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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Crystal M. Rookard, Administrative Law Judge

Appellate Case No. 2026-000734

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

v.

South Carolina Department of Revenue, Respondent,

and

Coley Frank Adams, Intervenor-Appellant.

RESPONSE TO MOTION TO DISMISS

Appellant Coley Frank Adams respectfully submits this response to the Motion to Dismiss Appeal as Moot (the "Motion") filed by Respondent MPC Harden, LLC ("Saloon") on July 9, 2026. For the reasons offered herein, the Motion should be denied.

As the Court is aware, this is an appeal from the South Carolina Administrative Law Court concerning the South Carolina Department of Revenue's (the "Department") denial of Respondent Saloon's liquor-by-the-drink license and the ALC's subsequent decision to grant Respondent's license pursuant to certain conditions. Appellant, who was an intervenor in the proceedings below, appealed from the ALC's Final Order and Order Denying Motion for Reconsideration on March 20, 2026. Appellant filed his initial brief in this case on June 19, 2026.

The ALC's December 31, 2025 final order from which Mr. Adams appealed directed the Department to grant Saloon's biennial[1] license for the 2024–2026 license period. **Exhibit A** (Dec. 31, 2025 Final Order) at 7. As demonstrated by the attachments to Saloon's Motion, the Department did in fact issue that license on March 6, 2026 following the ALC's denial of Adams' Motion to Reconsider on February 20, 2026.[2] (Ex. 1 to Motion). That license is currently in effect until August 31, 2026. *Id.* As further noted in Saloon's Motion, Saloon recently applied for and was granted a renewal of its license—Saloon's new license was issued on July 2, 2026, and it will be in effect from September 1, 2026 until August 31, 2028. (*See* Ex. 2 to Motion).

Saloon's Motion posits that both the Department's issuance of Saloon's 2024–2026 license pursuant to the ALC's order, as well as its renewal and issuance of Saloon's 2026–2028 license have mooted this appeal. This is incorrect, for the reasons stated below.

A. Appellant's Failure to Move to Stay the ALC's Final Order Does Not Moot this Appeal.

The Motion argues that when the ALC ordered the Department to issue Saloon's biennial license, and when the Department subsequently issued that license in compliance with the order, this appeal somehow became moot and that Appellant should have moved to stay the ALC's order. Implicit in this argument is the idea that once the Department has issued a biennial license to sell liquor by the drink, the courts are powerless to undo this ministerial act. That is wrong. Title 61 of the South Carolina Code imbues upon the courts both the power and responsibility to pass on the

[1] Licenses to sell liquor by the drink are issued by the Department once every two years for two-year licensure periods. *See* S.C. Code Ann. § 61-6-1810.

[2] The Motion incorrectly states that the ALC's Order Denying Motion for Reconsideration was entered on February 10, 2026. *See* **Exhibit B** (Feb. 20, 2026 Order Denying Mot. for Reconsideration).

Department's administration of alcohol laws. S.C. Code § 61-2-80 delineates clearly the responsibilities of the Department and courts in this regard:

> The State, through the department, is the sole and exclusive authority empowered to regulate the operation of all locations authorized to sell beer, wine, or alcoholic liquors, is authorized to establish conditions or restrictions which the department considers necessary before issuing or renewing a license or permit, and occupies the entire field of beer, wine, and liquor regulation except as it relates to hours of operation more restrictive than those set forth in this title.
>
> *Nothing contained in this section may be considered as prohibiting judicial appeals from decisions of the Administrative Law Court*, as authorized by Chapter 23 of Title 1, nor as limiting the authority of the courts in interpreting and applying the laws of this State relating to matters administered by the department.

S.C. Code Ann. § 61-2-80 (emphasis added). Thus, while the Department unquestionably has the authority to issue licenses to sell liquor by the drink, both the ALC and this Court have the authority to review and reverse those decisions if they determine that the Department has misinterpreted or misapplied the laws of this State.

It is an integral part of the biennial licensure process that members of the community may protest the issuance or renewal of a biennial license, evidenced by the fact that the mere filing of a protest requires the Department to automatically deny the license and submit the matter to the ALC for adjudication. *See* S.C. Code Ann. § 61-6-1825(B) ("If the protestant intends to attend a contested hearing, the department must not issue the permanent license but must forward the file to the Administrative Law Court."). Once this occurs, the contested case follows the normal procedures of the ALC and this Court for adjudication of matters under the Revenue Procedures Act and the Administrative Procedures Act. *See* S.C. Code Ann. § 61-2-260 ("Contested case hearings arising under the provisions of this title must be heard by the Administrative Law Court pursuant to the South Carolina Revenue Procedures Act and the Administrative Procedures Act."). Those Acts, in turn, provide the specific right to appeal to this Court from decisions of the ALC.

