. CARTEE: I do.

CHRIS CARTEE, having been duly sworn, testifies as follows:

COURT REPORTER: Thank you, sir. Please state and spell you name.

A: Chris Cartee. C-A-R-T-E-E.

MR. CARTEE - DIRECT EXAMINATION BY MS. McDANIEL:

Q: All right. Good afternoon, Mr. Cartee.

A: Good afternoon.

Q: What is your position with the City of Clemson?

A: I am the City Fire Marshall and Arson Investigator.

Q: Okay. And what sort of interactions have you had with Mr. Starkey since he -- well, let me ask you this. How long have you been with the City of Clemson?

A: I've been with the City now a little bit around

two years.
Q: Okay. And in those two years, what have been your interactions with Mr. Starkey?
A: I am in control of the fire and life safety issues with all the City.
Q: Uh-huh.
A: So my interaction with Mr. Starkey has been a -- a life safety issue point just making sure that his bar is safe and adequate to our demeanor and fire code.
Q: Okay. What has been the -- when you deal with Mr. Starkey, what has been your impression of him as a person?
A: Him and his staff, as far as on the fire side is concerned, have been very professional and they have took care of anything that I have asked them to do.
Q: Okay. Has Mr. Starkey always been honest with you?
A: To my knowledge, yes.
Q: Okay. Do you have any indication that he's ever tried to hide anything from you?
A: No.
Q: Okay. And is it your opinion, based on your knowledge of the fire code, is Mr. Starkey in

compliance with the -- all portions of the fire code?

A: At this current date he is compliant with all fire code laws.

Q: Okay. So what has Mr. Starkey done to improve the safety for his customers that you're aware of?

A: I think during our annual meeting ---

MR. McCABE: Your -- Your Honor, I -- I would -- I -- I would object to that, it's irrelevant. She's gone a little bit on about the life safety. No one's made the allegation that Mr. Starkey's business is unsafe or he's putting his residents in any type of overcrowding or that the building's unsafe from the fire aspect. And that this gentleman here is a Fire Inspector, which -- which is great, but that aspect of whether or not he's compliant with the fire code, that really has no relevance as to -- to his fitness to be able to sell alcohol.

MS. McDANIEL: Your Honor, the case law regarding good moral character, a part of that is your ability to know right and wrong, your ability to follow

the fire code, to understand the fire code, and do what it takes to maintain an establishment that's in compliance with that, goes to that understanding of right and wrong and how to comply with the law.

THE COURT: It is connected, just barely.

MS. McDANIEL: Okay.

MR. McCABE: Thank you, Your Honor.

THE COURT: We -- we -- we let 'em talk about the -- the sprinkler system so I guess we need to find out why he has to have those.

MS. McDANIEL: Okay.

Q: So, Mr. Cartee, what additional things has Mr. Starkey done to improve the safety to protect the lives of his customers?

A: He added in cattle gates, that he spoke about earlier ---

Q: Uh-huh.

A: --- in his testimony, to keep the crowd kinda contained to his area. He has also added the counters that we call the clickers at the ---

Q: Uh-huh.

A: --- door to keep occupant content.

Q: Uh-huh.

A: And he has overall done his annual inspections

to make sure that life safety is took care of. He has also upped his staff, I'm not sure how many people but he did up his staff for me.

Q: Okay. And you said he upped his staff for you?

A: Yes, ma'am.

Q: What do you mean by that?

A: We kinda come to the agreement that he needed more staff to be able to handle his crowd ---

Q: Uh-huh.

A: --- and I think he was very compliant on that and did add some -- couple of guys.

Q: So as the Fire Marshall you requested that he take additional steps and he complied with that, is that correct?

A: Correct.

Q: Okay. Do you regularly visit the bars in Clemson?

A: Yes.

Q: As part of your job?

A: Yes. Yes, as part of my job I do regular visits.

Q: Okay. And -- and can you tell us about how you do that?

A: Most of the time, my heavy times that we hit those, is during ball game season.

Q: Uh-huh.
A: We will have our annual alcohol meeting and then every Friday I go around to each individual bar that is downtown and we make sure we do a face-to-face with either Mr. Starkey or the Staff Manager and make sure that we have a game plan for that night and have a kinda wrap our heads around the crowd that we're expecting for that kinda game.
Q: Okay. And do you go to the bar as part of your job during the game or during the times ---
A: The only time I work during the game is if I'm called if there's a problem, but I do work the night before a game ---
Q: Oh, okay.
A: --- when we have the big crowd.
Q: Okay. So it's the night before when you have the big crowd?
A: Correct.
Q: Okay. And what do you do the night before when you're working?
A: We do crowd control. I'm -- I'm in and out of both of the bars, interact with every bar down there and we make sure that we don't go over occupancy.

Q: Okay. And if you have an issue with occupancy in that evening, how has Mr. Starkey responded?
A: His crew has been very professional, they correct the issue if we have come up on one.
Q: Okay. How does Study Hall compare in size to the other bars in town?
A: He is one of the larger bars in town.
Q: Uh-huh.
A: I can't tell 'ya off the top of my head the occupant load but he is probably within the top three one of the largest.
Q: Okay. Let's see. Would you say that Mr. Starkey has the ability to understand what the fire code requires?
A: Yes.
Q: Okay. And from your experience, does he comply with the fire code?
A: Yes.
Q: Do you believe that Mr. Starkey has the ability to distinguish between right and wrong?
A: In -- in my ability I believe that he does.
Q: Okay. And has Mr. Starkey always been honest with you?
A: To my knowledge.
Q: Okay. Do you have any indication that he's

ever been deceitful or tried to hide anything from you?

A: Not on the fire code side.

Q: Okay. And has he -- well, I asked you about the ... Okay. No further questions. Well, let me -- let me take that back. Do you believe that Mr. Starkey is of good moral character?

A: Yes.

Q: Okay. Thank you.

MR. CARTEE - CROSS-EXAMINATION BY MR. McCABE:

Q: Couple of questions real quick. You were asked if he'd been deceitful or -- or anything when you -- you had spoken with him and you said not on the fire code side.

A: Yes, sir.

Q: Do you care to explain? Is there -- has he been deceitful in other means?

A: I have no answer to that 'cause I'm not on that side.

Q: You're not on that side?

A: No, sir.

Q: So just -- you can only speak the fire code?

A: Can only speak to the fire codes.

Q: Okay. Are you familiar with any of the alcohol

licensing requirements?
A: No, sir.
Q: All right. And are you -- are you aware that Mr. Starkey was operating without a -- a license?
A: No, sir.
Q: Were you aware that Mr. Starkey was operating without a local option permit?
A: No, sir.
Q: Would you agree that compliance means complying with all the laws, not just some of them?
A: I agree.
Q: So -- all right. Is the job -- well, let me ask you, the job of -- of a Fire Marshall, what are those traditional job roles that you do?
A: Anything pertaining to fire and life safety.
Q: Okay. Is determining the moral character of an individual fall within that realm?
A: I would say yes.
Q: Could you explain?
A: I believe moral character in a -- in a individual should be outgoing on anything that he does.
Q: Okay. Is there anywhere in the fire code that allows you to shut down a business because of

someone's poor moral character?
A: No, sir.
Q: So there's nothing in the fire code about moral character whatsoever?
A: No, sir.
Q: All right.
MR. McCABE: No further questions, Your Honor.
MS. McDANIEL: No further questions, Your Honor. And if we can, Ms. Cartee -- Mr. Cartee could be released.
THE COURT: All right.
MR. McCABE: Thank you, Your Honor, yes.
THE COURT: No restrictions, Mr. Cartee.
A: Thank you, sir.
THE COURT: Not only leave the chair you can go wherever you want to.
A: All right. Appreciate you.
MS. McDANIEL: Your Honor, that was our last witness. We rest our case.
THE COURT: All right. Mr. McCabe, do you have any rebuttal witnesses?
MR. McCABE: No, Your Honor. I think we're prepared for closing.
THE COURT: All right. Do you need -- parties need a couple of minutes to prepare for that or ---

MR. McCABE: I would just ask for a minute to be able to get the -- the overhead screens up again just to for the Power Point.

MS. McDANIEL: No objections, Your Honor.

THE COURT: All right. We'll take a -- a brief couple of minutes in place.

MR. McCABE: Thank you, Your Honor.

(Off the Record from 3:27 p.m. until 3:28 p.m.)

PETITIONER'S CLOSING STATEMENT:

MR. McCABE: I believe we're ready, Your Honor.

THE COURT: All right.

MR. McCABE: Yes, Your Honor. Just briefly in closing, just a summary of the testimony. We had Deputy Chief Bryan from the Statesboro Police Department. He testified that Mr. Starkey's establishment was well know for allowing underage indivul- -- individuals to consume alcohol. That -- he also testified that underage consumption contributed to the death of Michael Gatto, and he also testified that Mr. Starkey agreed to a lifetime ban from operating an alcohol establishment in Statesboro, and he testified that he feels that Mr. Starkey should not hold a license. We had the testimony of Katherine Gatto, she said that

Mr. Starkey denied responsibility and made no attempts to rehabilitate his character by apologizing and that she feels that Mr. Starkey should also not hold a license. We had the testimony of the ABL Su- -- Supervisor who testified that DOR was aware [*sic*] of Mr. Starkey's history in Georgia and the DOR was also unaware that Mr. Starkey was arrested for selling without a license. We had the testimony of SLED Special Agent Keith Dor- -- Dorman, he said that Study Hall was operating without an alcohol license and he testified that Study Hall was operating without a local option permit. We have the testimony of Chief Dixon from Clemson Police Department, he said that Study Hall's disregard for the law makes it difficult to police the entertainment district of Clemson, and he also testified that Mr. Starkey should not be able to hold an alcohol license. So when determining good moral character, this Court has said that an attitude of strict adherence to the applicable alcohol related laws on the part of the applicants for permits and license is a critical consideration in finding that an

applicant is of good moral character and is a fit person to sell beer and wine. We've got our case cites there. Mr. Starkey and the Study Hall have repeatedly failed to adhere to the alcohol laws of South Carolina and should no longer be able to hold a license and permit. In South Carolina, the sale of alcohol is a privilege not a right. Since 1943 the South Carolina Supreme Court has held that the sale of alcohol, as I said, is a privilege not a right. In Feldman versus Tax Commission they said that 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 so; and to be enjoyed only so long as the restriction and the conditions governing their continuance are complied with. So in closing, Your Honor, we're asking for three things: we're asking for the cancellation of the Study Hall's on-premises beer and wine permit, cancellation of the restaurant liquor-by-the-drink license, and, Your Honor, we are also seeking an order to sell the contraband alcohol seized pursuant to South Carolina Code

61-6-4310. Thank you, Your Honor.

RESPONDENT'S CLOSING STATEMENT:

MS. McDANIEL: Your Honor.

THE COURT: Yes, ma'am.

MS. McDANIEL: The testimony that you've heard today from Mr. Starkey clearly demonstrates that his failure to obtain the licenses during the December 7th to the March 7th period was a misunderstanding on his part. He has taken responsibility for that. He vowed that he had done everything that he needed to do to get those license and he does have the licenses now. The issue that this comes down to is whether or not Mr. Starkey is of good moral character sufficient to have an alcohol license in state. And I would direct the Court's attention to a relatively recent case on this issue, Columbia Wing Shack versus DOR. This is a -- a rather comprehensive opinion issued by Administrative Law Judge of Judge Lenski in 2018, the Docket Number is 18-ALJ-17-0194. And the reason I bring this Court's attention to this is simply because it provides a -- a really good overview of how a Court views good moral character and what the factors are in

determining that to the extent that there is a -- a true rubric for determinating that. Citing 48-CJS, Intoxicating Liquors, Section 171, this order states, accordingly, moral character is used in a statute of 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 the rules of right conduct, and conduct which indicates and establishes qualities generally acceptable to the populous for positions of trust and confidence. It goes on to say that you should -- let's see. So, Your Honor, what we are trying to demonstrate here is that Mr. Starkey is of good moral character. He does not deny that he made a mistake in regard to the renewal of his licenses for the two on-premise consumption licenses and as well for the Sunday sales license. He has rectified those. The -- it's no excuse, but the explanation for that misunderstanding is his communication with the DOR agent at the window when he went to renew his license. He did not read the piece of

paper. He admits that, but it was his understanding based on their conversation that he had 90 days to get everything straightened out and that during that period he could operate. Had he known, he would never have put his business in jeopardy over, you know, obtaining this license. He's a -- been in the bar business since 2004 at -- you know, at least since 2004, he understands the importance of have an alcohol license. This was an oversight on his part, it was an inadvertent mistake and it certainly does not rise to the level of demonstrating that he has a poor moral character. Your Honor, you've heard testimony from Mr. Starkey's attorney, who represented him in the matter in Statesboro. And of course, you know, that was a tragic incident, but that occurred in 2014. Mr. Starkey disclosed that information to the Department of Revenue agent who assisted him with getting licensed in the first place in Clemson and he disclosed it to Chief Dixon at the Clemson Univer- -- at -- for the City of Clemson Police. He has not tried to hide that the incident happened, in fact he has been more

than forthcoming to the extent that Chief Dixon said that he refused to listen to some of the information that Mr. Starkey was trying to provide to him. So, there was no finding of liability against Mr. Starkey or against Rude Rudy's. The only person who was issued -- who was arrested in that incident was unfortunately the gentleman who hit Mr. Gatto and did in fact kill him. Mr. Starkey voluntarily surrendered that license with the agreement of the City of Statesboro. The State -- City of Statesboro didn't pursue any further proceedings against him on that matter. And because this was known to DOR and to the City of Clemson long ago prior to Mr. Starkey even getting his first license to sell at Study Hall this is something that is not even particularly relevant to this hearing, but if they had known about -- if they had believed this was an issue concerning his moral character -- affecting his moral character, it would have come up before now in his original licensing or this renewal; and it was not a basis to deny the renewal of his license at all. Mr Cartee -- Chief Cartee -- Fire Chief Cartee -- Fire Marshall Cartee

testified that Mr. Starkey understands laws and how laws work and he understands the difference between right and wrong. He understands the importance of compliance with fire code, which is a law, and that he is a -- that Mr. Starkey is, in his opinion, of good moral character. Mr. Taulbee also testified that Mr. Starkey has always been honest with him, forthright, similar to how Mr. Starkey has always been with the Department of Revenue and with the Fire Chief -- with the Police Chief, forthcoming about any information that might even have a negative affect on him. And Mr. Taulbee also testified that he believes that Mr. Starkey is of good moral character. Mr. Starkey and Mr -- Mr. Cartee and Mr. Taulbee actually know Mr. Starkey personally. Ms. Gatto's testimony about what she thinks about him, she doesn't know him personally, she only knows what happened to her son. So, her testimony should not have the same weight. Mr. Starkey has taken responsibility for the sales without a license. He has applied to enter into the PTI Program. He will -- if he is accepted into that program he will comply with all the

requirements, conducting community service to make restitution to the community for that unlicensed sale. So, Your Honor, Mr. Starkey -- all this comes down to is, is Mr. Starkey of good moral character. And to this, no one has provided any testimony that would indicate that he is dishonest, deceitful, that he has ever committed any act of fraud and that he has not lied on any application. In the cases where licenses have been revoked on the basis of poor moral character, two key ones are where the licensee was selling drugs and committing food stamp fraud at the location, and another, the licensee lied about ownership on their application for their license. There's no indication here that Mr. Starkey lied about anything. He has not committed a fraud against anyone. He simply misunderstood what was required of him, and as soon as he realized the -- well, within the 90 day period that he thought that he was required to comply with, he did comply and he did get a license. Unfortunately there was a sale, an unlicensed sale in the intervening period. But, Your Honor, again, that was an inadvertent mistake;

he though he was licensed. And we certainly do not think that that sale or the Sunday sales, those do not rise to the level of indicating that he has poor moral character. So in closing, Mr. Starkey is honest, forthright and is of good moral character and his license should not be revoked. Thank you.

