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SC Court of Appeals

EXHIBIT 2

(February 20, 2026 Order denying motion for reconsideration)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

MPC Harden, LLC, d/b/a 5 Points Saloon,

Petitioner,

v.

South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor.

Docket No. 24-ALJ-17-0420-CC

ORDER DENYING
MOTION FOR RECONSIDERATION

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (Court or ALC) pursuant to the Motion to Alter or Amend Final Order (Motion) filed on January 12, 2026, by Protestant Coley Frank Adams (Intervenor). MPC Harden, LLC, d/b/a 5 Points Saloon (Petitioner or 5 Points Saloon) filed a response to the Motion on January 22, 2026. The South Carolina Department of Revenue (Department) did not file a response. Intervenor moves this Court, pursuant to Rules 29 and 68 of the Rules of Procedures for the Administrative Law Court (SCALCR) and Rule 59(e) of the South Carolina Rules of Civil Procedure (SCRCP), to reconsider its Final Order issued on December 31, 2025, in which this Court granted Petitioner's renewal application for its liquor by the drink license. Intervenor contends this Court failed to "substantively discuss, address, or rule on the primary issue advanced by the Intervenor in this case." In response to the Motion, Petitioner asks the Court to deny Intervenor's Motion and relies upon all previous filings in this proceeding and argues that the Court's Final Order addresses all outstanding issues.

DISCUSSION

Rule 29(D), SCALCR governs motions for reconsideration of a final decision of an administrative law judge in an contested case and provides, in relevant part, "[a]ny party may move for reconsideration of a final decision of an administrative law judge in a contested case. . . . subject to the grounds for relief set forth in Rule 59, SCRCP." [1] A party "must state with particularity the

[1]Intervenor's Motion to Alter or Amend is construed to be a Rule 29, SCALCR Motion for Reconsideration.

points supposed to have been overlooked or misapprehended by the Court." Rule 29(D), SCALCR. Further, a motion under Rule 59(e), SCRCP is often used to correct a factual error or address an error of law. "In cases permitting an agency to reconsider its decision, courts have emphasized that an agency's power to reconsider or rehear a case is not an arbitrary one, and such power should be exercised only when there is justification and good cause; i.e., newly discovered evidence, fraud, surprise, mistake, inadvertence or change in conditions." *Bennett v. City of Clemson*, 293 S.C. 64, 66-67, 358 S.E.2d 707, 708-09 (1987) (citing 2 Am. Jur. 2d, Administrative Law, § 522 et seq. (1962 & Supp. 1986)).

In its Motion, Intervenor asserts the Court erred in its ruling and requests that the Court amend and reconsider the Final Order to (1) fully address and rule on the issue of whether Petitioner meets the "food service requirement for licensure" and (2) reconsider the determination that Intervenor lacks standing or authority to raise the issue in a liquor license renewal proceeding.[2] In this matter, Intervenor testified that he had never entered 5 Points Saloon and had no personal knowledge, observations, or evidence about 5 Points Saloon's conduct or compliance. Intervenor also produced no evidence that any alleged student conduct issues that occurred in his neighborhood were directly related to 5 Points Saloon.[3]

While Intervenor attempts to distinguish *Be Mi, Inc. v. South Carolina Department of Revenue* from *South Carolina Department of Revenue v. Sandalwood Social Club* as a licensing matter rather than an enforcement action, thus giving Intervenor the authority he requests, the fact remains that the intervenors in both cited cases had a direct relationship to and knowledge of these