See S.C. Code Ann. § 12-60-3380 ("[A] party may appeal a decision of the Administrative Law Court to the court of appeals. Appeal of a decision of the Administrative Law Court must be made in accordance with Section 1-23-610(B)."); S.C. Code Ann. § 1-23-610(B) (providing that in appeals from the ALC, "[t]he court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced . . ."). This appeal procedure is precisely the one that Appellant has invoked in this case.

It is true as Saloon observes that "the serving and filing of the notice of appeal does not itself stay enforcement of the administrative law judge's decision." S.C. Code Ann. § 1-23-610(A)(2). But that code provision does not say that the appeal is moot if the appellant does not move for a stay—it simply provides that the ALC's decision will continue in effect unless and until that decision is reversed or modified by this Court. *See* S.C. Code Ann. § 1-23-610(B). Thus, Saloon is permitted to continue operating under the license that the ALC ordered the Department to issue unless and until this Court orders otherwise, just as it was doing while this case was pending before the ALC. *See* S.C. Code Ann. § 1-23-370 ("When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.").

The only matter at issue in this case is whether Saloon's liquor-by-the-drink license should be renewed. Thus, the only actions this Court can take in reviewing the ALC's decision are to affirm, or reverse or modify, the ALC's grant of Saloon's license, or remand this case for further

proceedings according to the provisions of S.C. Code § 1-23-610(B). It would be quite odd if the Legislature provided for this explicit appeal procedure in the issuance and renewal of liquor licenses only to leave this Court powerless to reverse the decision of the ALC because the Department did what the ALC told it to do—the Department, after all, could not issue the license without the ALC's approval in the first place. *See* § 61-6-1825(B). The code provisions cited above make clear that the issuance of Saloon's license is subject to the normal course of judicial review; thus, this Court is empowered to reverse that decision and deny the license just as it would in any other licensure case. *See Brunswick Capitol Lanes v. S.C. Alcoholic Beverage Control Comm'n*, 273 S.C. 782, 260 S.E.2d 452 (1979) (reversing decision of the Circuit Court to grant a mini bottle license upon finding on appeal that the licensee failed to comply with the statutory food service requirement). Put another way, the Department—being subject as always to the orders of the ALC and this Court on matters within their purview—will do whatever this Court tells it to do, to include rescinding a license that it was previously ordered to grant if the rulings of the ALC are reversed. That is the relief that Adams seeks in this case.

Appellant notes as well that seeking a stay of the ALC's final order in this case would have had no practical effect on Saloon's ability to operate during the pendency of this appeal. Saloon was permitted by law to operate under its prior license throughout the pendency of the proceedings before the ALC. *See* S.C. Code § 1-23-370. Had Appellant moved for a stay and the ALC granted it (which it plainly was not disposed to do given the rulings in its final order and order denying reconsideration), the only effect would be that the permanent license would not have issued, and Saloon would have continued operating under its prior biennial license until such time as it was

granted a new one.[3] Simply put, there was nothing to be gained from Appellant filing a motion to stay the ALC's ruling because, even in the highly unlikely event that the motion were granted, it would not have affected Saloon's continuing ability to operate its establishment in any way and thus would not have preserved any issues in this appeal. Saloon's proposed procedure thus insists on a meaningless motion practice that cannot be a predicate to maintaining the justiciability of this appeal given this Court's constitutional and statutory power to pass on the decisions of the ALC. *See* S.C. Code Ann. § 1-23-610(B); S.C. Const. art. V § 9 ("The Court of Appeals shall have such jurisdiction as the General Assembly shall prescribe by general law.").

B. Appellant's Failure to Move to Protest Saloon's 2026–2028 Biennial License Application Does Not Moot this Appeal.

Saloon further argues that this appeal is mooted because Appellant failed to protest the renewal of Saloon's license for the biennial period from September 1, 2026 until August 28, 2028. As a threshold matter, Appellant observes that had he submitted a protest to the Department for this renewal period, it would have had no procedural impact on this case because the filing of a protest requires the initiation of a *new case* in the ALC to determine whether the license should be renewed for that biennial period. *See* S.C. Code Ann. § 61-6-1825. Rather than preserving the justiciability of any issues in this appeal, the filing of a second protest would have served only to initiate a new, entirely duplicative proceeding at the ALC to determine issues that the ALC has already ruled upon. Besides being a hollow exercise that would serve only to waste judicial resources, this second, new case would have no procedural import to this case, which concerns Saloon's biennial license from the period September 1, 2024 to August 31, 2026.

