THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III

DOCKET NO. 12-ALJ-17-0298-CC

South Carolina Department of Revenue,

Respondent,

vs.

C & M Market,

Appellant.

APPELLANT'S FINAL BRIEF

James Griffin
Jeffrey Ryan Heiskell
Lewis Babcock & Griffin, L.L.P.
Post Office Box 11208
Columbia, South Carolina 29211

Attorney for Appellant

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2. DID THE ADMINISTRATE LAW JUDGE ERR IN RULING THAT THE MAGISTRATE'S ORDER THAT THE SWEEPSTAKES VENDING MACHINES VIOLATED S.C. CODE SECTION 12-21-2710 WAS RES JUDICATA WHEN THE APPELLANT WAS NOT A PARTY TO THE PROCEEDING AND WAS DENIED THE OPPORTUNITY TO PARTICIPATE?

3. IS THE ADMINISTRATIVE LAW JUDGE'S FACTUAL FINDING THAT THE APPELLANT KNOWINGLY PERMITTED AN ACT WHICH CONSTITUTES A CRIME UNDER THE LAWS OF SOUTH CAROLINA CLEARLY ERRONEOUS WHEN THE UNDISPUTED EVIDENCE IS THAT APPELLANT HAD BEEN PROVIDED COPIES OF AN ORDER SIGNED BY A KERSHAW COUNTY MAGISTRATE STATING THAT THESE TYPE OF SWEEPSTAKES MACHINES WERE LAWFUL ?

STATEMENT OF THE CASE

On January 26, 2012, two Magic Minutes phone time vending machines were seized by the Kershaw County Sheriff's Office from Appellant's C&M Market located 2105 Hwy 1 South, Lugoff, SC 29078. On this same date, Magistrate William Corbett issued an ex parte order with the caption *Kershaw County Sheriff's Office v. C&M Markette, 2105 Hwy #1, South, Lugoff South Carolina.* This order states that "Pursuant to S.C. Code Ann. § 12-21-2712, the above listed machines were seized on November 1, 2007 from Robert Lee (business) at 4110 Hard Scrabble Road, Columbia, S.C. 29223 by the Plaintiff and brought before me on November 5, 2007 for examination to determine if the machine(s) are prohibited pursuant to S.C. Code Ann. §12-21-2710." Magistrate Corbett concluded that the "machines are in violation of S.C. Code

Ann. § 12-21-2710" and ordered their destruction. *Id.*

Magic Minutes LLC, the manufacturer of the machines seized from C&M Market, requested a hearing to prove that the machines were lawful to operate. Appellant C&M filed a Brief In Support of Legality of the Seized Machines. In addition, C&M appeared through counsel at the hearing, but was not permitted to participate or in any way challenge the Magistrate's ex parte finding of illegality and/or legitimacy of the seizure. Following the hearing, Magistrate Corbett issued an order finding that Magic Minutes LLC did not have standing to address the legality of the seized machines and ruled that "the original Order of Destruction stands." (R. pp. 8-12)

Afterwards, on February 7, 2012 the Respondent South Carolina Department of Revenue (SCDOR) issued a Notice of Intent to Revoke Appellant's beer and wine permit for allegedly having violated S.C. Code Ann. § 61-4-580(5).[1] (R. pp. 38-39) Appellant timely protested the SCDOR's decision on April 20, 2012. (R. pp. 40-98) On May 29, 2012 the SCDOR issued its Final Agency Determination seeking revocation. (R. pp. 418-422) Appellant requested a Contested Case hearing before the Administrative Law Court (ALC) on June 27, 2012. (R. pp. 423-439).

The case was assigned to Administrative Law Judge Ralph King Anderson III (hereinafter "ALJ") who conducted a hearing on Appellant's protest. Prior to the hearing, the SCDOR filed a motion for partial summary judgment asserting that Appellant was bound by the Magistrate's ruling and this ruling established as a matter of law that Appellant violated S.C. Code Ann. § 61-4-580(5). The ALJ addressed the motion at the beginning of the hearing on

[1] Section 61-4-580(5) provides that no holder of a permit authorizing the sale of beer or wine...may knowingly permit any of the following acts upon the licensed premises covered by the holder's permit: permit any act...which constitutes a crime under the laws of the State.