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[2] Intervenor argues that this Court avoids ruling on the substantive issues raised by Intervenor. However, this Court's Order granting intervention limited the Intervenors representation to "presenting arguments and evidence that are different from the Department's and uniquely reflect his interests." Furthermore, the Court serves as the finder of fact and makes a *de novo* determination regarding the matters at issue. *See Brown v. S.C. Dep't of Health & Envtl. Control,* 348 S.C. 507, 512, 560 S.E.2d 410, 413 (2002); *see also Porter v. Labor Depot*, 372 S.C. 560, 568, 643 S.E.2d 96, 100 (Ct. App. 2007) ("[t]he findings of an administrative body must be sufficiently detailed to enable the reviewing court to determine whether the findings are supported by the evidence and whether the law has been properly applied to those findings.")(internal citation omitted). Additionally, "Rule 52(a) of the South Carolina Rules of Procedure provides, '[i]n all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon. . . .' This rule does not 'require a lower court to set out findings on all the myriad factual questions arising in a particular case.'" *Renewable Water Res. v. Ins. Rsrv. Fund,* 442 S.C. 272, 281, 897 S.E.2d 558, 563 (Ct. App. 2024).

[3] The Court finds persuasive the Department's brief filed in a prior matter and admitted into evidence. *See* South Carolina Department of Revenue's Initial brief, *Eighteen Ink, LLC v. S.C. Dep't of Rev.*, 2023 WL 5096636 (S.C. Ct. App. 2023) ("The statutes as written do not require that a restaurant be successful in its efforts to sell meals, only that it have the facilities and supplies to provide such meals if requested."). Therefore, assuming arguendo any evidence as to whether Petitioner is "engaged primarily and substantially in the preparation and serving of meals" was admitted, the Court in its discretion would have given it little to no weight considering the Intervenor's testimony, the limitations stipulated in the Order granting intervention, and the Intervenor's failure to express unique interests.

establishments. *See S.C. Dep't of Rev. v. Sandalwood Social Club,* 399 S.C. 267, 274, 731 S.E.2d 330, 334 (Ct. App. 2014) (The intervenor provided testimony as to his specific observations of the violations issued by the Department); *see also Be Mi, Inc. v. S.C. Dep't of Rev.,* 408 S.C. 290, 295, 758 S.E.2d 737, 739 (Ct. App. 2014) (The intervenor testified as to the number of seats and tables available). While Intervenor's protest form and Motion to Intervene asserts knowledge of Petitioner's business practices, his testimony did not. Moreover, the Department determined that Petitioner met all the statutory requirements for licensure. Subsequently, this Court found that Petitioner met the statutory requirements for licensure. The record before the Court, specifically the testimony provided, supports this decision.

The Court has given thoughtful consideration to the arguments raised in Intervenor's Motion.[4] Intervenor reargues its positions raised throughout this matter. Intervenor has not demonstrated justification or good cause to reconsider the provisions of the Final Order. This Court has reviewed the arguments, the parties' submissions, and the Final Order and finds no basis to reconsider the Final Order's findings of fact or conclusions of law. The Court does not intend to be dismissive of Intervenor's concerns, but the Court is required by law to base its decision on evidence rather than speculation. For the reasons outlined herein and in this Court's Final Order of December 31, 2025, Intervenor's Motion is respectfully denied.

ORDER

IT IS HEREBY ORDERED that Intervenor's Motion is **DENIED**.

IT IS FURTHER ORDERED that, subject to the clarifications provided herein, all other portions of the Court's prior order remain in full force and effect.

AND IT IS SO ORDERED.

Crystal M. Rookard

The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

February 20, 2026
Columbia, South Carolina

[4] Intervenor further asserts that this Court erred by not adopting language that was provided in the proposed order submitted by the parties. Rule 29, SCALCR provides that "[p]roposed orders may be requested by the administrative law judge . . ." This rule indicates that proposed orders are requested at the discretion of the administrative law judge and are not required. Moreover, while judges may adopt proposed orders, they retain discretion to make independent determinations based upon the record before them. See S.C. Code Ann. § 1-23-600(C) (Supp. 2025) ("The presiding administrative law judge shall render the decision in a written order."); see also *Christy v. Christy*, 347 S.C. 503, 556 S.E.2d701, 704 (Ct. App. 2001) ("[Judge] remained free to adopt or reject any or all of the findings of fact and conclusions of law contained in the proposed order.").

CERTIFICATE OF SERVICE

I, Elizabeth Brown, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

Elizabeth Brown
Judicial Law Clerk

February 20, 2026
Columbia, South Carolina