[3] The ALC's Final Order directed the Department to issue Saloon's license under the same restrictions that existed under its prior license. Ex. A at 7.

While the license that is at issue in this case is still active, Appellant acknowledges that by the time this appeal is decided, Saloon will almost certainly be operating under its recently issued 2026–2028 license given that it goes into effect on September 1 of this year. And, admittedly, the denial of Saloon's 2024–2026 license would not immediately impair its ability to operate under its 2026–2028 license, as the Department's renewal of that license is not currently before this Court. But that does not mean as Saloon asserts that "[n]o decision in this appeal would have any practical legal effect." Mot. at 3. Quite the contrary—if this Court determines to reverse the decision of the ALC, it will have the immediate and practical effect of instructing both the ALC and the Department on the correct interpretation and application of the requirement contained in Article VIII-A of the South Carolina Constitution and S.C. Code § 61-6-1820 that an applicant for a liquor-by-the-drink license be "engaged primarily and substantially in the preparation and serving of meals." While members of the community like Appellant are limited to challenging the renewal of a liquor license only once every two years, the Department is not so limited—it maintains both the power and the responsibility at all times to ensure that the alcohol laws of this State are being adhered to by licensees. *See* S.C. Code Ann. § 61-2-80. And unlike protestants, the Department can take action against a licensee whenever it finds that it is violating those laws. *See* S.C. Code Ann. § 61-6-1830 ("The department may suspend, revoke, or refuse to renew a license issued pursuant to subarticle 1 of this article upon finding that: (1) the applicant no longer meets the requirements of Section 61-6-1820; or . . . (3) the applicant has violated since the issuance of the license any provision of the ABC Act."). Thus, a ruling from this Court on the issues in this case would prompt both SLED and the Department to take action not only against Saloon, but against other establishments that fail to meet the food service requirement. This direction is especially warranted here because, as the SLED Agent responsible for alcohol enforcement in the Five Points

District in Columbia testified in this case, SLED does not currently investigate, and has no official interpretation or regulatory guidance for determining, whether an establishment is selling sufficient amounts of food to meet this statutory and constitutional requirement. *See* **Exhibit C** (Sept. 10, 2025 Hrg. Tr.) at 22, 27–28.

This Court has previously considered whether the expiration of an alcohol license moots the issue whether the license should be revoked. In *S.C. Department of Revenue v. Club Rio*, this Court reversed a finding by the ALC that the Department's motion to revoke an alcohol license was mooted by the fact that the licensee had, prior to the hearing on the motion, surrendered its license. 392 S.C. 636, 644–45, 709 S.E.2d 690, 695 (Ct. App. 2011). This Court determined that, notwithstanding the licensee's surrender of the license, the revocation issue "was not moot because a judgment in the revocation action would have had a practical, long-term legal effect on the existing controversy between the Department and the Club." *Id.* Specifically, the Court observed that when a license is revoked, it carries with it additional penalties on the licensee, including that he may not receive a new liquor-by-the-drink license for five years. *Id.* at 646, 695. Thus, the Court ruled, "revocation of the License would have had a practical effect on the controversy between the Club and the Department by protecting the public's future health, safety, or welfare in a way relinquishment did not." *Id.* at 646, 696.

Here, the Department has not moved to revoke Saloon's license, and Appellant admittedly does not possess the ability to move for Saloon's license to be revoked—Adams may only prompt a review once every two years whether the license should be renewed. But what this case instructs is that the mere surrender (or here, expiration) of a previous license is not a magical event that moots the entire controversy surrounding the licensee's conduct as a license holder. Unlike the respondent in *Club Rio*, Saloon is still operating its establishment, and it is doing so while selling

a negligible amount of food that falls far below the 10% threshold found to be inadequate by the Supreme Court in *Brunswick Capitol Lanes*. A ruling from this Court on the legality of Saloon's business model would prompt the Department to take action against Saloon on this issue, or at the very least would provide clarity in subsequent renewal proceedings, and thus would have a "practical, long-term effect" on Saloon's license.