November 6, 2012. The ALJ then granted partial summary judgment to the SCDOR on the issue of whether an unlawful act occurred on the licensed premised and then proceeded to a hearing on the question of whether Appellant knowingly permitted an act which constitutes a crime under the laws of the State. On December 7, 2012, the ALJ issued a written order affirming the SCDOR's determination that Appellant violated S.C. Code Ann. § 61-4-580(5). However, the ALJ reduced the penalty from revocation to a suspension of C & M's beer and wine permit for one hundred twenty (120) days.

On December 17, 2012, Appellant filed a Motion to Alter or Amend the Judgment. Judge Anderson issued an Amended Final Order and Decision on January 4, 2013. In the Amended Final Order, Judge Anderson concluded that the Appellant "clearly permitted machines he knew possessed games of chance upon his premises." (R. p. 30) In addition, the lower court rejected the argument that "the Seized Machines were specifically authorized by S.C. Code §61-4-580 (3)[2]," reasoning:

> Respondent is collaterally estopped from arguing the legality of the Seized Machines, as it had an opportunity to request a hearing on the Magistrate's determination on this issue yet declined to do so.

Id. at 11.

Nevertheless, the ALJ addressed the interplay between Sections 61-4-580(3) and (5) and Section 12-21-2710. The administrative court then concluded that the exception in Section

[2] Section 61-4-580(3) provides that "no holder of a permit authorizing the sale of beer or wine...may knowingly commit any of the following acts upon the licensed premises covered by the holder's permit: permit gambling or games of chance except game promotions including contests, games of chance and prize are present and which comply with the following: (a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service...(b) no purchase payment , entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize and (c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation."

580(3) for games of chance does not apply to vending or slot machines and other devices prohibited by Section 12-21-2710.

FACTS

The South Carolina Department of Revenue issued the Permittee a permit that allowed it to make sales of beer and wine at its location at 2105 Highway #1, Elgin, S.C. On January 26, 2012, Deputies with the Kershaw County Sheriff's Department and agents with the South Carolina Law Enforcement Division seized two Magic Minutes vending machines which sold long distance telephone time being operated within the licensed premises. The Magic Minute vending machines were owned by McDonald Amusements and leased to Appellant. The seized machines were presented to Kershaw County Magistrate Corbett, who issued an ex parte order of destruction.

Before Appellant agreed to allow the Magic Minute machines to be placed in the licensed premises, he was provided a copy of an Order signed by Chief Kershaw County Magistrate Todd. Magistrate Todd ruled that the Magic Minute machines were lawful prior to allowing the machines to be operated in the licensed premised. (R. pp. 172-175). Appellant relied upon Magistrate Todd's Order as well as his knowledge that the Magic Minute machines were being operated in various businesses in the County. Appellant had never been advised by anyone from the Kershaw County Sheriff's Department or South Carolina Law Enforcement Division that the machines were unlawful. (R. p. 371, ll.4-25; p. 372 ll. 1-21; p. 373 ll. 10-25; p. 390, ll. 12-25; p. 391 ll 1-25, p. 392 1-25). There had also been numerous Magistrate Court rulings from other Counties finding that sweepstakes machines, including the Magic Minute machines, were lawful to possess and operate in premises licensed to sell beer and wine. (R. pp. 135-252)

Prior to January 26, 2012, Kershaw County Deputy Jamey Jones was aware of Magistrate Todd's Order and that the Magic Minute machines were being operated in different

establishments in Kershaw County as a result of this Order. (R. p. 372, ll. 10-14). In addition, the Kershaw County Sheriff's Department had not seized any Magic Minutes machines in Kershaw County before January 26, 2012. (R. p. 376, ll. 1-4). Even though the Magic Minute machines were seized from the Appellant's licensed premises, no one was charged with any crime.

ARGUMENT

I. THE DEPARTMENT OF REVENUE MAY NOT SUSPEND THE BEER AND WINE LICENSE OF THE PERMIT HOLDER FOR OPERATING PROMOTIONAL GAMES OF CHANCE CONDUCTED IN CONECTION WITH THE SALE OF LONG DISTANCE TELEPHONE TIME AS PERMITTED BY S.C. CODE SECTION 61-4-580(3).