MR. McCABE: Just for clarification, Your Honor. We're not seeking to revoke his license, we're seeking a cancellation.

MS. McDANIEL: Cancellation.

MR. McCABE: Just so the Court's aware of that.

THE COURT: What's the difference?

MR. McCABE: Well, I mean, if you're -- if you're asking me, the -- basically with a revocation there of course is the five year probation that goes on to the license holder, that they're not able to reapply for five years. Cancellation is basically at that point that the license should've never been issued at the -- at the point of when the license was issued, the Department has testified that they were unaware of these violations. And based upon that at that time, being unaware of the violation, if we had known of the violations, the Department

would have just completely denied the application for suitability and we would've basically ended up back in front of the court. But there is not any type of long lasting restricting on the cancellation. It basically terminates the license and then the applicant would need to reapply at that point.

MS. McDANIEL: And, Your Honor, we would contend that cancellation is inappropriate because if -- the same standard they're attempting to apply is lack of good moral character and Mr. Starkey has demonstrated that he is of good moral character.

THE COURT: Okay.

MS. McDANIEL: Thank you, Your Honor.

DISPOSITION OF THE CASE:

THE COURT: Yeah. It's -- I shouldn't preach to y'all off the record or on the record either, but I'd asked once for proposed orders from the parties, and I was very disappointed in the result because proposed orders were like ships going in different directions and going to different places. And it seems to me that what the parties are asking for me to do this evening, we're close to the afternoon, is very

similar to that. Mr. McCabe wants me to pretend this fellow never got a license. Ms. McDaniel, you want me to act -- pretend that he's had one all along and deserves to keep one. And meanwhile we've got three months of unlicensed sales which DOR should've known about when he filed the first sales tax return. So let me say that I am disappointed, Mr. Starkey, in what you've allowed to happen to yourself. Mr. McCabe, I'm a little bit disappointed in what the -- what the Department of Revenue doesn't seem to be able to keep track of what it's -- what it's doing in its different offices and its different divisions. Now, I shouldn't have said that so let's pretend -- let's cancel that and pretend I didn't say it. But I'll try to figure out something and I hope I will -- I probably will not get that figured out between now and Christmas but certainly I'll do it as quickly as I can so we can start the fresh -- fresh in the New Year.

MR. McCABE: Thank you, Your Honor.

MS. McDANIEL: Thank you, Your Honor.

THE COURT: Thank you ladies and gentlemen. We are

closed in our hearing.

(There being nothing further, the administrative hearing concluded at 3:45 p.m.)

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

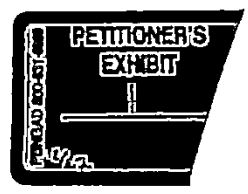
DOR Notice of Intent to Cancel Letter dated 03-20-19 51

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
FILED
GREENVILLE DISTRICT

File Number: 320701852
FEIN/SSN: [redacted]
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	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: ☐ USPS changed address ☐ Moved location of business
☐ Other - Explain: _____

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
[redacted]	Jonathan Earl Starkey	[redacted]	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 herin is true, correct, and complete.

Signature of applicant | Jon E. Starkey (Printed Name) | Dec. 7, 18 (Date) | 912-541-4529 (Telephone number from 8 am to

JP:18739E:0388AS:010IN:0A#:800685838000:0000009749

001

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

Renewal Due Date: 30-Nov-2018 **Renewal Fee $ 1705
License Type PLB - Business Liquor By the Drink Letter ID: L0007697983
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 [illegible]
RECEIVED
GREENVILLE DISTRICT

File Number: 320701852
FEIN/SSN: [redacted]
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: 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: ☐ USPS changed address ☐ Moved location of business
☐ Other - Explain: _____

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
[redacted]	Jonathan Earl Starkey	[redacted]	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) | [redacted] (Telephone number from 8 am to

002

JP:18231E:C0883S:1010N:0A7:A0GBB5B80D:1000009746

Study Hall [redacted] File Number: 3207018592

Name of Sole Proprietorship, Corporation, Partnership, LLC, etc. FEI/SSN

Name Jeffrey 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.

S.C. DEPT. OF REVENUE
MAR 07 20[illegible]

SWORN to and subscribed before me this
16 day of March, year of 2009
Notary Public for South Carolina
My Commission Expires: Feb 5, 2015
Notary (L.S.) [signature]
Notary (printed name) [illegible]

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.

Jeffrey 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 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

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 _____)
)
COUNTY OF _____)

FOR INTERNAL USE ONLY
Case Verification Number _____
Result _____

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 Justice Belgar (Print clearly First, Middle and Last name) of [redacted] (Home Address)

[redacted] (City, State and Zip Code) being first duly sworn deposes and states as follows:

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.

Justice Belgar
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.) [signature]
Notary (printed name) [illegible]

REQUIRED: Fill out completely.
License Number: 3207018527
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

Incorrect Start Date Reissued w/correct 3/7 date K.S. 3/11/2019

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, they MUST 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 could be fined ... due to negligence ... someone using your permit ...

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
SCDOR 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.

005

SOUTH CAROLINA DEPARTMENT OF REVENUE

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

Incorrect start date

Letter ID: L0009794797

LICENSE NO.: 320701852-PLB
FILE NO.: 320701852
DATE ISSUED: 03/07/19
STIPULATIONS: 01

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 the business, the buyer must apply for a new MUST obtain his own permit or license. You can be held financially responsible for any [illegible] may be held criminally responsible for [illegible] the beverages by the drink license.

Reissued - correct start date

POST THIS IN A CONSPICUOUS PLACE

K.S.

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.

3/11/20

RECEIVED
MAR 19 2019
SCDOR 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

P.O. Box 21398
Columbia, South Carolina
29221-1398

Henry D. McMaster, Governor
Mark A. Keel, Chief

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
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.

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

SLED Case #: 54-19-0907

Informant Control #: Agent Boy

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MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

E003710

Lab File #:

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 & No/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) (Signature)

Identification #: Agent Boy Date: 2-28-19

Submitted By:

Keith Dorman (Print Name) (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
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

SLED AEU SEIZURE REPORT

SLED CASE NUMBER 5-4-19-0307 CASE AGENT

SUMMONS NUMBER:

DATE OF SEIZURE 2-28-19 TIME

1. Registered owner(s) and name of operator, address in control of property at time of seizure:

If licensed DBA:

AI # LIC #

2. Description of property seized:

3. Current location (storage) of the property seized:

4. Chain of Custody

Relinquished by	Received by	Date

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: -A

White: Violator's Copy Green: Headquarter's Copy Yellow: Agent's Copy Pink: Warehouse's Copy Gold: Transfer's Copy

010

RECEIVED

MAR 14 2019

SCDOR ALCOHOLIC BEVERAGE LICENSING

SLED AEU SEIZURE REPORT

SLED CASE NUMBER 0307 CASE AGENT

SUMMONS NUMBER:

DATE OF SEIZURE 2-28-19 TIME 10:32

1. Registered owner(s) and name of operator, address in control of property at time of seizure:

101 Store Ct Cheraw, SC

If licensed DBA:

AI # LIC #

2. Description of property seized: See Cheraw City Inventory Sheets

3. Current location (storage) of the property seized: Lumpkin Police Dept Temp Evidence Room

4. Chain of Custody

Relinquished by	Received by	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: 2930 -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 29631-9631

LICENSE NUMBER: 26358
BUSINESS NAME: THE STUDY HALL
BUSINESS TYPE: BAR, LOUNGE
LOCATION: SLOAN ST., 101
DATE: 7/24/2018

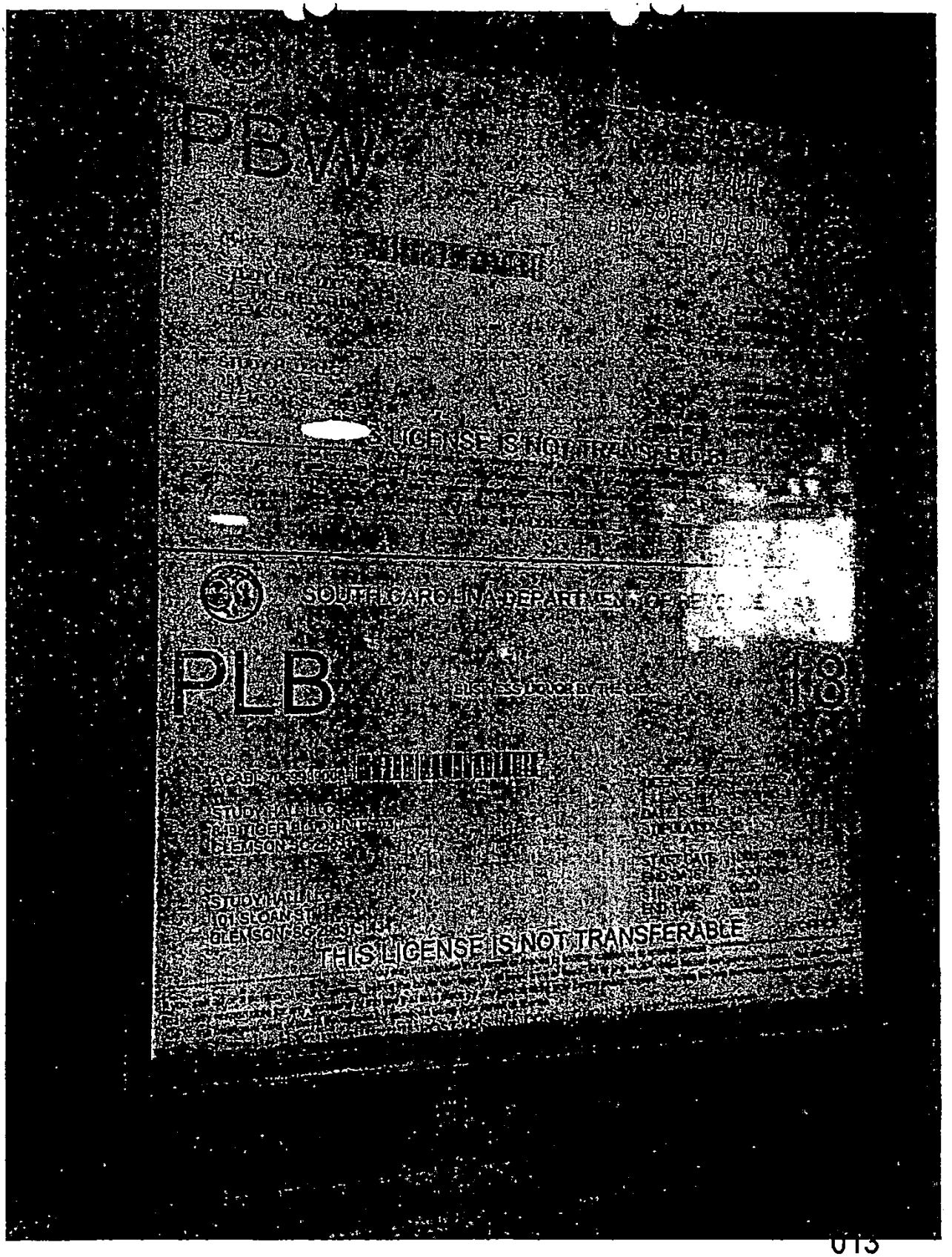
Beverly A. Coleman

BUSINESS LICENSE OFFICER

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

012

339 339


PLB
SOUTH CAROLINA DEPARTMENT OF
PLB
THIS LICENSE IS NOT TRANSFERABLE

013

1350

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of Denial

ABL-931
(Rev. 11/28/18)
4403

Case ID: D-000-438-776
Letter ID: L0008142279
Date Issued: December 07, 2018

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

RE: FILE # 320701652
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.

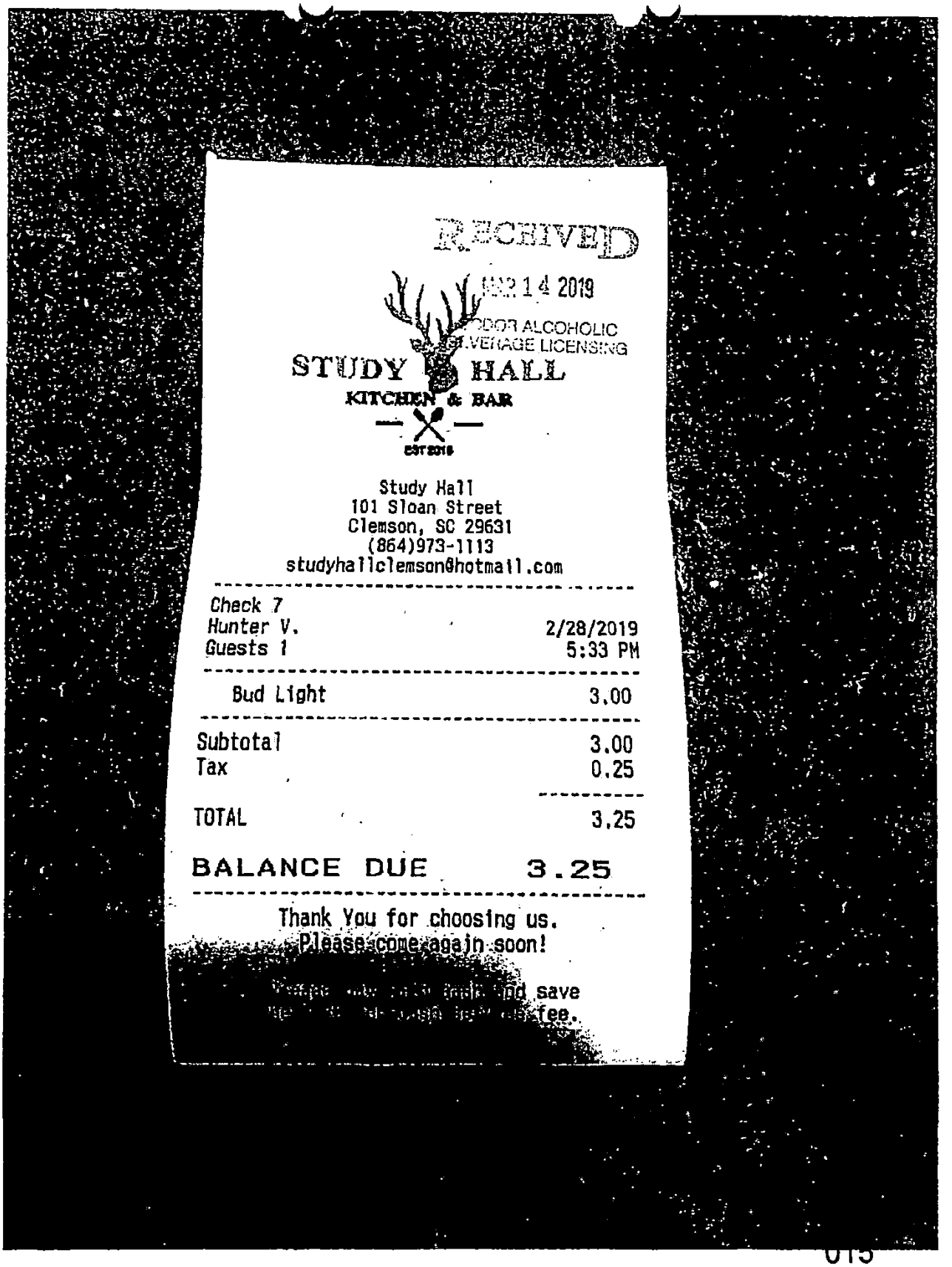
You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license.