C. The Exceptions to the Mootness Doctrine Require this Case to Proceed.

Even if the Court agrees with Saloon that the subsequent issuance of Saloon's 2026–2028 license has mooted the issues in this appeal, long-recognized exceptions to the mootness doctrine counsel that this case should proceed to a decision. Notably, Appellant observes that this case is a textbook example of a dispute capable of repetition yet evading review. *See Byrd v. Irmo High Sch.*, 321 S.C. 426, 431–32, 468 S.E.2d 861, 864 (1996) (taking a less restrictive view of this doctrine and finding that "[s]hort-term student suspensions, by their very nature, are completed long before an appellate court can review the issues they implicate"); *Evans v. S.C. Dep't of Soc. Servs.*, 399 S.E.2d 108, 110, 399 S.E.2d 156, 157 n.1 (1990) (finding that, although the case was moot, it presented a recurring dilemma that the court would address "in order to clarify the law on this point"); *State v. Passmore*, 363 S.C. 568, 583, 611 S.E.2d 273, 281 (Ct. App. 2005) (reviewing a one-year prison sentence even though it had already been completed by the time the appeal was heard because "[t]hat the unconstitutional sentence was imposed here is evidence enough a judge could make the same error in the future").

Here, Adams challenges the issuance of a biennial license to sell liquor by the drink. By statute, these licenses expire every two years. *See* S.C. Code Ann. § 61-6-1810. So unless there is a mechanism for one of these cases to proceed through the protest procedure at the Department, through adjudication at the ALC, and through to a decision by this Court in two years, appeals of

renewal proceedings established by S.C. Code § 61-6-1825 will always be moot before they are decided by this Court. That cannot have been the outcome intended by the Legislature when it gave members of the community access to the courts to challenge the issuance of a liquor license.

Saloon acknowledges the applicability of this doctrine to these proceedings in its Motion, but argues that this case evaded review "because Intervenor-Appellant did not seek a stay and did not protest the renewal of the liquor-by-the-drink license for the subsequent licensing period." Mot. at 3. For the reasons discussed above, neither of these actions would have done anything at all to preserve any of the issues in this case—staying the issuance of Saloon's 2024–2026 license would not have impeded its ability to continue operating its establishment, and after the issuance of that license, it continued operating its establishment under the same terms and restrictions that existed prior to its 2024–2026 license. And Adams submitting another protest for a different license period would have only had the effect of creating a superfluous, duplicative proceeding that also would not have reached a decision by this Court within two years, and certainly would not have impacted the Court's decision in this case. Thus, these two actions that Saloon insists Appellant should have taken would have had no impact at all on the justiciability of this dispute.

Appellant submits that this case meets another one of the exceptions to the mootness doctrine as well—it raises a question of substantial public importance. *See Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001); *Ashmore v. Greater Greenville Sewer Dist.*, 211 S.C. 77, 96, 44 S.E.2d 88, 96–97 (1947) ("[Q]uestions of public interest originally encompassed in an action should be decided for future guidance, however abstract or moot they may have become in the immediate contest."); *Sloan v. Greenville County*, 356 S.C. 531, 553, 590 S.E.2d 338, 350 (Ct. App. 2003) ("Among the criteria considered in determining the existence of the requisite degree of public interest are the public or private nature of the question presented, the desirability of an

authoritative determination for the future guidance of public officers, and the likelihood of future recurrence of the question.") (quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 622, 104 N.E.2d 769, 772 (1952)).

Here, a decision on the issues presented by this appeal will affect not only the renewal of Saloon's liquor license—it will provide guidance to the ALC, as well as the Department and SLED—about the threshold requirements for issuing a liquor-by-the-drink license. Both the Department and SLED have made clear in these proceedings that they do not evaluate license holders to determine if they meet the requirement—contained in the South Carolina Constitution—that a licensee be engaged "primarily and substantially" in the service of meals. *See* Ex. C at 22, 27–28. By this action, Appellant seeks a determination on that very question, and its answer will impact not only Saloon, but every holder throughout this State of a license to sell liquor by the drink, and it will guide the decisions of the public officers who bear the responsibility to ensure license holders' compliance with the law.