The Administrate Law Judge erred in concluding that a game of chance that is conducted in connection with the promotion of the sale of a service or product, that does not require payment or purchase for participation and which discloses to the public the no-payment/no-purchase availability of participation is nonetheless prohibited by S.C. Code §61-4-580. In the Order cited below, the Administrative Law Judge attempts to distinguish between impermissible forms of gambling which involve the payment of an entry fee for the opportunity to win a prize through chance, with the type of promotional chance games permitted under Section 580(3). According to the Administrative Law Judge, any device found to be unlawful under S.C. Code Section 12-21-2710 must necessarily involve the impermissible type of games of chance involving the payment of consideration because "the machines forbidden under Section 12-21-2710 all require a player to deposit a coin or thing of value to play them, which, at the very least, fails to satisfy one of the exceptions requisites." (R. pp. 23-37). The Administrative Law Judge concluded that "because the underlying transactions of the Seized Machines involved games of chance that require entry fees...and the "sweepstakes" were an extension of those underlying illegal games

of chance, the "sweepstakes" did not satisfy Section 61-4-580(3)(b)[3] and were therefore also illegal." Id. at p. 13.

The Administrative Law Judge misreads Section 12-21-2710, as well as the Magistrate's Order upon which the Administrative Court relies. Section 12-21-2710 prohibits the possession of vending machines, except vending machines which are constructed as to give a certain uniform and fair return in value for each coin deposited and *in which there is no element of chance*. The Magistrate's Order states in part "Upon careful examination of the machine(s), I find the machine(s) to be: a vending machine..."(R. pp.1-7) The Magic Minutes machines seized from the Appellant's place of business were in fact vending machines that sold long distance telephone service through the chance game promotions. (Trial Transcript, p.368 ll. 16-25; p. 369 ll. 1-5)[4]. Thus, a vending machine that promotes the sale of a legitimate product or service through games of chances can run afoul of S.C. Code Section 12-21-2710 without constituting what the Administrative Law Judge described as "impermissible forms of gambling."[5]

In addition, the Administrative Law Judge failed to read Section 580(3) and 580(5) *in para material*. Statutes dealing with the same subject matter must be construed together, if possible, to produce a single, harmonious result. *Joiner ex rel. Rivas v. Rivas*, 342 S.C. 102, 536 S.E.2d 372 (2000). As a matter of plain statutory construction, conduct that is specifically exempted by Section 580(3) from the prohibition against gambling and games of chance at a

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[3] Section 580(3)(b) provides that to qualify as a promotional game of chance, no purchase, payment or entry fee or proof of purchase is required to participate.

[4] Because the Administrative Law Judge granted partial summary judgment on the issue of whether an unlawful act was committed on the premises, Appellant was not allowed to litigate the legality of the vending machines which in fact do have free participation opportunities as required by Section 580(3).

[5] In fact, Section 580(3) was amended on March 21, 2013 to state that "this subsection is not an exception or limitation to Section 12–21–2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited." 2013 South Carolina Laws Act 5 (S.B. 3).

premises licensed to sell beer and wine cannot form the basis of a violation of Section 580(5) for permitting an act which constitutes a crime under the laws of this State.

Section 580 reads in pertinent part:

> No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder's permit:
>
> (3) permit gambling or games of chance except game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with the following:
>
> (a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service, or to enhance the brand or image of a supplier of consumer products or services;
> (b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize; and
> (c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation.
>
> (5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State;

S.C. Code Ann. § 61-4-580.

Section 580(3) is clearly a safe harbor provision for promotional chance games conducted in accordance with the requirements set forth in subparts (a), (b) and (c). If the chance game promotions meet the criteria set forth in Section 580(3), the SCDOR simply cannot sanction the permit holder for such permitted conduct. The Administrative Law Judge erred in concluding otherwise.

Moreover, the Administrative Law Judge ruled as a matter of law that any vending machine that is found to be in violation of S.C. Code Section 12-21-2710, because it does not provide a uniform return and there is an element of chance involved, can never meet the safe

harbor requirements because an entry fee is required to enter. This is not correct. Consider for example the standard soft drink vending machine where the soft drink manufacturer uses a sweepstakes promotion code under each bottle cap. The purchaser can go online to the manufacturer's website and enter the code from the bottle cap to see if she won a prize. This is not just a hypothetical. It happens daily throughout South Carolina with the My Rewards sweepstakes from Coke.