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 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.

014



RECEIVED
MAR 14 2019
ODOR ALCOHOLIC
BEVERAGE LICENSING

STUDY HALL
KITCHEN & BAR
EST 2018

Study Hall
101 Sloan Street
Clemson, SC 29631
(864)973-1113
studyhallclemson@hotmail.com

Check 7
Hunter V.
Guests 1

2/28/2019
5:33 PM

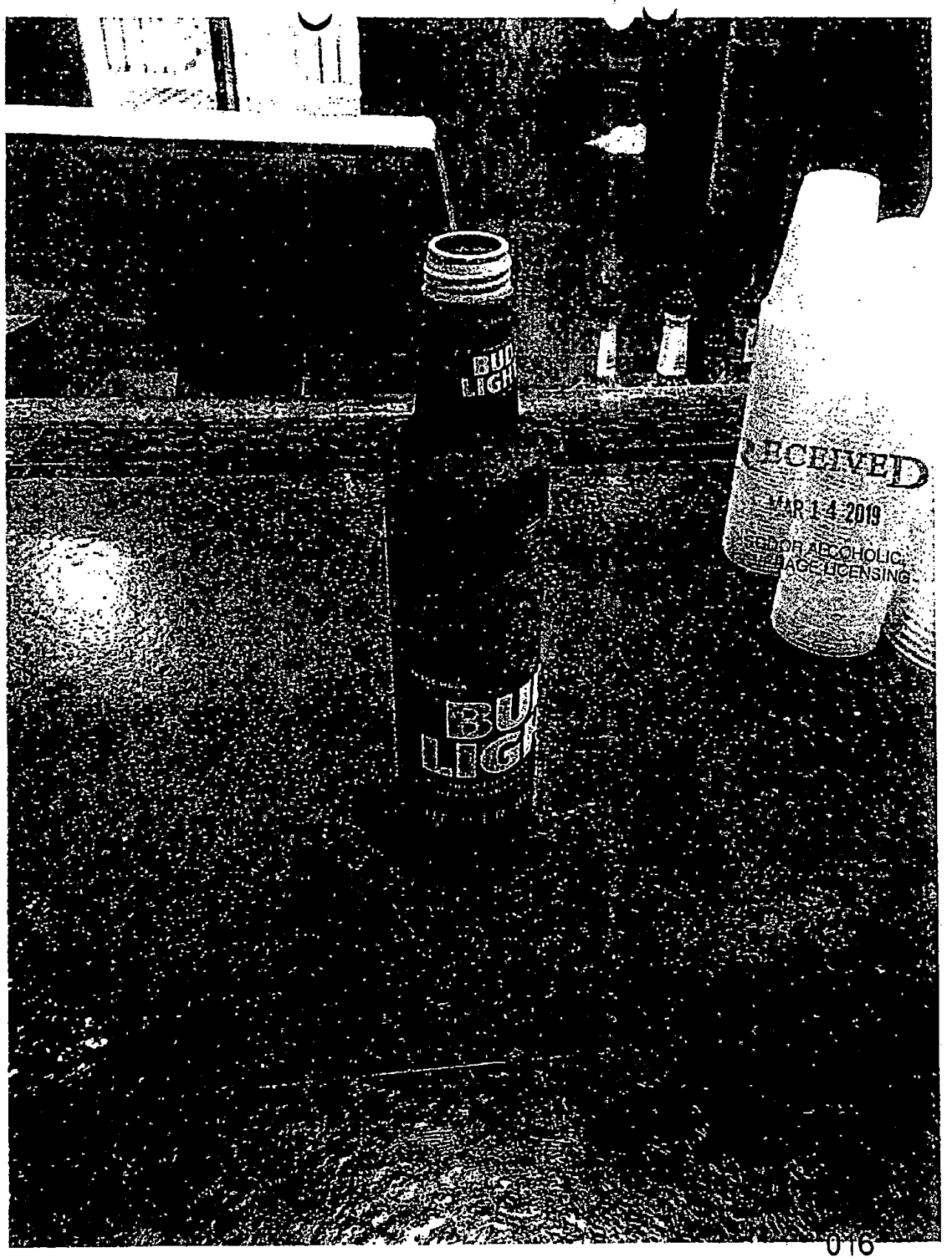
Bud Light	3.00
Subtotal	3.00
Tax	0.25
TOTAL	3.25

BALANCE DUE 3.25

Thank You for choosing us.
Please come again soon!

...d save
...fee.

015


BUD LIGHT
BUD LIGHT
RECEIVED
MAR 14 2019
FOR ALCOHOLIC
AGE LICENSING

016

343

Return

I received the attached Search Warrant dated February 28 2019 and have executed it as follows:
(date on the search warrant)

On Feb 28 2019 at 5:37 o'clock P M, I searched _____
(Date) (Time) (A/P) (name of person described in warrant)

and/or Study Hall Restaurant and Bar.
(the premises described in warrant)

I left a copy of the warrant with Alvin Dark - Manager
(name of person in charge of premises or the location of prominent place of premises searched)

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

together with a receipt for the items seized.

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 Clinton Police Department.

This inventory was made in the presence of Detective Alvin Brown
AND Special Agent Keith Norman

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 Judge)

_____
(Signature of Officer Executing Search Warrant)

017

	2	Jose Cuervo Especial
	1	Deep Eddy Ruby Red
	6	Deep Eddy Orange
	3	De Kuyper Blue Curaçao
	1	DeKuyper Melon
110	3	DeKuyper Pucker Island Punch
	1	Rumple Minze
	1	Patron Silver
	1	Don Julio Blanco
	3	Don Julio Anejo
	4	DeKuyper Creme de cocoa
	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 Beam Bourbon
	2	Fireball
	4	Jack Daniel's Tennessee Fire
	1	Jack Daniel Tennessee Whiskey
	3	Crown Royal Vanilla
103	3	Grey Goose Le Citron
	24	Budweiser

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

12	1 Liter Montezuma Triple Sec
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	Juarez Tequila Silver
1	Crown Royal Apple
5	Malibu Caribbean Rum w/ Passion Fruit
4	Malibu Black Bold Caribbean Rum w/ Coconut
3	Gosslings Black Seal Bermuda Black Rum
4	Kahlua
6	Rum Chata Horchata Con 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 2013
CCDOR ALCOHOLIC BEVERAGE LICENSING

019

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

	13	Dale's Pale Ale
	1	Fleischmann's
	13	GVL IPA
38	11	Sweet Josie Brown Ale
	16	Hi-Wire hi-pitch
	16	New Belgium Citradelic
	16	Samuel Adams Boston Lager
	15	Stella Artois
	24	Not Your Father's Root Beer
	18	Sloop IPA
	21	Goose 312
	21	Guinness Draught Stout
	10	IPA Goose
	2	Shock Top
	24	Amber
	15	Quittin' Time
	5	White Zombie
	13	New Belgium Fat Tire

020

Upstairs Bar Pg. 5

X3 Crown Royal Whisky
X2 Crown Royal Vanilla Whisky
X2 Deep Eddy Ruby Red Vodka
X1 Johnnie Walker Red Label Scotch
X1 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
SCDOR ALCOHOLIC
BEVERAGE LICENSING

021

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
MAR 14 2013
SDDOR ALCOHOLIC
BEVERAGE LICENSING

022

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 - DeepEddy Orange (Orange Flavored Vodka) - open
X1 - Don Julio Tequila -open
X1 - Montezuma Aztec Silver Tequila -open
X1 - DeepEddy 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 - Canadien 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 Rosé Vodka

RECEIVED
MAR 14 2019
SONOMA ALCOHOLIC BEVERAGE LICENSING

023

Front Bar cont'd 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 - Canadien 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 Goldschläger 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 Barbon Whiskey open
X12 - Kentucky Gentleman Kentucky Barbon 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 2013
SCDOR ALCOHOLIC BEVERAGE LICENSING

024

RECEIVED
MAR 14 2013
SONORA PUBLIC
BEING GENERATED

8

Pg. 1

Front Booths (From Front Bar)

X4 - Malibu Caribbean Rum w/Coconut Liqueur - open
X2 - Grey Goose Vodka - open
X2 - Canadien LTD Whisky - open
X4 - Captain Morgan Original spiced Rum - open
X2 - Bombay Sapphire London Dry Gin - open
X4 - Jim Beam Kentucky Straight Bourbon Whiskey open
X3 - Jose Cuervo Especial Blue Agave Gold Tequila - open
X4 - Jack Daniels Tennessee Whiskey - open
X2 - Dekuyper Crème 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
X3 - Fireball Cinamon Whiskey - open
X1 - Fireball Cinamon 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 - De kuyper Pucker watermelon Shnapps - open
X2 - Silver Patrón 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 Liquer
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 2019
RODOR ALCOHOLIC
BEVERAGE LICENSING

026

RECEIVED
MAR 14 2013
SOFOR ALCOHOLIC
BEVERAGE LICENSING

Back Bar

Pg. 7

X45 - Coors Light Calvminum)
X21 - Miller Lite Calumin um
X35 - Bud Light beer Calum'num)
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
X3 - 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 Canadien whisky
X1 - Crown Royal Vanilla whisky
X1 - Crown Royal Regal Apple whisky
X2 - Jose Cuervo Gold Tequila
X1 - Dekuyper Buttershots Butterscotch Schnapps
X1 - Canadien LTD whisky
X6 - Montezuma Aztec Silve Tequila
X3 - Montezuma Triple Sec Liqueur

027

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

Back Bar Pg. 2

x4 - Fireball Cinnamon Whiskey
x1 - Bailey's Irish Cream
x2 - Kentucky Gentleman Bourbon Whiskey
x12 - New Belgium Citra delic 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 Bock Beer
x6 - GVL IPA
Cabinets
x2 - Tito's Handmade Vodka
x1 - DeKuyper Buttershots Butterscotch Schnapps
x1 - di Amore Amaretto
x1 - VV 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 1 Three Olives Vanilla Vodka
x 3 Three Olives Rosé Vodka
x 2 Three Olives Cucumber Lime Vodka

RECEIVED
MAR 1 (illegible)
BOSTON ALCOHOLIC
BEVERAGE LICENSING

13

RECEIVED
MAR 14 2010
SCDOR ALCOHOLIC BEVERAGE LICENSING

Back Bar Pg. 3

X1 - Tanqueray London Dry Gin
X2 Canadien LTD Whisky
X1 - Bailey's Irish Cream
X2 - Dekuyper Creme De Cocoa
X2 - Dekuyper Razzmatazz
X2 - Dekuyper Straberry Pucker Schnapps
X2 - Dekuyper Pucker Sour Apple Schnapps
X2 - Dekuyper Melon Liqueur
X2 - Kahlúa 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 Pucke
X1 [illegible] Pucker
X1 - Dekuyper Watermelon Schnapps
X25 - Budweiser Beer (Caluminum)
X1 Grand Marnier Cognac & 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 2013
SDDOR 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 Crain Royal Whisky
X2 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

031

Upstairs Bar Pg. 4

RECEIVED
MAR 14 2019
SONOMA ALCOHOLIC BEVERAGE LICENSING

X5 Sweet Water 420 Ale
X7 Tecate Cans
X6 Yuengling 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
X1 Dekuyper Melon Liqueur
X1 Dekuyper Pucker Sour Apple Schnapps
X1 Dekuyper Butterscotch Buttershots Schnapps
X1 Dekuyper Strawberry Pucker Liquer
X1 Dekuyper Creme de Cocoa Liquer
X1 Dekuyper Razzmatazz Liquer
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

032

Upstairs Bar Pg. 2

RECEIVED
MAR 14 2013
BOARD OF 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 Morga Caribbean White Rum
x1 Grey Goose Vodka
x1 Grey Goose Le Citron Vodka
x3 Woodford Reserve Bourbon
x2 Fireball Cinammon 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 Casamisos 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 Karma Tequila
x2 Goldschlager Schnapps
x2 Jameson Irish Whiskey

033

Upstairs Bar Pg. 3

X1 DeepEddy Orange Vodka
X5 Canadien LTD Whisky
X1 Goslings Black Seal Black Rum
X1 Death's Door Gin
X1 Johnnie walker Black Label Whisky
X20 Montezuma Aztec Silver Tequila
X 15 Montezuma Triple sec
X10 Lone Rider Sweet Josie Brown
X 10 Samuel Adams Boston Lager
X14 Palmetto Brewing Compant Brown
X 5 Shock Top Beer
X1 Sierra Nevad Hazy Little thing IPA
X1 Tecate Beer
X 3 Babe Rosé
X1 Blue Moon Belgian White beer
X1 woodchuck Hard Cider
X1 Michelob Ultra Beer
X17 Budweiser beer Calvminum
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
X16 Stone I PA
X12 Quithin Time Helles Bock Beer

034

18

RECEIVED
MAR 14 2019
BOROUGH ALCOHOLIC BEVERAGE LICENSING

Upstairs Bar Pg. 1

X2 kegs Bud Light
X1 box Hi-wire hi pitch IPA (4 6packs)
X1/10 box (4 6packs) Samuel Adams Boston Lager
Six Packs X29 174 GVL IPA
Six Packs X2 142 LoreRider Sweet Josie Brown Ale
Six Packs 63 X4 6 378 Quittin' Time Helles Back Beer
X3 36 boxes 12 11.2 Fl Oz Guiness Draught Stout
Six Pack X7 42 Not Your Father's Root Beer Ale
Six Pack 20 X 6 120 Palmetto Brewing Company Amber
Six Pack X33 198 Samuel Adams Boston Lager
Six Pack X6 36 Hi-Wire hi-Pitch Mosaic IPA
X3 72 Boxes each (4 (6packs)) New Belgium Citradelic IPA
Six Pack X11 66 New Belgium Citradelic IPA
X4 64 boxes 16 pack Budweiser bottels
X1 Six & Twenty Carolina Cream Rum
X11 Eight Point IPA
X1 box 4 Cans Babe Rosé
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
X10 Barton Rum
X7 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

OPEN CHECK AMOUNT (330.46)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units	Breakfast Sales	Lunch 11:01am - 04:00pm Units	Lunch Sales	Dinner 04:01pm - 03:00am Units	Dinner Sales	Disc Units	Disc Sales
Average Check	6902	6.89		0	0.00	168	25.98	6732	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	36,993.45	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	855	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	=								
CHECK	0	0.00	+								
Cash & Checks		2,184.97	=								
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	=								

Cash Deposit: _____

Cash & Checks Deposit: _____

- 75516.42 = Over/Short _____ CC Total 73,209.97

Alvin Dark

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	68.29	
Wrong Table	2	12.50	Training	3	11.00	POS Test	1	0.01	
Out of Stock	3	11.40							

038

The Study Hall

Daily Group Sales for 1/1/2019-1/31/2019

created at 2/28/2019 6:27:51 PM

OPEN CHECK AMOUNT (489.79)

				Breakfast 08:00am - 11:00am		Lunch 11:01am - 04:00pm		Dinner 04:01pm - 03:00am		Disc	Disc
	Units	Sales	% Sales	Units	Sales	Units	Sales	Units	Sales	Units	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	6,666.24	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	105	-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	73,668.36	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	3,068.91	+	_____							
Discover	237	2,590.38	+	_____							
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							

RECEIVED

MAR 14 2019

BOSTON LICENSING BOARD BEVERAGE LICENSING

Alvin Dark

Order Types									
CC Bar	7765	62,564.87	Cash Sale	2649	17,071.74				
Discounts (581.93)									
Employee 30%	22	91.22	Police 30%	1	7.08	Regulars 30%	9	34.68	
Cash Discount	220	162.76	Comp Starkey	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							

037

The Study Hall

Daily Group Sales for 12/1/2018-12/31/2018

created at 2/28/2019 8:26:19 PM

OPEN CHECK AMOUNT (320.00)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units	Breakfast Sales	Lunch 11:01am - 04:00pm Units	Lunch Sales	Dinner 04:01pm - 03:00am Units	Dinner Sales	Disc Units	Disc 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	1988	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		

RECEIVED

MAR 14 2019

SC DOR ALCOHOLIC BEVERAGE LICENSING

Alvin Dark

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	90.00	
Comp Starkey	2	62.00	Comp Justin	20	220.39	Comp Band	1	16.00	
Voids									
Incorrect Order	50	256.28	Changed Mind	1	3.95	Took Too Long	5	32.50	
Walked Out	1	4.00	Server Error	25	84.50	Wrong Table	1	6.25	
Training	2	10.50	Cook Error	5	10.24				

036

STATE OF SOUTH CAROLINA

Copy

County of **PICKENS**

SEARCH WARRANT

Date **February 28, 2019**

Officer **SA Keith Dorman**

039

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
SC DOR ALCOHOL
BEVERAGE LICENSING

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 Teresa 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)

Teresa Daniel (L.S.)
(Signature of Judge)

February 28, 2019
(Date)

SCCA/513 (3-78)

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.