Indeed, by this case, Appellant seeks to give effect to a provision of the South Carolina Constitution that reflects a fundamental compromise between those who sell liquor by the drink and members of the communities in which those establishments operate. The manifest purpose of the requirement in Article VIII-A of the South Carolina Constitution and the statutes that give effect to it—that a purveyor of liquor by the drink be engaged "primarily and substantially in the preparation and serving of meals or furnishing of lodging"—was "to prevent the return of the public saloon and barroom." *See Re: No. 5, Alcoholic Liquors*, 1972 S.C. Op. Atty. Gen. 79, 1972 WL 20421, at *1 (March 9, 1972) (quoting *Hammond v. McDonald*, 49 Cal. App. 2d 671, 89 P.2d 407, 411 (1939)). As its name would suggest, Saloon is a classic example of precisely what this constitutional compromise sought to prohibit—large, open spaces where large groups of people

gather to drink liquor to excess. The drafters of Article VIII-A knew well that these types of businesses attract all manner of societal maladies that attend the congregation of large numbers of intoxicated people—fights, disorderly conduct, the disruption of the peace and enjoyment of neighbors, and (as we have seen in the Five Points district in recent years) criminals that prey on and exploit intoxicated young people, often to the point of tragic violence. That is why this State requires that the holder of a liquor-by-the-drink license "not only must [] possess the food, material, personnel and facilities for providing meals, but the preparation and serving of meals, when and as ordered by customers, must be essentially its main purpose and the providing of accommodations for the possession and consumption of alcoholic liquors a secondary and incidental feature." *Id.* at *1; *see also See Brunswick Capitol Lanes*, 273 S.C. at 783, 260 S.E.2d at 453 ("The word 'primarily' means 'of first importance' or 'principally.'").

The proceedings in this case have made clear that SLED and the Department have effectively abdicated their responsibility to ensure that these types of business do not exist in our State. Perhaps anticipating this possibility, the Legislature crafted a provision in the ABC Act that would allow members of the community not only to voice their concerns about the issuance of a liquor-by-the-drink license, but to force judicial review of that license to determine whether the licensee is complying with the fundamental requirements for licensure contained in the ABC Act and our Constitution. *See* S.C. Code Ann. § 61-6-1825. The ALC in this case, however, not only refused to grapple with this issue, but in fact ruled that Adams does not have the authority to even raise this issue in the first instance. If this decision is allowed to stand, it will not only permit the perpetuation of these types of violative businesses that our Constitution prohibits, but it will eviscerate the right that the Legislature granted to members of the public to seek redress in the courts when one of these establishments operates in their community.

All that is to say, this case presents a question of profound public importance, the answer to which will extend far past the bounds of this one dispute and affect the manner in which liquor licenses are regulated accross this State. Thus, even if this Court finds that the underlying issues in this case are moot by the issuance of Saloon's 2026–2028 license, it should determine to hear this case because it is both capable of repetition yet evading review and presents a question of substantial public importance.

D. The 2023 *Group Therapy* Decision Is Inapposite.

On a final note, Saloon points to this Court's 2023 ruling in a different renewal proceeding, *Eighteen Ink, LLC v. S.C. Department of Revenue*, wherein the Court determined to dismiss the appeal as moot. No. 2020-000837, 2023 WL 5096636 (Ct. App. Aug. 9, 2023) (unpublished). That case, however, was in an importantly different procedural posture than this one. In that case, the intervenor-appellants had protested the renewal of the license holder's 2018–2020 beer and wine permit and liquor-by-the-drink license. *Id.* at *1. While that case was being adjudicated, the intervenor-appellants also protested the same establishment's 2020–2022 license renewal, and that action ended in an agreement at the trial level between the Department and the license holder to renew the license subject to certain conditions—conditions that the intervenor-appellants affirmatively agreed to. *Id.* Then, while the case was on appeal, the license holder was issued yet another biennial license for the period 2022–2024. *Id.* These subsequent events led the Court to conclude that the appeal was moot.

It was a critical part of the Court's decision in that case that the intervenor-appellants had, during the pendency of that case, agreed to the issuance of the establishment's license for a subsequent renewal period and withdrawn their protest, evidenced by the fact that much of the Court's order was spent discussing this subsequent development. While the undersigned counsel

disagreed with the Court's disposition of that case, one can see how an appellant's subsequent acquiescence to the issuance of a liquor license might complicate his ability to challenge that same establishment's licensure for an earlier renewal period. That is not the case here. At no time in these proceedings has Adams agreed to the issuance of Saloon's liquor license, nor has he withdrawn his protest in this or any other renewal proceeding involving this establishment. This critical difference distinguishes the 2023 *Eighteen Ink* decision from this one, and renders Saloon's reliance on that unpublished decision inapt to the facts and procedural posture of this case.

For these reasons, Appellant respectfully submits that Saloon's Motion to Dismiss should be denied.