The Administrative Law Judge's legal ruling that vending machines which violate S.C. Code Section 12-21-2710 cannot comply with the safe harbor provision of Section 580(3), is an error of law. This error affected the ALJ's ruling and therefore, the decision must be vacated. See, S.C. Code Ann. § 1-23-610(d).

II. THE ADMINISTRATE LAW JUDGE ERRED BY RULING THE MAGISTRATE'S ORDER FINDING THE SWEEPSTAKES MACHINES VIOLATED S.C. CODE SECTION 12-21-2710 WAS RES JUDICATA EVEN THOUGH THE APPELLANT WAS NOT A PARTY TO THE PROCEEDING AND WAS DENIED THE OPPORTUNITY TO PARTICIPATE.

On January 26, 2012, two Magic Minutes phone time vending machines were seized by the Kershaw County Sheriff's Office from C&M Markette located 2105 Hwy 1 South, Lugoff, SC 29078. On this same date, Magistrate Corbett issued an order with the caption *Kershaw County Sheriff's Office v. C&M Markette, 2105 Hwy #1, South, Lugoff South Carolina.* (R. pp. 1-7). This Order states "Pursuant to S.C. Code Ann. § 12-21-2712, the above listed machines were seized on November 1, 2007 from Robert Lee (business) at 4110 Hard Scrabble Road, Columbia, S.C. 29223 by the Plaintiff and brought before me on November 5, 2007 for examination to determine if the machine(s) are prohibited pursuant to S.C. Code Ann. §12-21-2710." Magistrate Corbett concluded that the "machines are in violation of S.C. Code Ann. § 12-21-2710" and ordered their destruction. *Id.*

Magic Minutes LLC, the manufacturer of the machines seized from C&M Markette, requested a hearing to prove that the machines were lawful to operate. C&M Markette filed a Brief In Support of Legality of the Seized Machines. (R. pp. 172-175). In addition, C&M Markette appeared through counsel at the hearing, but was not allowed to participate. Following the conclusion of the hearing, Magistrate Corbett issued an order finding that Magic Minutes LLC did not have standing to address the legality of the seized machines. (R. pp. 8-12). Magistrate Corbett then ruled that "the original Order of Destruction stands."

The Administrative Law Judge concluded that Appellant was bound by this ruling and the Magistrate's order established as a matter of law that unlawful acts occurred on the licensed premises. The Administrative Law Judge then proceeded with a hearing to determine whether Appellant knowingly permitted these unlawful acts to occur.

The Administrative Law Judge erred by concluding that Appellant was estopped from litigating the legality of the vending machines. First, the Administrative Law Judge concluded that Appellant was a party to the civil forfeiture proceeding and therefore, Appellant was bound by the Magistrate's ruling under the doctrine of res judicata. However, the proceeding before the Magistrate Court was an in rem action and therefore, the only defendant to the action was the seized machines. *See Allendale Cnty. Sheriff's Office v. Two Chess Challenge II*, 361 S.C. 581, 586, 606 S.E.2d 471, 474 (2004). Appellant was not a party to the proceeding and therefore, the doctrine of res judicata does not apply. *Plum Creek Dev. Co. v. City of Conway,* 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999)("To establish res judicata, the defendant must prove the following three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit); *RIM Associates v. Blackwell*, 359 S.C. 170, 182, 597 S.E.2d 152, 159 (Ct. App. 2004).

Furthermore, Appellant was not barred from litigating the legality of the seized machines under the doctrine of collateral estoppel. The doctrine of offensive collateral estoppel cannot be invoked against a party unless the party had a full and fair opportunity to litigate in the prior proceeding. *Roberts v. Recovery Bureau, Inc.,* 316 S.C. 492, 496, 450 S.E.2d 616, 619 (Ct. App. 1994). Where one is not a party to the prior action, the only way he can be precluded from relitigating an issue is if he is in privity with a party to the prior action against whom an adverse finding is made. The term "privity," when applied to a judgment or decree, means one so identified in interest with another that he represents the same legal right. One in privity is one whose legal interests were litigated in the former proceeding. *Id.*

Here, Appellant was not provided a full and fair opportunity to litigate the legality of the phone time vending machines. Appellant appeared at the hearing through counsel but was denied the opportunity to participate. Furthermore, the Magistrate determined that Magic Minutes LLC did not have standing to litigate the legality of the seized machines. Therefore, Magic Minutes did not represent the same legal rights as Respondent. Furthermore, Magistrate Corbett ruled in a related case that only the machine owner has standing to challenge a seizure and the owner of the premise from where the machines were seized does not have standing to challenge a seizure under S.C. Code Section 12-21-2710. (R. pp. 204-206).