[illegible]
MAR 14 2019
SOUTH CAROLINA
DEPARTMENT OF REVENUE
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 Reveune. 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.

[illegible]

[illegible]

[illegible]
BEVERAGE LICENSING

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

042

ARREST WARRANT

2019A3920200066

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

THE STATE
against

JONATHAN EARL STARKEY
Address: [redacted]
Phone: [redacted] SSN:
Sex: M Race: W Height: 6-4 Weight: 250
DL State: GA DL#: [redacted]
DOB: [redacted]1977 Agency ORI#: SC0390200
Prosecuting Agency: CITY OF CLEMSON / SLED
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.

_____ (L.S.)
Signature of Judge

Date: _____
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

RECEIVED
MAR 14 2019
SCDOR ALCOHOL BEVERAGE LICENSING

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2005 SCCA 619

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

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 River Rd.
CLEMSON SC 29631 / Columbia, S.C. 29210
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

ORIGINAL

Case: 2019A3920200066

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. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

044

WITNESSES

Name: _____
Address: _____
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Telephone: _____

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Telephone: _____

CODEFENDANTS

_____

_____

RECEIVED
MAR 17 2010
SUPERIOR COURT
BEVERLY HILLS BRANCH

ARREST WARRANT

2019A3920200067

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

THE STATE
against

JONATHAN EARL STARKEY
Address: [redacted]
Phone: [redacted] SSN:
Sex: M Race: W Height: 6-4 Weight: 250
DL State: GA DLN: [redacted]
DOB: [redacted]1977 Agency ORI#: 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.

_____ (L.S.)
Signature of Judge

Date: _____
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

RECEIVED
MAR 14 2019
SCDOR ALCOHOL BEVERAGE LICENSING

045

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 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 Broad River Rd.
CLEMSON SC 29631 / Columbia S.C. 29210
Affiant's Telephone (864) 624-2000 / 803-777-8400

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

ORIGINAL

Case: 2019A3920200067

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. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
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CODEFENDANTS

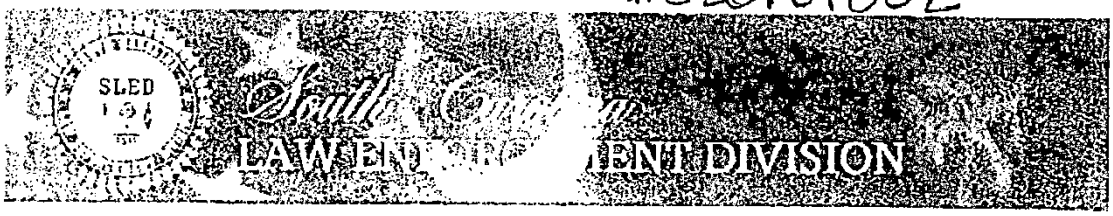
_____

_____

RECEIVED
MAR 14 200
SCRC
BAYLOR

046

#320701852



Public:
Home
Contact Information
General Information

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

Member:
Secure Services

SLED CATCH
Citizens Access to Criminal Histories

DEPT. OF REVENUE
MAR 07 2019
RECEIVED
OFFICE OF DISTRICT

Results

Name JETLIR BELEGN
DOB 1996 [redacted]
Gender Male
Maiden Name
SSN [redacted]
Transaction 3612423GGJ
Date of Check March 06, 2019 at 12:04

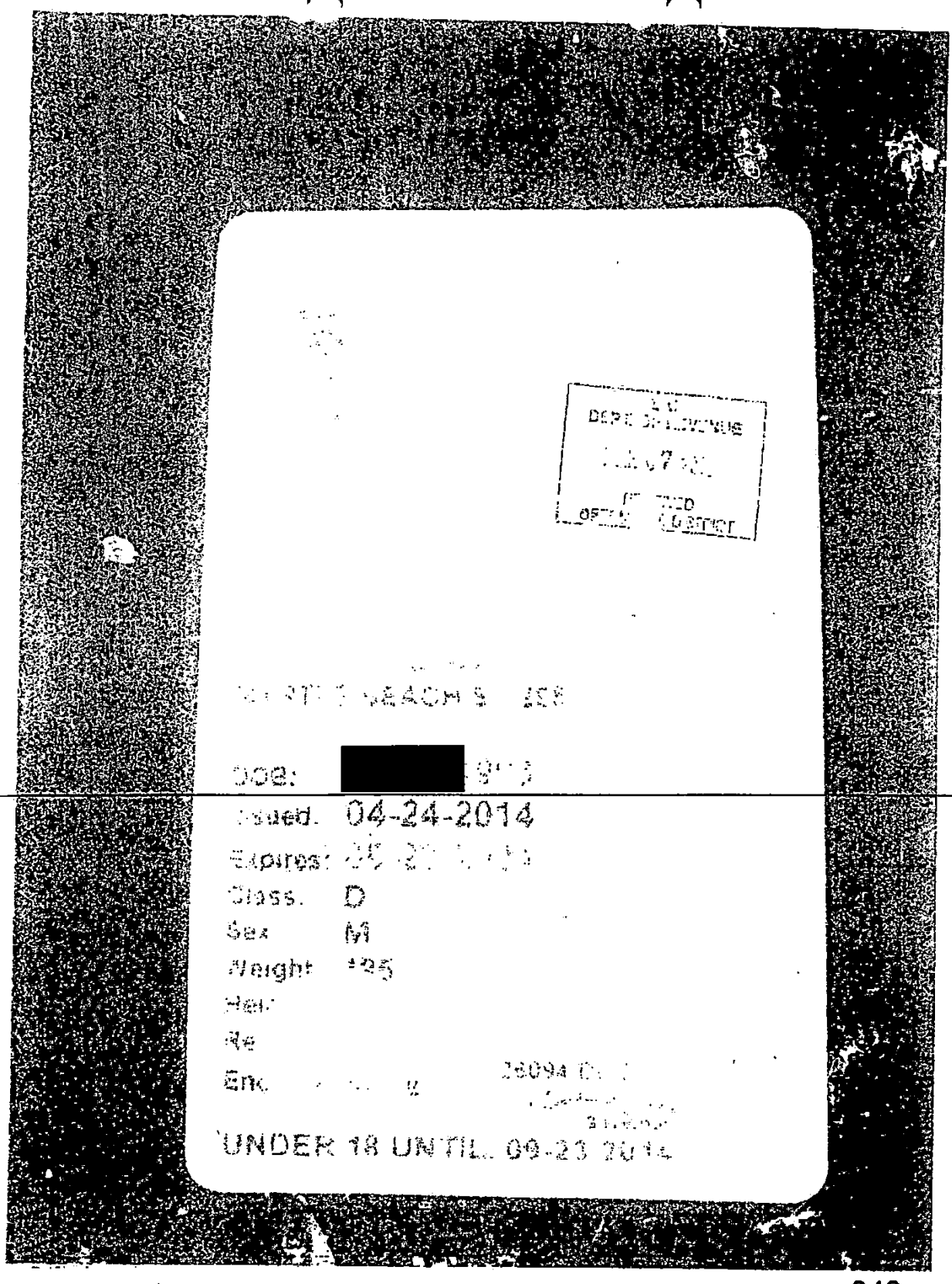
To Whom it May Concern:

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



DOB: [redacted]
Issued: 04-24-2014
Expires:
Class: D
Sex M
Weight 125
Hair
Re
Eye

UNDER 18 UNTIL 09-21-2014

048

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. Notifiy 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

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 foward 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

050

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

052

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 Stinchcomb

053

BURNETTE SHUTT MCDANIEL
Moving law forward.

BURNETTE SHUTT & MCDANIEL, PA
912 Lady Street | PO Box 1929 | Columbia, SC 29202
O: 803.850.0912 F: 803.904.7910
burnetteshutt.law

Kathleen McDaniel – Partner
803.904.7913 Direct
kmcdaniel@BurnetteShutt.law

June 18, 2019

VIA Hand Delivery
SC Dept. of Revenue
Alcohol Beverage Licensing
300A Outlet Pointe Blvd.
Columbia, South Carolina 29210

S.C.
DEPT. OF REVENUE
JUN 18 2019
RECEIVED COLUMBIA
TAXPAYER'S ASSISTANCE

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
[redacted]

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).

RECEIVED
JUN 19 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

(d) Statement of facts

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.

S.C.
DEPT. OF REVENUE
JUN 18 2019
RECEIVED COLUMBIA
TAXPAYER'S ASSISTANCE

Very truly yours,

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

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).

---

[1]The erroneous permit and license listed December 1, 2018, as the date of issuance.

[2]The 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

[3]Additionally, 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 (SC ALC)

Request for Contested Case Hearing FORM

Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name:	First:	Middle:	Docket No. (To Be Completed by ALC)
Starkey	Jon	☒ Mr. ☐ Miss ☐ Mrs. ☐ Ms.	

Mailing Address: [redacted] City: [redacted] State and Zip:

Home Number: Work Number: Cell Number: *E-Mail Address: [redacted]

*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: Kathleen McDaniel, Esq.

Attorney Mailing Address: Burnette Shutt & McDaniel, PA, 912 Lady Street, Second Floor

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: kmcdaniel@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 — August 14, 2019

X *Your Signature or Signature of Attorney* — *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):

Name and/or Agency Name	Address	City, State and Zip
SC Dept. of Revenue	300A Outlet Pointe Blvd.	Columbia, SC 29210

FILED
AUG 14 2019
SC ADMIN LAW COURT

Kathleen McDaniel — August 14, 2019

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.

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

RECEIVED
JUL 17 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

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).

---

[1]The erroneous permit and license listed December 1, 2018, as the date of issuance.

[2]The 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

[3]Additionally, 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 $ _____ (applicable **filing fee pursuant to ALC Rule 71**) is being submitted today to the Administrative Law Court via ☐ 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.

068

South Carolina Department of Revenue
Litigation & Appeals

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 23 2019

SC ADMIN. LAW COURT
069

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 **CERTIFICATION OF DOCUMENTS**

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-1018W

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

Foreperson

Det. Ben Purvis, SPD, Prosecutor

RICHARD A. MALLARD
District Attorney
Ogeechee Judicial Circuit

Returned in Open Court and filed in Office
this 3rd day of November, 2014.

Clerk of Superior Court

CERTIFICATE OF CLERK
GEORGIA, BULLOCH COUNTY
I HEREBY CERTIFY THAT THE ABOVE OR FOREGOING IS A TRUE COPY OF BAID INSTRUMENT AS SAME APPEARS OF RECORD IN THE OFFICE OF SAID SUPERIOR/STATE COURTS, BULLOCH COUNTY
PAGE
BOOK DAY OF 20
THIS
CLERK, SUPERIOR/STATE, BULLOCH COUNTY, GEORGIA
CLERK, SUPERIOR COURT BULLOCH COUNTY GEORGIA
SEAL

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

Assistant DA

398

PETITIONER'S EXHIBIT

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. Jotter
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:

Grant James Spencer

Counsel for Defendant

This 11th day of October, 2016.

Daphne Jotter
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:

Grant James Spencer

Counsel for Defendant

CLERK, SUPERIOR COURT SEAL BULLOCH COUNTY GEORGIA

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, BULLOCH COUNTY

CASE NO. SU14CR618W

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 ~~LIFE~~
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 CREDIT BACK TO DATE OF ARREST - AUGUST 28, 2014

CT 2) MERGED

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 ~~of~~ TO 1 COUNT OF VOLUNTARY 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, 20 16

Witness/Clerk Superior Court

X _____
Defendant's 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 11th day of October, 20 16.

_____
Judge, Superior Court _____ County

CLERK, SUPERIOR COURT BULLOCH COUNTY GEORGIA SEAL

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

SC-6 Final Disposition Felony Confinement Sentence

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): 88396359962
DOB: 07/21/1994
Ga. ID#:4280498J

FILED
BULLOCH COUNTY
CLERK'S OFFICE
2016 OCT 17 PM 1:51
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, Nolo, Nol 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

CLERK SUPERIOR COURT SEAL BULLOCH COUNTY GEORGIA

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

Statesboro Police Department

25 West Grady Street
Statesboro, Georgia 30458
Phone: [redacted]

Scott P. Brunson
Police Major

Wendell Turner
Public Safety Director

RECEIVED
MAR 28 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

To : Director Wendell B. Turner
Major Scott P. Brunson
From : Detective Lieutenant Robert W. Bryan
Date : 09/03/14
Ref : Rude Rudy's

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 breech 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.

PETITIONER'S EXHIBIT

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.

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Statesboro Police Department
25 West Grady Street
Statesboro, Georgia 30458
Phone: [redacted]

Scott P. Brunson
Police Major

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 breech 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.
- was furnished Alcohol by bartenders (Julian Buchanan Cowart and Taylor Burroughs) and Grant Spencer who obtained it from the bartenders of Rude Rudy's is 18 years of age. (During my interview with he admitted to consuming at least 7 alcoholic beverages by his own admission this night at Rude Rudy's.)
- 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 he admitted to consuming 5 or more alcoholic beverages by his own admission

PETITIONER'S EXHIBIT

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.

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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 <u>does not</u> 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.