Respectfully submitted,

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July 20, 2026
Columbia, South Carolina

EXHIBIT A

(December 31, 2025 Final Oder granting Petition's renewal application for its liquor-by-the-drink license)

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**

APPEARANCES:

For Petitioner:	John R. Alphin, Esquire and Whitney B. Harrison, Esquire
For Respondent:	Dana R. Krajack, Esquire
For Intervenor:	Richard A. Harpootlian, Esquire and Andrew R. Hand, Esquire

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a request for contested case hearing filed on December 12, 2024, by MPC Harden, LLC, d/b/a 5 Points Saloon (Petitioner). Petitioner challenged the denial issued by the South Carolina Department of Revenue (Department) of on-premises beer and wine permit (Permit), and a business liquor by the drink license (License) renewal pursuant to sections 61-4-525 and 61-6-1825 of the South Carolina Code (2022). [1] The Permit was later granted by the Department as only the License was protested.[2]

[1] Specifically, section 61-4-1825(B) provides: "Upon receipt of a timely filed protest, the department shall determine the protestant's intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent permit but shall forward the file to the Administrative Law Court."

[2] The protest form, admitted into evidence, verified that the license and/or permit being protested was on the renewal of the liquor by the drink license for Petitioner.

FILED
12/31/2025
SC Admin. Law Court

Prior to a hearing on the merits of this matter, the Protestant Coley Frank Adams (Intervenor), filed a Motion to Intervene, which this Court granted on March 6, 2025.[3] Subsequently, Petitioner filed a Motion in Limine to exclude Intervenor from offering evidence it received following a Motion to Compel granted by this Court. Petitioner's Motion in Limine sought to exclude Intervenor from offering evidence or argument that (1) Petitioner is not "primarily engaged in the preparation and serving of meals," and (2) Petitioner's food-to-alcohol sales percentages.[4] The Court held a hearing on the Motion in Limine on September 10, 2025.

After proper notice, the Court held a hearing on the merits on September 23, 2025, at the ALC in Columbia, South Carolina. Counsel for Petitioner, John R. Alphin and Whitney B. Harrison; Counsel for the Department, Dana R. Krajack; and Counsel for the Intervenor, Richard A. Harpootlian and Andrew R. Hand; were present along with representative for Petitioner, Max Minnillo, and Intervenor, Coley Frank Adams. Petitioner's one witness and the Intervenor testified at the hearing. The Department did not call any witnesses and stated but for the protest it would have granted the License.[5]

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and taking into consideration the burden of persuasion of Petitioner, Respondent, and Intervenor, the Court makes the following Findings of Fact:

[3] The basis of the motion was that Intervenor had filed a protest to the renewal of Petitioner's liquor by the drink license which caused the denial of that license, and he wished to intervene in this case to press his position and conduct discovery "regarding the availability and frequency of food service at Petitioner's establishment, as well as the volume of food sales relative to the volume of alcohol sales." Intervenor's protest likewise asserted that Petitioner's establishment did not comply with either the statutory or constitutional requirement that a liquor by the drink license holder be "engaged primarily and substantially in the preparation and serving of meals." *See* S.C. Const. art. VIII-A; S.C. Code Ann. § 61-6-1610. Notably, during the hearing on the merits, the Interventor did not provide any specific testimony as to food service and he testified he had not been inside the establishment.

[4] Petitioner filed this motion to prevent Intervenor from introducing any arguments or evidence relating to this issue arguing that the determination of compliance with this requirement falls squarely within the investigative authority delegated to the South Carolina Law Enforcement Division and the enforcement authority statutorily and solely vested in the Department. The Court heard arguments from all parties on this issue and granted Petitioner's motion at the hearing finding that such a determination is an enforcement issue exclusive to the Department and, pursuant to the holding of the Court of Appeals in *S.C. Dep't of Revenue v. Sandalwood Social Club*, not a private right of action to be prosecuted or enforced by citizens bringing a claim under the Department of Revenue's regulatory scheme. *See Sandalwood*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012).

[5] In the Court's oral ruling on the Motion in Limine, the Court noted the Department was permitted to introduce evidence that fell within the regulatory authority of the Department.

License Application

Petitioner is seeking the renewal of its License for the business located at 812 Harden Street, Columbia, South Carolina. Petitioner is a limited liability company whose members include Max Minnillo (Minnillo). Petitioner applied for the renewal of its License on July 9, 2024. On July 22, 2024, the Department issued a denial notice based upon the valid public protest. Petitioner timely challenged the denial on October 10, 2024. Subsequently, on November 19, 2024, the Department issued its final determination finding that Petitioner's renewal application should be denied. The Department determined the location met all the statutory requirements for licensure, thus the only remaining issue in dispute are the public protests filed pursuant to section 61-6-1825.