In addition, before collateral estoppel will apply, the issue must have been actually litigated and directly determined in the prior action and the matter or fact directly in issue was necessary to support the first judgment. *Beall v. Doe*, 281 S.C. 363, 370-72, 315 S.E.2d 186, 190-91 (Ct. App. 1984); *Lowe v. Clayton,* 264 S.C. 75, 212 S.E.2d 582 (1975); RESTATEMENT (SECOND) OF JUDGMENTS § 27 at 250 (1982); *Id.* § 29, 372 Comment at 292. Here, the critical issue of whether Respondent violated S.C. Code § 61-4-580 by possessing

the sweepstakes vending machines was not litigated in the prior proceeding. Specifically, the Magistrate was not required to determine and did not determine whether the seized vending machines met the safe harbor provisions of Section 580(3). As a result, the decision by the Administrative Law Judge to bar Appellant from litigating the issue of whether the vending machines met the safe harbor provisions of Section 580(3) was controlled by an error of law and must be vacated. *See* S.C. Code Ann. § 1-23-610(d)

III. THE ADMINISTRATIVE LAW JUDGE'S FACTUAL FINDING THAT THE APPELLANT KNOWINGLY PERMITTED AN ACT WHICH CONSTITUTES A CRIME UNDER THE LAWS OF SOUTH CAROLINA IS CLEARLY ERRONEOUS WHEN THE UNDISPUTED EVIDENCE IS THAT APPELLANT HAD BEEN PROVIDED COPIES OF AN ORDER SIGNED BY A KERSHAW COUNTY MAGISTRATE STATING THAT THESE TYPE OF SWEEPSTAKES MACHINES WERE LAWFUL.

The Administrative Law Judge found that Appellant knowingly permitted an act which constituted a crime on the licensed premises. The Order states:

> Zacour admitted that the seized machines had poker and blackjack on them. Therefore, he clearly permitted machines he knew possessed games of chance on his premises. Though he seeks to disavow knowledge of a crime based upon his brother's observations of similar machines at other locations and the order provided by McDonald's, those facts do not reflect lack of knowledge. Under the circumstances of this case, it is clear Respondent knew, or should have known, that the machines were illegal.

(R. p. 30).

The Administrative Law Judge's finding is clearly erroneous in view of the reliable, probative, and substantial evidence in the entire record. *See* S.C. Code Ann. § 1-23-610(e). The undisputed evidence presented to the Administrative Law Court established that before the vending machines were placed in the licensed premises, Appellant was provided a copy of an Order signed by Chief Kershaw County Magistrate Todd's ruling that the Magic Minute

machines were lawful. The vending machine owner placed Chief Magistrate Todd's order in each of the vending machines. (R. p. 371, ll.4-25; p. 372 ll. 1-21; p. 373 ll. 10-25; p. 390, ll. 12-25; p. 391 ll 1-25, p. 392 1-25.).

Eric Zacour testified that he was provided copies of Magistrate Todd's order before allowing the machines to be placed in the premises. He was aware that the Magic Minute machines were being operated in the County. He had never been advised by anyone from the Kershaw County Sheriff's Department or South Carolina Law Enforcement Division that the machines were unlawful. Lastly, Zacour testified that he would not have allowed the sweepstakes machines to be operated in the licensed premises had he not received a copy of Magistrate Todd's Order. *Id.*

Kershaw County Deputy Jamey Jones testified that he was aware of Magistrate Todd's Order and that as a result of this Order the Magic Minute machines were being operated in different establishments in Kershaw County. (R. p. 372, ll. 10-14). In addition, Deputy Jones testified that prior to the date of the seizure, his office had not seized any Magic Minutes machines in Kershaw County. (R. p. 376, ll. 1-4). SLED Agent Wes Bickley testified that he seized the machines and presented them to Kershaw County Magistrate Corbett, who signed an ex parte order of destruction. However, Bickley admitted that no one was charged with any criminal offense for possession of an unlawful machine. In addition, there was no evidence that gambling occurred on the licensed premises.