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SCDOR ALCOHOLIC
BEVERAGE LICENSING

2013

RUDE RUDY'S
11 UNIVERSITY PLAZA

Call Count	DATE	START TIME	END TIME	CALL TIME (H:MM)	# OF OFC'S	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	ASSISTACNCE 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			

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MAR 28 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

RECEIVED
MAR 28 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

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	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 CRIOMINAL 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

411 080

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	DISPOSITION
33	5/24/2014	1:41 AM	1:46 AM	0:05	1	0.08	INCIDENT REPORT	CRN - 1402904 LOST OR MISLAID
34	6/8/2014	1:43 AM	1:51 AM	0:08	1	0.13	REPORT IN PERSON	SUB GOT PUNCHED NO ACTION TAKEN
35	6/20/2014	11:05 PM	11:06 PM	0:01	1	0.02	LOG	LOG
36	7/6/2014	12:57 AM	1:28 AM	0:31	2	1.03	REPORT IN PERSON	ASSISTANCE RENDERED
37	7/13/2014	1:12 AM	1:35 AM	0:23	2	0.77	REPORT IN PERSON	SUBJECT GOT ASSAULTED - DECUNED A REPORT
38	7/17/2014	2:57 AM	3:05 AM	0:08	3	0.40	REPORT IN PERSON	ALARM CALL - FALSE
39	7/17/2014	2:12 PM	2:25 PM	0:13	1	0.22	INCIDENT REPORT	CRN - 1403943 LOST OR MISLAID
40	7/20/2014	1:09 AM	1:12 AM	0:03	1	0.05	LOG	LOG
41	7/25/2014	12:54 AM	12:54 AM	0:00	1	0.00	REPORT IN PERSON	NOISE - WILL TURN THE MUSIC DOWN
42	7/25/2014	3:35 PM	3:42 PM	0:07	2	0.23	REPORT IN PERSON	ALARM CALL - FALSE
43	7/26/2014	1:13 AM	1:21 AM	0:08	2	0.27	REPORT IN PERSON	INTOXICATED PERSON - ASSISTANCE RENDERED
44	7/27/2014	12:14 AM	1:37 AM	1:23	2	2.77	INCIDENT REPORT	CRN - 1404108 BATTERY/PUBLIC DRUNK/MIP
45	7/27/2014	12:59 AM	1:40 AM	0:41	3	2.05	REPORT IN PERSON	ASSISTANCE RENDERED
46	8/2/2014	1:18 AM	1:28 AM	0:10	1	0.17	BUSY	LOG
47	8/2/2014	2:05 AM	2:41 AM	0:36	2	1.20	REPORT IN PERSON	SUSPICIOUS VEHICLE - NO ACTION TAKEN
48	8/9/2014	5:38 PM	6:02 PM	0:24	1	0.40	INCIDENT REPORT	CRN - 1404369 LOST OR MISLAID
49	8/14/2014	9:46 AM	10:37 AM	0:51	1	0.85	INCIDENT REPORT	CRN -1404449 SUSPICIOUS ACTIVITY
50	8/27/2014	5:19 PM	5:20 PM	0:01	1	0.02	REPORT IN PERSON	ALARM CALL - FALSE
51	8/28/2014	12:43 AM	2:24 AM	1:41	4	6.73	INCIDENT REPORT	CRN - 1404773 AGGRAVATED BATTERY
52	8/28/2014	11:36 AM	12:54 PM	1:18	1	1.30	BUSY	LOG
				Total Man Hours		57.85		

RECEIVED
MAR 28 2019
SCDOR ALCOHOLIC
BEVERAGE LICENSING

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

SUE HEAPE
Notary Public, Georgia
Bulloch County
My Commission Expires
September 05, 2023

PETITIONER'S EXHIBIT
6

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.

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 8 DAY OF SEPTEMBER, 2014 IN STATESBORO, GEORGIA.

Sue Starling signed w/ express permission by J. Alvin Leaphart City Attorney.

Sue Starling, City Clerk

THE MAYOR AND CITY COUNCIL OF STATESBORO
STATE OF GEORGIA

STATESBORO DEPARTMENT OF PUBLIC SAFETY, Petitioner	*	Administrative Hearing September 24, 2014
v.	*	
JONATHAN EARL STARKEY, as owner and licensee of Rude Rudy's, Respondent	*	

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	*	Administrative Hearing September 24, 2014
v.	*	
JOHN EARL STARKEY, as owner and licensee of Rude Rudy's, Respondent	*	

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 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.



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 foward 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

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

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.

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

RECEIVED E003710
MAR 14 2019

SLED Case #: 54-19-0907
Informant Control #: Agent Bar
Lab File #: SOBRIETY ALCOHOLIC BEVERAGE LICENSING

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 & NO/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 Bar Date: 2-28-19

Submitted By:
Keith Dorman (Print Name) (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

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

SLED AEU SEIZURE REPORT

SLED CASE NUMBER 54-19-0307 CASE AGENT D

SUMMONS NUMBER: _____

DATE OF SEIZURE 2-28-19 TIME _____

1. Registered owner(s) and name of operator, address in control of property at time of seizure: Student Hall 161 Stadium and Food 161 Sloan St. Clemson SC

If licensed DBA: _____

AI # _____ LIC # _____

2. Description of property seized: One 16 oz Slot Aluminum can (Bud Light) one sample of contents of beer can, one receipt of purchase for the beer.

3. Current location (storage) of the property seized: Little Mount

4. Chain of Custody

Relinquished by	Received by	Date
[illegible]	[illegible]	3/5/19

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: 29968 -A

White: Violator's Copy Green: Headquarter's Copy Yellow: Agent's Copy Pink: Warehouse's Copy Gold: Transfer's Copy

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING

SLED AEU SEIZURE REPORT

SLED CASE NUMBER 54-19-0307 CASE AGENT

SUMMONS NUMBER:

DATE OF SEIZURE 2-28-19 TIME 10:32

1. Registered owner(s) and name of operator, address in control of property at time of seizure:
Alvin Terry
101 Storm Ct Clinton, SC

If licensed DBA:

AI # LIC #

2. Description of property seized: See Clinton City Inventory Sheets.

3. Current location (storage) of the property seized: Clinton Police Dept. Secure Evidence Room

4. Chain of Custody

Relinquished by	Received by	Date
		2-28-19

5. Case disposed on: (date)

6. Evidence destroyed on: / Place:
(date) (time)

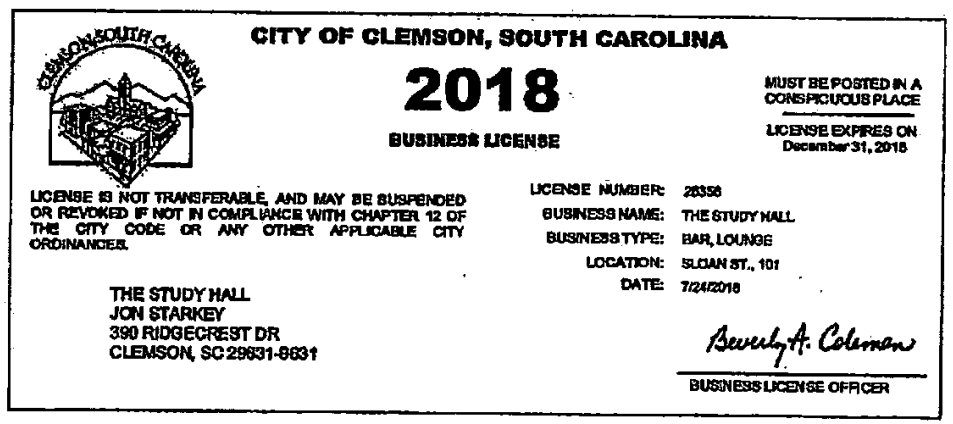
(witness) (witness)

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.

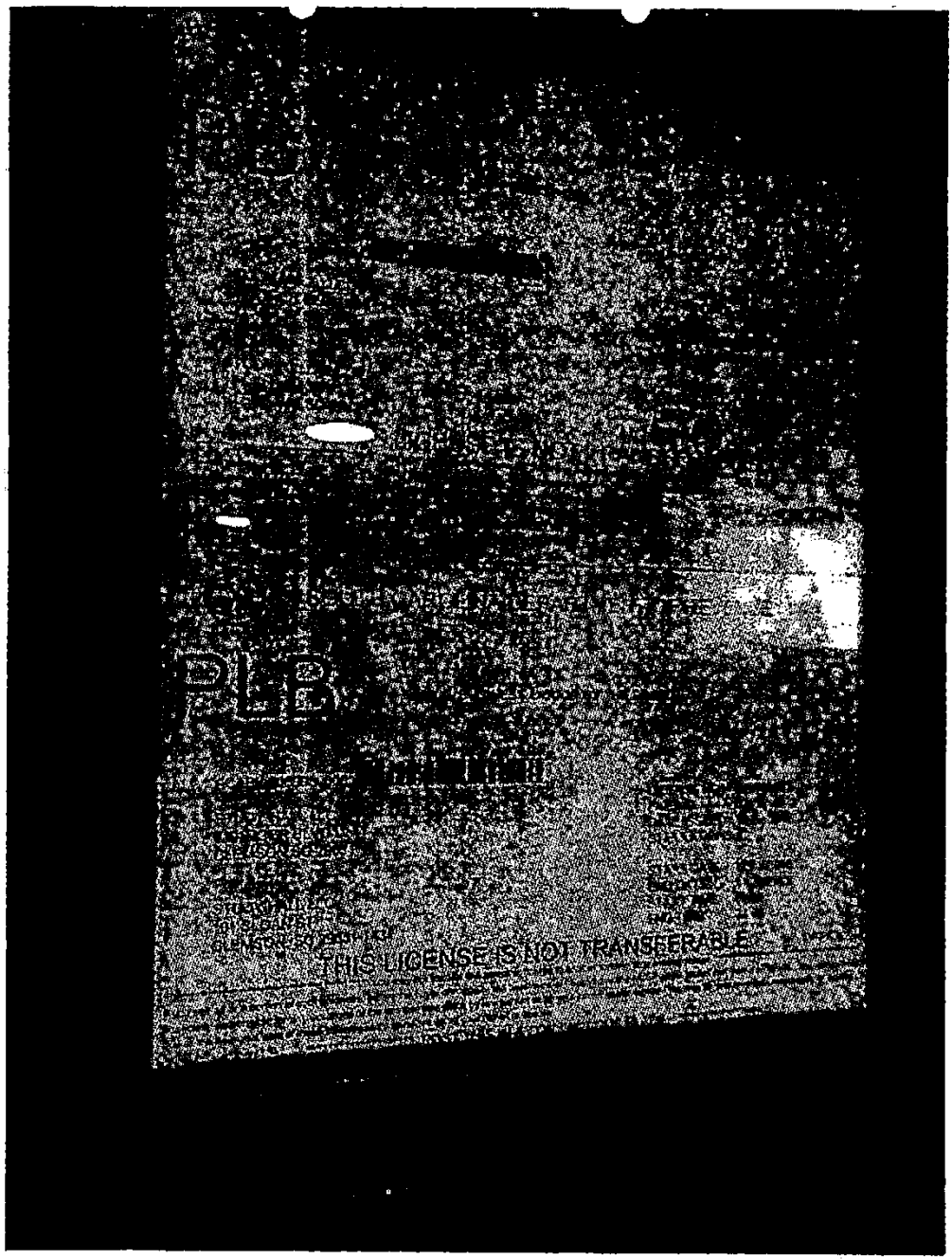
THE STUDY HALL
JON STARKEY
390 RIDGECREST DR
CLEMSON, SC 29631-9631

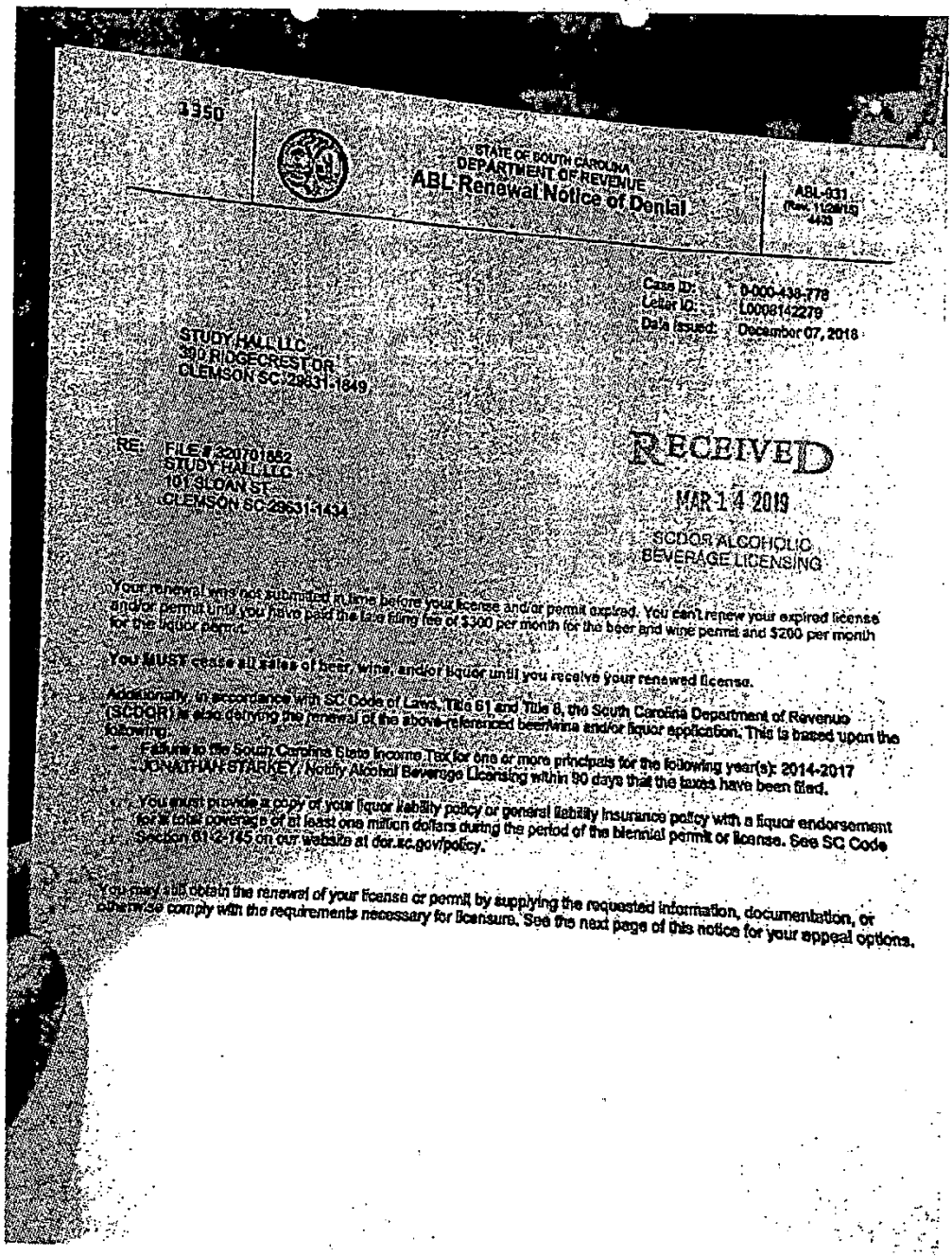
LICENSE NUMBER: 26356
BUSINESS NAME: THE STUDY HALL
BUSINESS TYPE: BAR, LOUNGE
LOCATION: SLOAN ST., 101
DATE: 7/24/2018

Beverly A. Coleman

BUSINESS LICENSE OFFICER

RECEIVED
MAR 14 2019
SCDOR ALCOHOLIC BEVERAGE LICENSING


THIS LICENSE IS NOT TRANSFERABLE



4350

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ABL Renewal Notice of Denial

ABL-631

Case ID: D-000-438-778
Letter ID: L0008142279
Date Issued: December 07, 2018

STUDY HALL LLC
390 RIDGECREST DR
CLEMSON SC 29631-1849

RE: FILE # 321701882
STUDY HALL LLC
101 SLOAN ST
CLEMSON SC 29631-1434

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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.