Suitability of Location and Intervenor's Concerns

The proposed location for the License is currently operating as a restaurant known as 5 Points Saloon. The proposed location currently holds a Permit and is seeking to renew its License. 5 Points Saloon had one principal testify at the hearing, Minnillo. Minnillo testified as to the policies and compliance efforts of 5 Points Saloon. Minnillo testified that he, as the owner, entered into an agreement in 2021 as to both the Permit and the License granted to Petitioner. As part of this agreement 5 Points Saloon must have forensic identification card scanners, cameras, along with a number of other things. Minnillo signed a new agreement on May 6, 2024, entitled the "Voluntary Agreement as to License/Permit Conditions and Restrictions" (Restriction Agreement), and these stipulations are attached to the Permit, and he indicated the same stipulations would attach to the License, should it be granted. The Restriction Agreement revised the agreement entered into in 2021 and includes updated stipulations and conditions.[6] Minnillo indicated that 5 Points Saloon is currently operating under the 2024 revised agreement with respect to its Permit.

Intervenor, who currently resides in Richland County, testified that he currently lives in close proximity to Five Points. Adams testified to his observations and concerns about the community in general, along with general comments regarding Petitioner, its location, and broader safety concerns related to college aged students consuming alcohol and the havoc in his

[6] The Restriction Agreement contains fifteen (15) stipulations and conditions including: using an effective identification system to clearly identify if each person admitted to the premises is of age to drink alcohol, scanning the identification of every person entering the premises, maintaining security camera footage for a rolling seven (7) day period, working with law enforcement to encourage compliance walk-throughs, and if 5 Points Saloon advertises, a substantial portion of its advertising must be devoted to food. The Restriction Agreement further provides for enhanced penalties should any of the terms be violated.

neighborhood that ensues. He testified regarding his belief that there is a significant neighborhood disruption linked to alcohol sales at this location and other locations in the Five Points area. On cross examination, Adams was unable to tie a single incident he complained about directly to any action or inaction of the Petitioner. The Intervenor testified regarding the general history of the Five Points District, his visits to certain businesses in the area such as the pharmacy and the post office, but he could not testify as to his direct experience with 5 Points Saloon. He indicated he attempted to visit the establishment prior to the hearing but has not gone inside the establishment. In fact, he visited the establishment outside of its hours of operation.

It is clear that the Intervenor's concerns are sincere, as he indicated the sale of alcohol at this establishment could have an adverse impact on the area in general. However, the Court notes that law enforcement did not provide a protest in this matter nor was any law enforcement present at the hearing to testify against the renewal of the License. Furthermore, if the sale of alcohol is conducted and operated as set forth in the Restriction Agreement the Court finds that the proposed location for the License is suitable. Moreover, if a significant change occurs as a result of Petitioner receiving this License, the location would no longer be suitable, and the community and/or the Department could properly bring an action to prohibit the renewal of Petitioner's License. Additionally, the Restriction Agreement provides for ramifications should Petitioner not abide by the conditions. Specifically, the Restriction Agreement provides that a violation of any of the 15 stipulations and conditions "shall be deemed a violation of the permit and license."

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court concludes the following as a matter of law:

The Court is vested with jurisdiction over this case. S.C. Code Ann. §§ 1-23-600 (2005 & Supp. 2025) and 61-2-260 (2022). Specifically, section 61-2-260 grants the ALC the authority to hold contested case hearings in matters governing alcoholic beverages. S.C. Code Ann. § 61-2-260. "[T]he issuance or granting of a license to sell beer or alcoholic beverages rests in the sound discretion of the body or official to whom the duty of issuing it is committed . . ." *Palmer v. S.C. Alcoholic Beverage Cntrl. Comm'n*, 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984); *see also* S.C. Code Ann. § 61-2-80 (2022). Further, the weight and credibility assigned to evidence presented at the hearing is within the province of the trier of fact. *S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co*., 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992). The trier of fact, who