Nevertheless, based upon this limited record, the Administrative Law Judge concluded that the licensee knew that the machines were illegal. The finding that Appellant knew the machines were illegal is clearly erroneous. Furthermore, the Administrative Law Judge concluded that knowledge may be established by proof that the licensee should have known that

the machines were illegal, citing a 1943 case, *Feldman v. S.C. Tax Comm'n*, 203 S.C. 49, 26 S.E.2d 22 (1943). In *Feldman*, the Court ruled:

> Within the meaning of the term, "knowingly," as used in this statute, if the clerk knew that the ...boy was a minor or had such information, from his appearance or otherwise, as would lead a prudent man to believe that he was a minor, and if followed by inquiry must bring knowledge of that fact home to him, then the sale was made knowingly.

Feldman v. S. Carolina Tax Comm'n, 203 S.C. 49, 26 S.E.2d 22, 25 (1943).

Feldman stands for the proposition that one is charged with knowledge that a reasonable inquiry would disclose if the person is on notice of facts that would lead a prudent person to believe that the purchaser of alcohol was a minor. Applying this logic to the case at bar does not lead to the conclusion that Appellant would have learned that the Magic Minute sweepstakes machines were unlawful. In fact, a further inquiry would have established that Chief Magistrate Todd did in fact sign the order and that his ruling was consistent with most other Magistrates who had addressed the legality of sweepstakes machines prior to January 27, 2012. The Administrative Law Judge was provided copies of at least one Circuit Court decision issued by Judge Garrison Hill, and five (5) Magistrate Court rulings that specifically concluded that sweepstakes machines such as the type seized from the Appellant were permitted to be operated under Section 580(3).

In *Greenville County Sheriff's Department, Appellant v. Sweepstakes Terminal No. 0399*, C/A No. 2011-CP-23-2657 (R. pp. 160-171) Judge Hill affirmed the Magistrate's ruling that sweepstakes terminals that sold discount coupons that were promoted with chance games such as "poker, keno and bingo" were lawful and permitted to be operated at a licensed premises pursuant to Section 580(3). (R. pp. 143-202). In addition, Magistrates in Richland County and Darlington Counties had issued rulings that found the Magic Minute machines to be lawful under

Section 580(3). (R. pp. 226-233). *See also, State of S.C. v. Ralph Alexander, Inc. Oconee Magistrate Court* (R. pp. 177-181) Magistrate Simmons found sweepstakes vending devices that promote the sale of products through chance games such as poker, keno and bingo were lawful to operate under Section 580(3))(R. pp. 234-238).

As a result, the Administrative Law Judge's finding that Appellant knowingly permitted acts which constituted a crime on the licensed premises is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

CONCLUSION

The Administrative Law Judge's decision to suspend Appellant's license for 120 days based upon a finding that Appellant violated Section 61-4-580(5) is controlled by numerous errors of law and the factual finding that Appellant knowingly permitted a criminal act on the premises is clearly erroneous. Therefore, Appellant respectfully requests that the Administrative Law Judge's ruling be reversed.

Respectfully submitted,

James M. Griffin
Lewis, Babcock & Griffin, L.L.P
P.O. Box 11208
Columbia, SC 29211
803-771-800, Fax 803-733-3541
jmg@lbglegal.com

Attorney for Appellant

Columbia, South Carolina
August 30, 2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III

DOCKET NO. 12-ALJ-17-0298-CC

C & M Market,

Appellant,

vs.

South Carolina Department of Revenue,

Respondent.

PROOF OF SERVICE

I, Jaime Harmon, the undersigned employee of Lewis Babcock & Griffin L.L.P, attorney for Appellant C & M Market, do hereby certify that I have served a copy of Appellant's Final on August 30, 2013, by causing a copy of same to be deposited in the U.S. Mail, proper postage prepaid addressed as follows:

Kathryn R. Brown
Counsel for Litigation
South Carolina Department of Revenue
300A Outlet Pointe Blvd.
Columbia, SC 29210

Jaime Harmon

Columbia, South Carolina
August 30, 2013

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CERTIFICATE OF COMPLIANCE

The undersigned counsel hereby certifies that Appellant's Final Brief complies with Rule 211(b) SCACR.

James M. Griffin
Jeffrey Ryan Heiskell
Lewis, Babcock & Griffin L.L.P.
P.O. Box 11208
Columbia, SC 29211
(803) 771-8000

Attorney for Appellant

Columbia, South Carolina
September 12, 2013