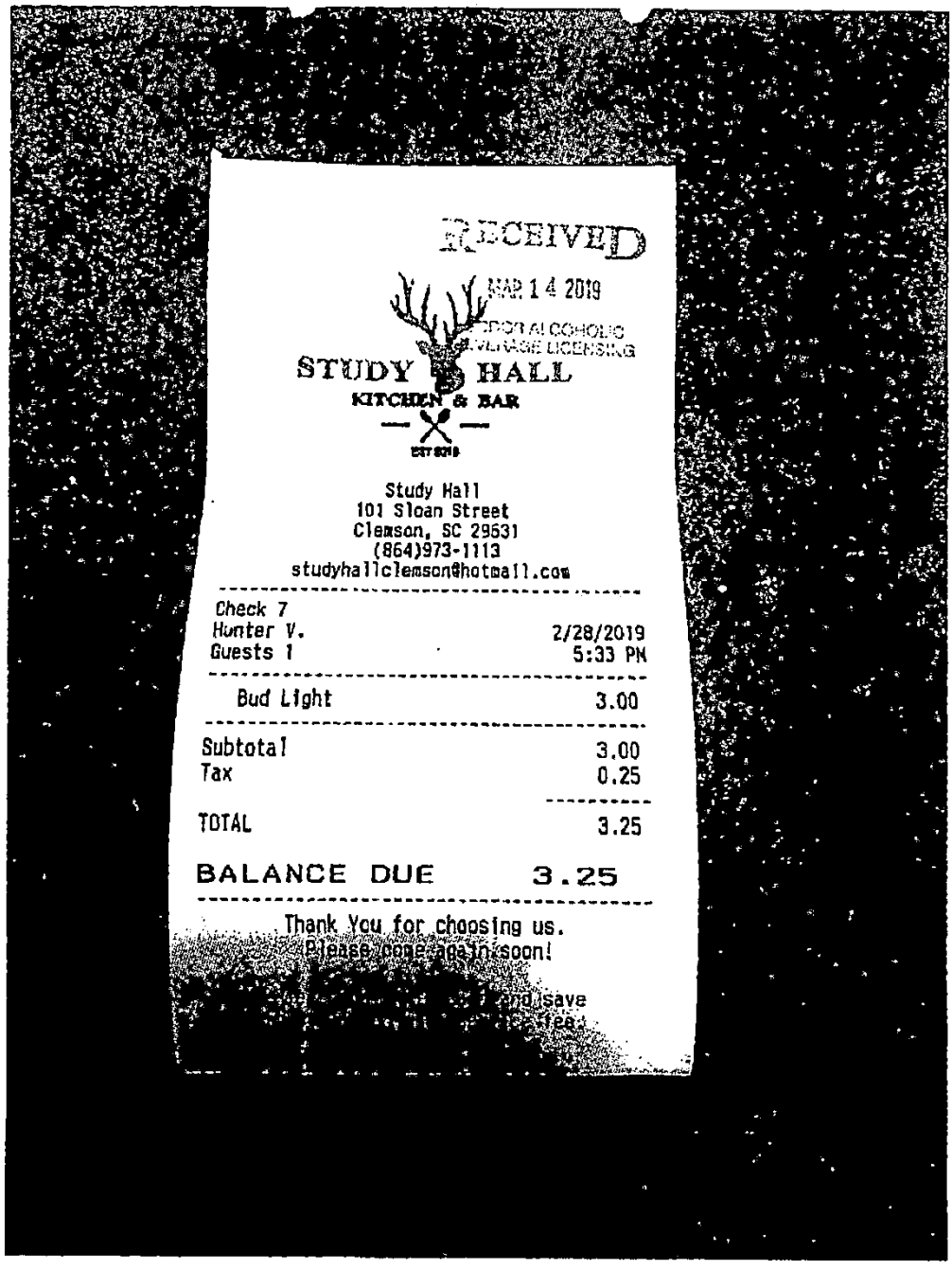
You MUST cease all sales of beer, wine, and/or liquor until you receive your renewed license.

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 all sales 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.



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SPORTAL COHOLIC
BEVERAGE LICENSING

STUDY HALL
KITCHEN & BAR
EST 2018

Study Hall
101 Sloan Street
Clemson, SC 29631
(864)973-1113
studyhallclemson@hotmail.com

Check 7
Hunter V.
Guests 1

2/28/2019
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!

nd save
ree!


BUD LIGHT
BUD LIGHT
RECEIVED

Return

I received the attached Search Warrant dated February 28 2019 and have executed it as follows:

On Feb 28 2019 at 5:35 o'clock P M, I searched _____

and/or Study Hall Restaurant and Bar

I left a copy of the warrant with Alvin Dark - Manager

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SDDOR ALCOHOLIC BEVERAGE LICENSING

together with a receipt for the items seized.

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 Clinton Police Department.

This inventory was made in the presence of Detective Alvin Brown
AND Special Agent Keith Barman

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 Judge)

_____
(Signature of Officer Executing Search Warrant)

	2	Jose Cuervo Especial
	1	Deep Eddy Ruby Red
	6	Deep Eddy Orange
	3	Dek Kuyper Blue Curacao
	1	Dekkuyper Melon
10	3	Dekkuyper Pucker Island Punch
	1	Rumple Minze
	1	Patron Silver
	1	Don Julio Blanco
	3	Don Julio Anejo
	4	Dekuyper Creme de cocoa
	2	Dekuyper Watermelon
	2	Dekuyper Strawberry
	3	Woodford Reserve
37	4	Southern Comfort
	3	Dekuyper Sour Apple
	2	Dekuyper Razzmatazz
	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	Grey Goose Le Citron
	24	Budweiser

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SONOR ALCOHOLIC BEVERAGE LICENSING

2

12	1 Liter Montezuma Triple Sec	
3	Deaths Door Gin	
3	Bombay Sapphire	
1	Pinnacle Cherry	
1	Deep Eddy Lemon	
3	Tanqueray Imported	
7	Bacardi Raspberry	
1	Bacardi Dragonberry	
1	Jaurez Tequila Silver	
1	Crown Royal Apple	
5	Malibu Caribbean Rum w/ Passion Fruit	
4	Malibu Black Gold Caribbean Rum w/ Coconut	
3	Gosslings Black Seal Bermuda Black Rum	
4	Kahlua	
6	Rum Chata Horchata Con 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 Macanes	

RECEIVED
MAR 14 2013
BEVERAGE LICENSING

3

	13	Dakota Pale Ale
	1	Fleischmanns
	13	GVL IPA
38	11	Sweet Josie Brown Ale
	14	Hi-Wire hi-pitch
	12	New Belgium Citradelic
	12	Samuel Adams Boston Lager
	15	Stella Artois
	24	Not Your Father's Root Beer
	18	Shoe IPA
	21	Keuser 312
	21	Guinness Draught Stout
	10	IPA Grease
	2	Shock Top
	24	Amber
	13	Quittin' Time
	5	White Zombie
	13	New Belgium Fat Tire

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APR 16 2019
BOONE ALCOHOLIC BEVERAGE LICENSING

4

Upstairs Bar Pg. 5

X3 Crown Royal Whisky
X2 Crown Royal Vanilla Whisky
X2 Deep Eddy Ruby Red Vodka
X1 Johnnie Walker Red Label Scotch
X1 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

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SEDR ALCOHOLIC
BEVERAGE LICENSING

5

Back Room behind Front bar

X1 boxes - 12 1 Liter Fleischmann's Vodka
X2 boxes 12 1 liter Montezuma Tequila
X1 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

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DENVER ALCOHOL 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 - DeepEddy Orange (Orange Flavored Vodka) - open
X1 - Don Julio Tequila -open
X1 - Montezuma 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 - Canadien 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 Rosé Vodka

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SCDOR ALCOHOLIC BEVERAGE LICENSING

7

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
X4 - Canadien 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 Goldschläger 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

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BOSTON ALCOHOLIC BEVERAGE LICENSING

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BOARD OF LIQUOR & GAMING
OFFICE

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 - open
X3 - Jose Cuervo Especial Blue Agave Gold Tequila - open
X4 - Jack Daniels Tennessee Whiskey - open
X2 - Dekuyper Crème 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
X3 - Fireball Cinammon Whiskey - open
X1 - Fireball Cinammon 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 - De kuyper Pucker Watermelon Shnapps - open
X2 - Silver Patrón Tequila - open
X2 - Dekuyper Strawberry pucker Schnapps - open
X2 - De kuyper Pucker Sour Apple Schnapps - open
X2 - Dekuyper Melon schnapps

9

Front booths (front bar) shooters

X2- Dekuyper Rucker Island Punch - open
X2- Dekuyper Blue Curacao Liqueur - open
X3- Rum Chata Caribbean Rum
X2- Jagermeister Liquer
X3- Bailey Irish Cream
X2- Kahlua Rum + Coffee liqueur
X2- Dekuyper Buttershots Butterscotch Schnapps
X31- Bud Light beer (aluminum)
X4- White Claw Blacks Cherry Hard Seltzer
X30- Coors Light beer (aluminum)

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MAR 14 2023
LIQUOR ALCOHOLIC BEVERAGE LICENSING

10

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NOV 14 2013
SPECIAL DESKTOP

Back Bar Pg. 1

X45 - Coors Light Calum.inum)
X21 - Miller Lite Calumin um
X35 - Bud Light beer Calum.inum)
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
X11 - 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 Canadien whisky
X1 - Crown Royal Vanilla whisky
X1 - Crown Royal Regal Apple whisky
X2 - Jose Cuervo Gold Tequila
X1 - Dekuyper Buttershots Butterscotch Schnapps
X1 - Canadien LTD whisky
X6 - Montezuma Aztec Silve Tequila
X3 - Montezuma Triple Sec Liqueur

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BOSTON ALCOHOLIC BEVERAGE LICENSING

Back Bar Pg. 2

x4 - Fireball Cinnamon Whiskey
x1 - Bailey's Irish Cream
x2 - Kentucky Gentlemen Bourbon Whiskey
x12 - New Belgium Citra delic 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 Bock Beer
x6 - GVL IPA
Cabinets x2 - Tito's Handmade Vodka
x1 - De Kuyper Buttershots 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 1 Three Olives Vanilla Vodka
x 3 Three Olives Rosé Vodka
x 2 Three Olives Cucumber Lime Vodka

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1/3 1 4 2019
STATE OF ALCOHOLIC
BEVERAGE LICENSING

Back Bar Pg. 3

RECEIVED 13
MAR 14 2013
SOBER ACADEMICS
BEVERAGE LICENSING

X1 - Tanqueray London Dry Gin
X2 Canadien LTD Whisky
X1 - Bailey's Irish Cream
X2 - Dekuyper Creme De Cocoa
X2 - Dekuyper Razzmatazz
X2 - Dekuyper Strawberry Pucker Schnapps
X2 - Dekuyper Pucker Sour Apple Schnapps
X2 - Dekuyper Melon Liqueur
X2 - Kahlua 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 Pucke
~~X1 Dekuyper Sour Apple~~ Pucker
X1 - Dekuyper Watermelon Schnapps
X25 - Budweiser Beer (Caluminum)
X1 Grand Marnier Cognac + 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

14

Back Bar Pg. 4

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SCCOR 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 Crown Royal Whisky
X2 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

15

Upstairs Bar Pg. 4

X5 Sweet Water 420 Ale
X7 Tecate Cans
X6 Yuengling Lager
X5 Hi-Wire hi Pitch IPA
X10 Goose IPA
X10 Dale's Pale Ale
X12 ~~X13~~ 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 Liquer, Dekuyper
X1 Dekuyper Pucker Island Punch
X1 Dekuyper Melon Liqueur
X1 Dekuyper Pucker Sour Apple Schnapps
X1 Dekuyper Butterscotch Buttershots Schnapps
X1 Dekuyper Strawberry Pucker Liquer
X1 Dekuyper Creme de Cocoa Liquer
X1 Dekuyper Razzmatazz Liquer
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~~ Royal Regal Apple whisky

Upstairs Bar Pg. 2

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 Cinammon 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 Karma Tequila
X2 Goldschlager schnapps
X2 Jameson Irish whiskey

17

Upstairs Bar Pg. 3

X1 DeepEddy Orange Vodka
X5 Canadien 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 Josie Brown
X10 Samel Adams Boston Lager
X14 Palmetto Brewing Company Brown
X5 Shock Top Beer
X1 Sierra Nevad Hazy Little thing IPA
X1 Tecate Beer
X3 Babe Rosé
X7 Blue Moon Belgian White beer
X1 Woodchuck Hard Cider
X1 Michelob Ultra Beer
X17 Budweiser beer Caluminum
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 I PA
X12 Quittin' Time Helles Bock Beer

18

RECEIVED
MAR 14 2018
SCDOR ALCOHOLIC BEVERAGE LICENSING

Upstairs Bar Pg. 1

	X2 kegs Bud Light
	X1 box Hi-wire hi pitch IPA (4 6packs)
	X1 box (4 6packs) Samuel Adams Boston Lager
Six Packs	X2 GVL IPA
Six Packs	X2 Lone Rider Sweet Josie Brown Ale
Six Packs	X Quittin' Time Helles Bock Beer
	X3 boxes 12 11.2 FlOz Guiness Draught Stout
Six Pack	X7 Not Your Father's Root Beer Ale
Six Packs	X Palmetto Brewing Company Amber
Six Pack	X33 Samuel Adams Boston Lager
Six Packs	X6 Hi-Wire hi-Pitch Mosaic IPA
	X3 Boxes each (6packs) New Belgium Citradelic IPA
Six Pack	X New Belgium Citradelic IPA
	X4 boxes 1/6 pack Budweiser bottels
	X1 Six + Twenty Carolina Cream Rum
	X11 Eight Point IPA
	X1 box 4 cans Babe Rose'
	X2 box 4 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
	X Barton Rum
	X1 Tito's Handmade Vodka
	X5 Mr. Boston Peach Schnapps

F. OLIS

The Study Hall

Daily Group Sales for 12/1/2018-12/31/2018

created at 2/26/2019 8:26:19 PM

OPEN CHECK AMOUNT (320.00)

	Units	Sales	% Sales	Breakfast 08:00am - 11:00am Units	Breakfast Sales	Lunch 11:01am - 04:00pm Units	Lunch Sales	Dinner 04:01pm - 03:00am Units	Dinner 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	409.22		0	0.00	11	52.19	51	280.55		
Food	456	2,470.00	8.02	0	0.00	145	677.10	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	1988	6,451.21	88	-69.69
Wine	5	18.75	0.06	0	0.00	2	7.50	3	11.25	0	0.00
Liquor	7173	18,397.99	59.78	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	30,783.97	100.00	0	0.00	381	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		611.25 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		

RECEIVED
MAR 14 2019
BOROUGH LICENSING
BEVERAGE LICENSING

Alvin Dark

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	18.42	Cash Discount	122	90.00
Comp Starkey	2	62.00	Comp Justin	20	220.39	Comp Band	1	16.00
Voids								
Incorrect Order	50	256.28	Changed Mind	1	3.95	Took Too Long	5	32.50
Walked Out	1	4.00	Server Error	25	84.50	Wrong Table	1	8.25
Training	2	10.50	Cook Error	5	10.24			

The Study Hall

Daily Group Sales for 1/1/2019-1/31/2019

created at 2/28/2019 8:27:51 PM

OPEN CHECK AMOUNT (469.79)

	Units	Sales	% Sales	Breakfast 06:00am - 11:00am Units	Breakfast Sales	Lunch 11:01am - 04:00pm Units	Lunch Sales	Dinner 04:01pm - 03:00am Units	Dinner 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	1109	6,668.24	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	14,568.36	19.81	37	161.00	247	909.40	4207	13,517.96	108	-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	73,659.36	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	19,091.59									
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	3,088.91	+								
Discover	237	2,590.38	+								
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 88,661.32			

Alvin Dark

Order Types											
CC Bar	7765	62,564.87	Cash Sale			2649	17,071.74				
Discounts (581.93)											
Employee 30%	22	91.22	Police 30%			1	7.09	Regulars 30%		9	34.88
Cash Discount	220	162.76	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	39.14
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	6.49
POS Test	20	102.73	Did Not Like			1	8.50	Out of Stock		3	11.75
Cook Error	4	28.35									

POS

The Study Hall

Daily Group Sales for 2/1/2019-2/28/2019

created at 2/28/2019 8:29:06 PM

OPEN CHECK AMOUNT (330.45)

	Units	Sales	% Sales	Breakfast 06:00am - 11:00am Units	Breakfast Sales	Lunch 11:01am - 04:00pm Units	Lunch Sales	Dinner 04:01pm - 03:00am Units	Dinner 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	435	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	14396	36,993.45	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		43,890.95 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			

Alvin Dark

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	69.29
Wrong Table	2	12.50	Training	3	11.00	POS Test	1	0.01
Out of Stock	3	11.40						

456

STATE OF SOUTH CAROLINA

COPY

County of PICKENS

SEARCH WARRANT

Date February 28, 2019

Officer SA Keith Dorman

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.

MAR 14 2019

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 Teresa 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.
(Circuit Town)

Teresa Daniel (L.S.)
(Signature of Judge)

February 28, 2019
(Date)

SCCA/513 (3-78)

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS } AFFIDAVIT

Personally appeared before me, one Special Agent Keith Durman 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.

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 Reveune. 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.

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 [redacted]
Phone: SSN:
Sex: M Race: W Height: 6-4 Weight: 250
DL State: GA DL#: 054779818
DOB: 02/03/1977 Agency ORI#: SC0390200
Prosecuting Agency: CITY OF CLEMSON / SLED
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.

_____ (L.S.)
Signature of Judge

Date: _____
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

RECEIVED
MAR 14 2019
SCHOOL OF CODE
ENFORCEMENT

AFFIDAVIT

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

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 6:53 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

Affiant's Address 1198 TIGER BOULEVARD / 4400 Broad River Rd
CLEMSON SC 29631 / Columbia, SC 29210
Affiant's Telephone (864) 624-2000 / 803-737-9000

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

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: 6050

Judge's Address 1250 TIGER BLVD. SUITE 3
CLEMSON SC 29631
Judge's Telephone 864 653-2064
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Case: 2019A3920200066

460

Page 37

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. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
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Telephone: _____

Name: _____
Address: _____
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Name: _____
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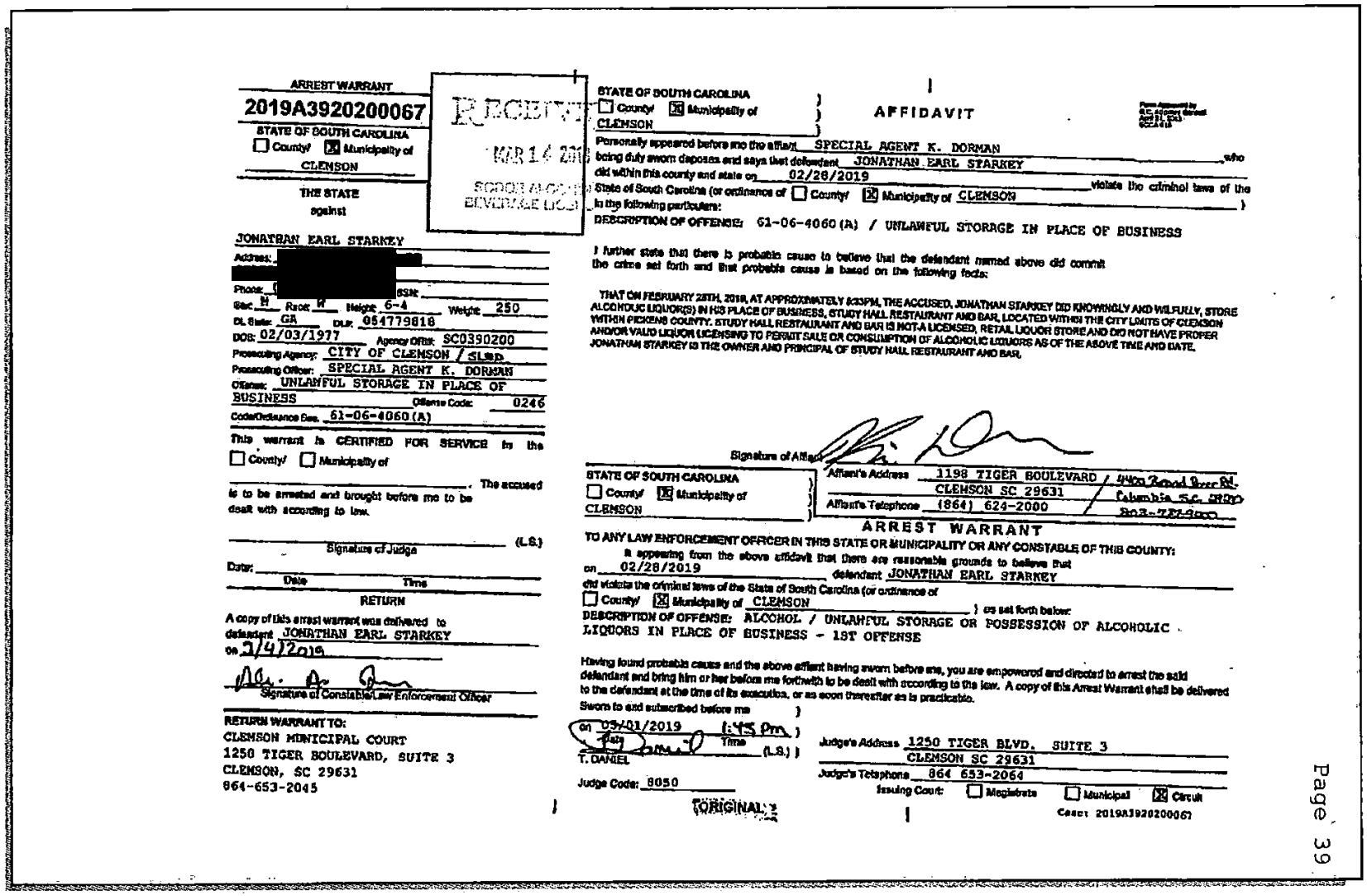
Name: _____
Address: _____
_____
Telephone: _____

CODEFENDANTS

_____

_____

SUPERIOR COURT
CLERK'S OFFICE
FILED
2017 FEB 23
CLERK



ARREST WARRANT

2019A3920200067

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

THE STATE
against

JONATHAN EARL STARKEY

Address: [redacted]

Phone: [redacted] SS#:

Sex: M Race: W Height: 6-4 Weight: 250

DL State: GA DL#: 054779818

DOB: 02/03/1977 Agency ORI#: 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.

_____ (L.S.)
Signature of Judge

Date: _____
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

RECEIVED
MAR 14 2019
SCDOR ALCOHOL BEVERAGE LICE

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

AFFIDAVIT

Personally appeared before me the affiant SPECIAL AGENT K. DORMAN being duly sworn deposes and says that defendant JONATHAN EARL STARKEY who 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 8:33PM, 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

Affiant's Address 1198 TIGER BOULEVARD / 440 Broad River Rd.
CLEMSON SC 29631 / Columbia, SC 29210
Affiant's Telephone (864) 624-2000 / 803-787-6000

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
CLEMSON

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
T. DANIEL (L.S.)

Judge Code: 8050

ORIGINAL

Judge's Address 1250 TIGER BLVD. SUITE 3
CLEMSON SC 29631
Judge's Telephone 864 653-2064
Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

Case: 2019A3920200067

Page 39

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. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
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Telephone: _____

Name: _____
Address: _____
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Telephone: _____

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Name: _____
Address: _____
_____
Telephone: _____

CODEFENDANTS

_____

_____

MAR 14 2013

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

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: Study Hall LLC

BUSINESS ADDRESS: 101 Law St. Clinton SC 29631

MAILING ADDRESS IF DIFFERENT: 390 Wilcox St. Clinton SC

LICENSE NO: 32070852 24631

PLB BO BW BL SC SB

BUSINESS NAME: Study Hall LLC

OFFENSE: Sale of Liquor During Prohibited Hours

STATUTE	REGULATION
61-6-1910(17)	

DATE	TIME	AI NO.
10/13/19	12:55 AM	

ASSISTING OFFICERS: Ofc. Sisco

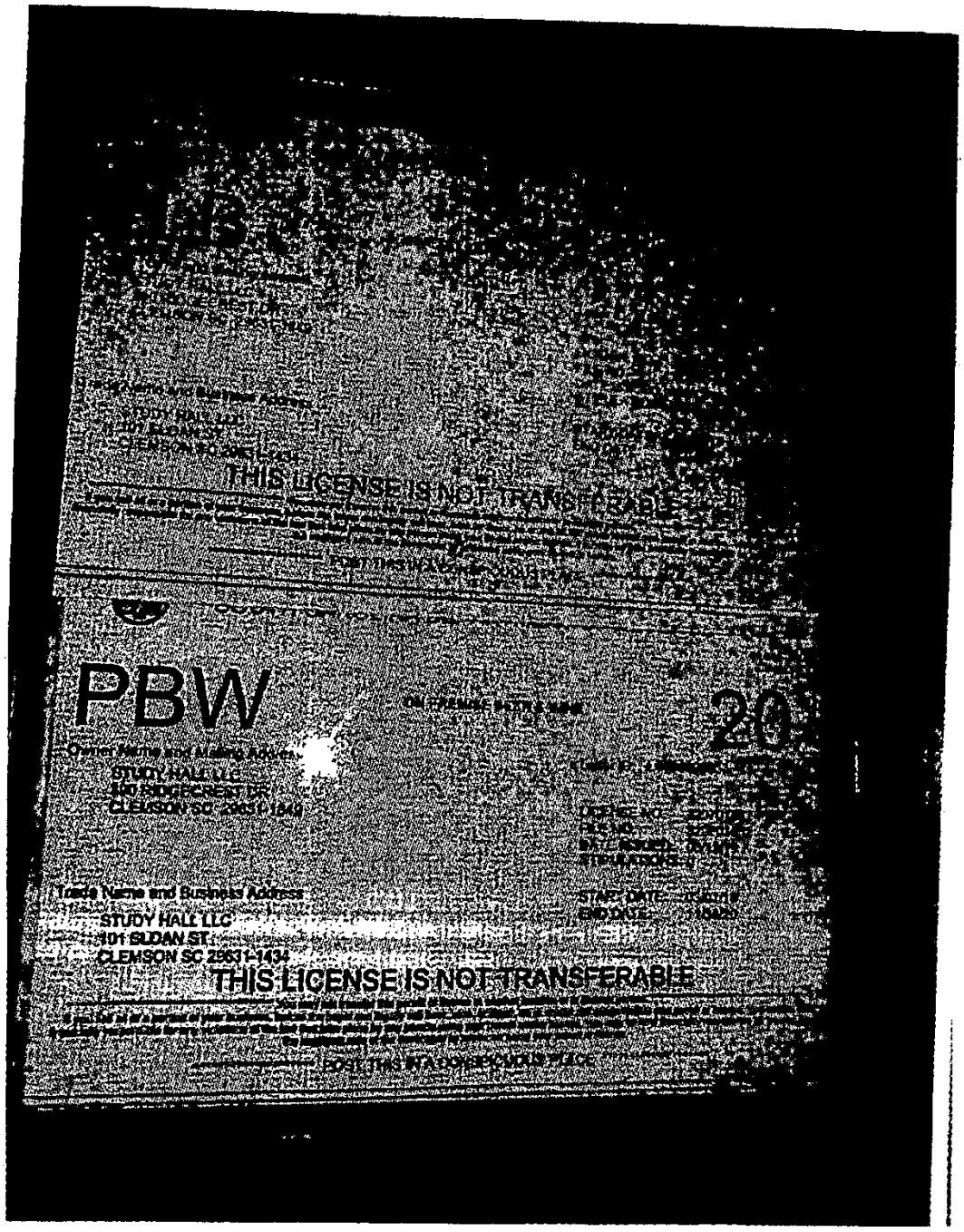
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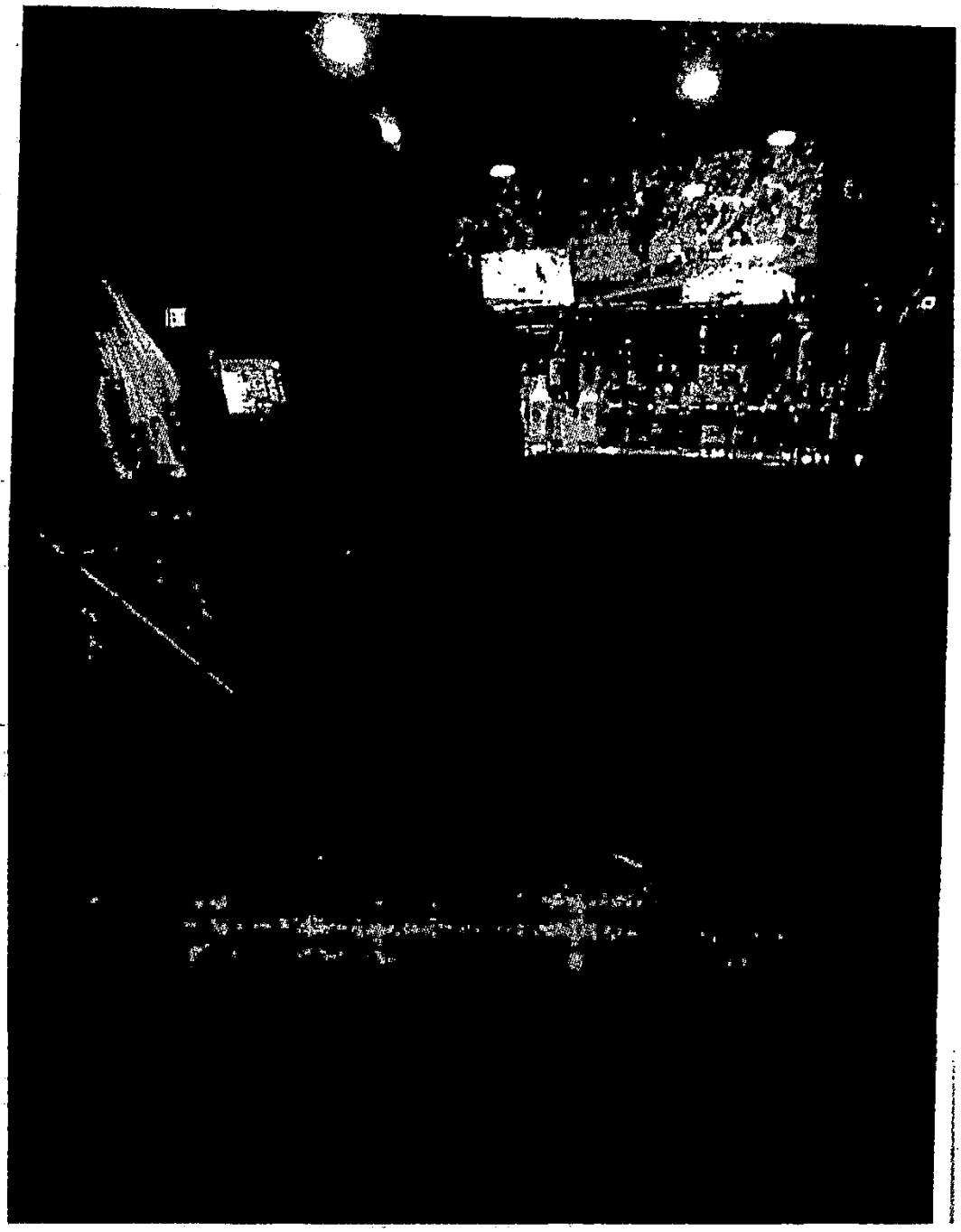
SUMMONS ISSUED

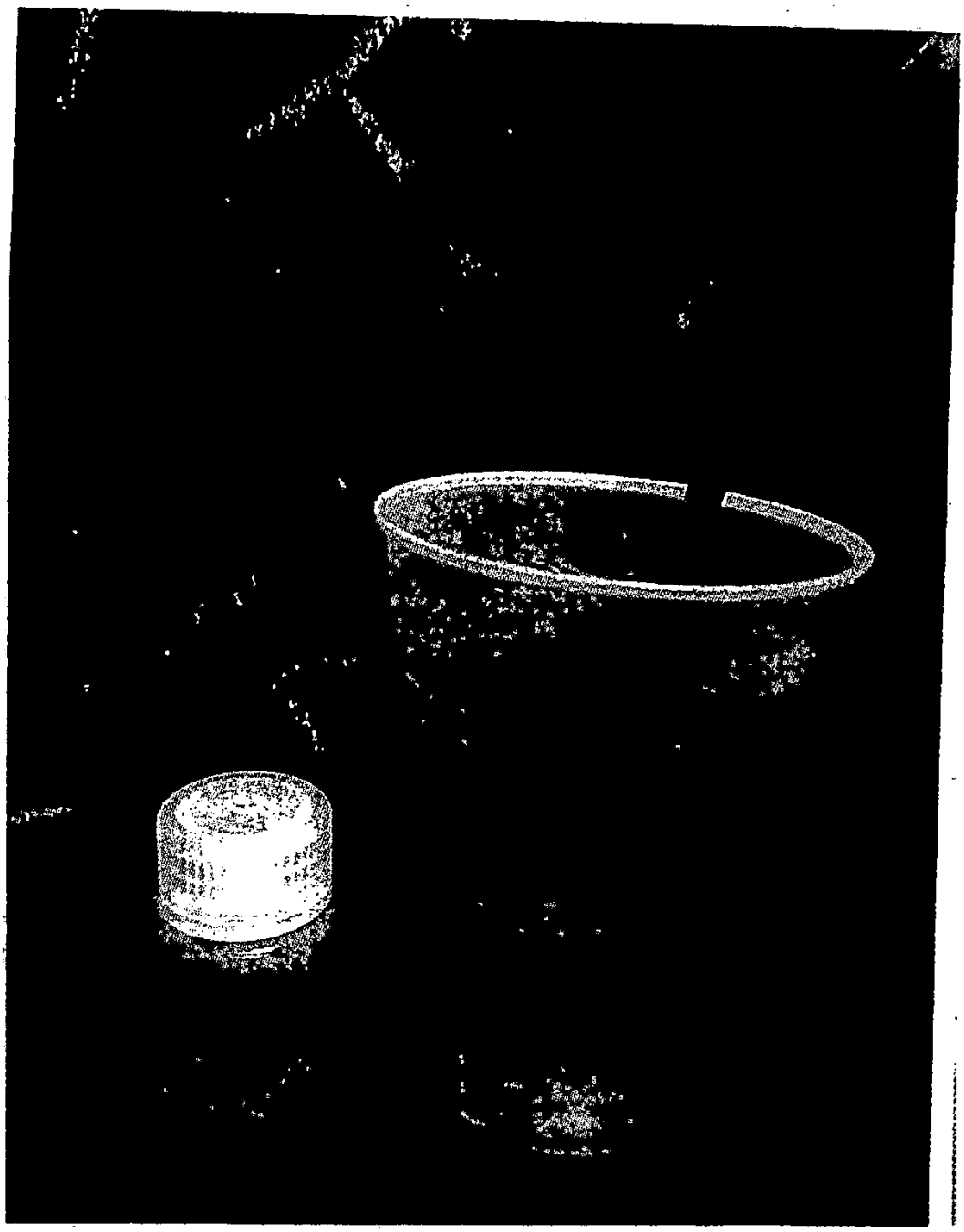
AGENT: Osman NO. 977

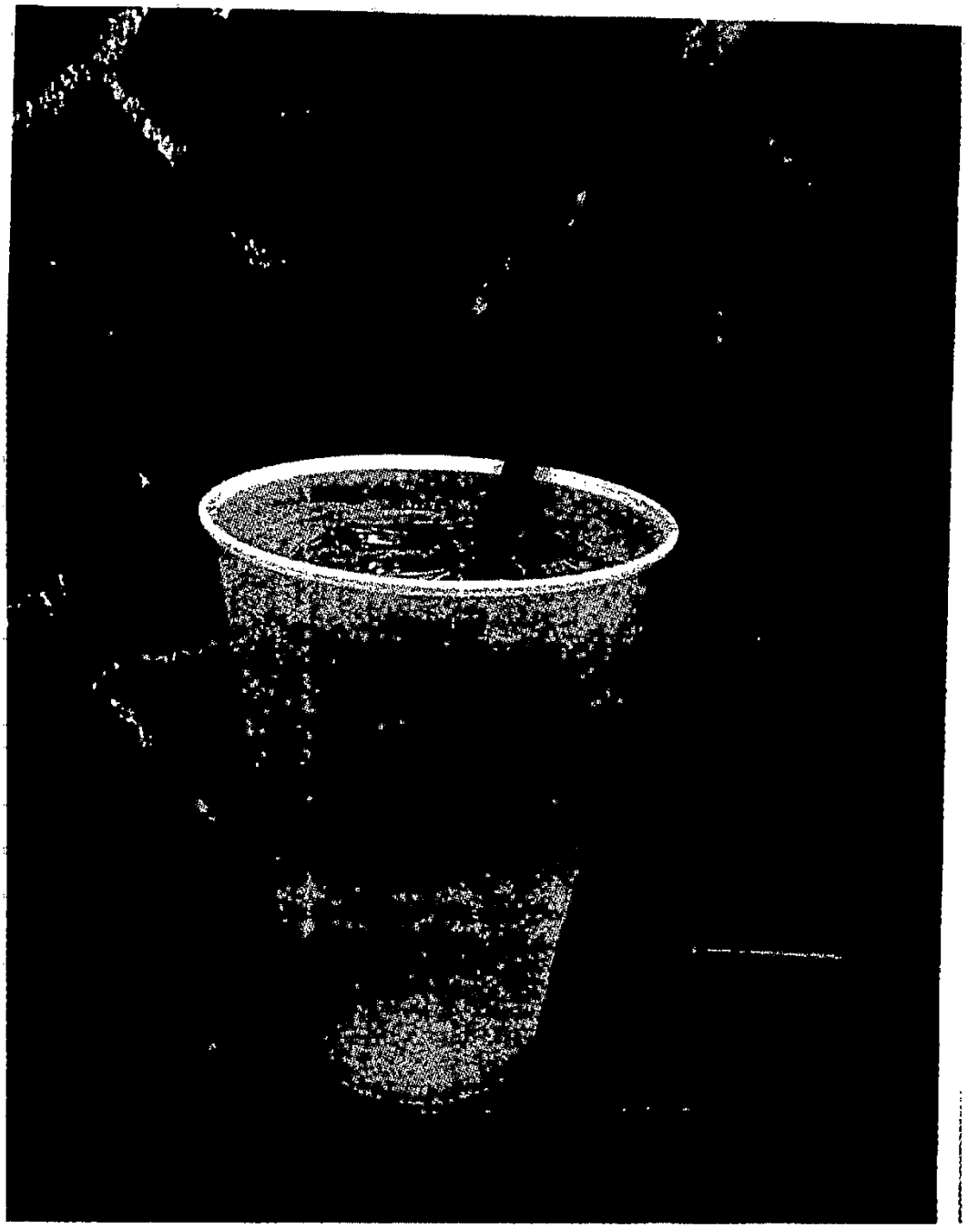
SIGNATURE OF LICENSEE OR OPERATOR: X

CASE NO.:	DATE:	OFF. CODE:
SL-19-1343	10/13/19	304


PBW
Owner Name and Mailing Address
STUDY HALL LLC
100 RIDGECREST DR
CLEMSON SC 29631-1849
Trade Name and Business Address
STUDY HALL LLC
101 SUDAN ST
CLEMSON SC 29631-1434
THIS LICENSE IS NOT TRANSFERABLE
20







E004873

SLED Case #: 54-19-1343

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 Tortorello (Print Name) Tiffany Tortorello (Signature)

Identification #: Agent Buy Date: 10/13/19

Submitted By:

Keith Dorman (Print Name) (Signature) 10079158 (Employee #)

Witnessed By:

Alvin A. Brown Clemson PD (Print Name) Alv. 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 10/13/19 TIME 12:35 AM

1. Registered owner(s) and name of operator, address in control of property at time of seizure
Study Hall LLC,
101 Sloan St. Clemson SC 29631

If licensed DBA: Study Hall LLC

AI# _____ LIC# 32070185 2

2. Description of property seized: (1) sample of contents of Vodka Bc Bull mixed drink, empty plastic cup containing co of mixed drink, (1) over 21 wristband

3. Current location (storage) of the property seized: With agent

4. Chain of Custody

Relinquished by	Received by	Date
C Bertorello		10/13/19

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: 30921

INSPECTION CASE # 54-19-1319
CASE # 54-19-1343
STAT CODE 2000

TIME 12:35 AM
DATE 10/12/19
COUNTY # 39
AGENT # 927

ALCOHOL
INSPECTION REPORT

LOCATION NAME Study Hall
ADDRESS 101 ~~College~~ Main St Ave, Clemson SC 29631
LICENSEE NAME Study Hall LLC

TYPE OF BUSINESS

- [ ] Convenience Store / Gas Station
- [ ] Restaurant
- [x] Bar / Tavern
- [ ] ABC
- [ ] Other
- [ ] General Merchandise
- [ ] Grocery Store
- [ ] Convenience Store
- [ ] Drug Store

LICENSE # 32070852 - PLB
LICENSE # - PBW
LICENSE #
RETAIL LICENSE #

SALE COMPLETED YES [x] 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 (x) M ( ) F
CLERK'S RACE ( ) Black (x) White ( ) Hispanic ( ) Other
owner
SUMMONS TICKET #

COMMENTS

10/07/13

ALCOHOL STATS

CHARGE: 304 DISTRICT: UPSTATE AGENT #: 927 CHARGE DATE: 10/14/19

LICENSEE: Study Hall LLC

AI OR FILE #: N/A LIC #: 320701852 SUM #: N/A CONF #: 30921-A

S L E D CASE #: 54-19-1343 CROSS REFERENCE #: N/A

TRADE NAME: Study Hall

ADDRESS: 101 College Ave, Clemson, SC

CITY: 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 # ____

AEU-016

SLED 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)

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- ☐ 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 & NO/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 Tortorello (Print Name) Tiffany Tortorello (Signature)

Identification #: Agent Buy Date: 10/13/19

Submitted By:

Keith Dorman (Print Name) (Signature) 10079158 (Employee #)

Witnessed By:

Alan 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. Dumas

SUMMONS NUMBER:

DATE OF SEIZURE 10/13/19 TIME 12:35 AM

1. Registered owner(s) and name of operator, address in control of property at time of seizure:
Study Hall LLC,
101 Sloan St. Clemson, SC 29631
If licensed DBA: Study Hall LLC
AI # LIC # 320701852

2. 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 wristband

3. Current location (storage) of the property seized: With agent

4. Chain of Custody

Relinquished by	Received by	Date
K. Dumas		10/13/19

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: 30921 -A

White: Violator's Copy Green: Headquarter's Copy

806916-002

1350

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 600.00
License Type 2884931-PBW

For Office Use Only
File Number 320701662
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 6985576008 [redacted]

STUDY HALL LLC
849 TIGER BLVD UNIT 403
CLEMSON SC 29631

LICENSE MAILED

2. A. Owner/Corporate Name STUDY HALL LLC Federal ID # [redacted]
(If Liquor Producer Rep., indicate the company you represent)

B. Licensee Jonathan Starkey Social Security # [redacted]
(If Sole Proprietor)

C. Retail Sales Tax License # 039191819 Email Address starkey3@mc.cobra
(REQUIRED)

GREENVILLE
RECEIVED
DEC 1 2016

3. Trade Name (If Applicable) STUDY HALL LLC

4 Business Address 101 SLOAN ST

CLEMSON, SC 296311434

Ownership Type DLLC-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:

DEC 2016

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) 12-1-16 (Date) [redacted] (Telephone number from 8 am to 5 pm)

**61-6-1208: 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

RESPONDENT'S EXHIBIT
12/17

477

525

806916-003

1350

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 6985575008 [redacted]

STUDY HALL LLC
849 TIGER BLVD UNIT 403
CLEMSON SC 29631

LICENSE ISSUED
GREENVILLE, SC

2. A. Owner/Corporate Name STUDY HALL LLC Federal ID # [redacted]
(If Liquor Producer Rep, indicate the company you represent)

B. Licensee _____ Social Security # _____
(If Sole Proprietor)

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

GREENVILLE RECEIVED DEC 1 2016

Ownership Type DLLC-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 late fee 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] 12-1-16 [redacted]
(Signature of applicant) Date Telephone number from 8 am to 5 pm

**61-6-1208: 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

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

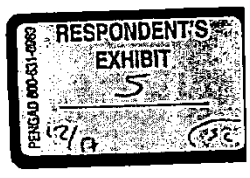
[redacted]

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:_____

STUDY HALL
KITCHEN & BAR
EST 2016



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

September 4, 2019

RECEIVED
SEP - 5 2019

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, Petitioner, vs. Study Hall, LLC, d/b/a Study Hall, LLC, Respondent.	)	DOCKET NO. 19-ALJ-17-0269-CC **AGENCY INFORMATION SHEET and NOTICE OF APPEARANCE** **Contested Case**

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

AUG 27 2020
SC Court of Appeals

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
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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