observes a witness, is in the best position to judge the witness' demeanor and veracity and to evaluate the credibility of his testimony. *Woodall v. Woodall*, 322 S.C. 7, 10,471 S.E.2d 154, 157 (1996); *Wallace v. Milliken & Co*., 300 S.C. 553, 556, 389 S.E.2d 448, 450 (Ct. App. 1990). Additionally, the standard of proof in administrative proceedings is a preponderance of the evidence unless otherwise specified. S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2025); *see also Anonymous v. State Bd. of Med. Exam'r*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988). "A preponderance of the evidence is evidence which convinces the fact finder as to its truth." *Pascoey v. Wilson*, 416 S.C. 628, 640, 788 S.E.2d 686, 693 (2016) (citing *Gorecki v. Gorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010)). An applicant for a beer and wine permit has the burden of proving it meets all the statutory requirements for licensure. 48 *C.J.S. Intoxicating Liquors* § 186 (November 2025 Update) (citations omitted).

Suitability of Location and Intervenor's Concerns

Articles 4 and 6 of Title 61 of the South Carolina Code (2022 & Supp. 2025) generally set forth the requirements for the issuance of a beer and wine permit and liquor license. A license for the sale and consumption of beer, wine, and liquor is not a contract or property right. *Feldman v. S.C. Tax Comm'n*, 203 S.C. 49, 26 S.E.2d 22, 25 (1943). Rather, it is a privilege granted in the exercise of the State's police power to be used and enjoyed so long as the holder complies with the restrictions and conditions governing them. *Id.* In South Carolina, the requirements for beer and wine permits are set forth in section 61-4-520 of the South Carolina Code (2022), and the requirements for liquor licenses are separately set forth in section 61-6-1820 of the South Carolina Code (2022).

An alcohol beverage permit or license may be denied if the proposed location is not suitable. *See Schudel v. S.C. Alcoholic Beverage Control Comm'n*, 276 S.C. 138, 276 S.E.2d 308 (1981). A suitable location is not statutorily defined, but broad discretion is vested in the trier of fact to determine the fitness or suitability of a proposed location requesting a permit. *See Fast Stops, Inc. v. Ingram*, 276 S.C. 593, 281 S.E.2d 118 (1981). Regarding the suitability of the location, the Court may consider any evidence that shows adverse circumstances of the location as to determining whether a proposed location is suitable. *Kearney v. Allen*, 287 S.C. 324, 326, 338 S.E.2d 335, 337 (1985); *Palmer*, 282 S.C. at 249, 317 S.E.2d at 478 (*citing Smith v. Pratt*, 258 S.C. 504, 189 S.E.2d 301 (1972)). The determination of whether a proposed location is suitable involves various considerations related to the nature and operation of the proposed business as

well as its impact on the surrounding community. *Kearney*, at 326-27, 338 S.E.2d at 337; *Schudel*, 276 S.C. at 138, 276 S.E.2d at 308. "The determination of suitability [of location] is not solely a function of geography. It involves an infinite variety of considerations related to the nature and operation of the proposed business and its impact on the community wherein it is to be situated." *Kearney*, at 326-27, 338 S.E.2d at 337 (citation omitted).

Qualifying members of the public may formally object to the issuance of a liquor by the drink license by tendering a valid protest to the Department. S.C. Code Ann. §§ 61-4-1825 (2022); *see also* S.C. Code Regs. 7-201 (2011). The mere fact a permit or license is protested, however, is not a sufficient reason, by itself, to deny an application. *See* 48 C.J.S. *Intoxicating Liquors* § 194 (November 2025 Update). Rather, in the absence of a sufficient reason to deny the application, "[a]n applicant who meets, or complies with, the statutory requirements is entitled to the issuance of a license or permit. . ." *Id*. Thus, "[g]ood cause must be shown for the denial of a license." *Id*. "A license may properly be refused where a statutory ground for refusal exists, provided there is a reasonable basis for believing in its existence . . ." *Id*. Additionally, in making its determination, the Court must consider whether the testimony in opposition to the granting of a permit or license is based on opinions, generalities, and conclusions, or whether the case is supported by facts. *See Smith v. Pratt*, 258 S.C. 504, 508, 189 S.E.2d 301, 302 (1972); *see also Taylor v. Lewis*, 261 S.C. 168, 171, 198 S.E.2d 801, 802 (1973).

Conclusion

While it is clear the Intervenor's concerns are sincere, the Intervenor did not establish sufficient evidence to deny Petitioner's renewal application. His concerns, broadly speaking, are premised on the position that the renewal of the License will exacerbate the concerns and issues raised. The Court is respectful of the Intervenor's concerns; however, the Intervenor's testimony was largely opinionated and unsubstantiated. *See Smith*, 258 S.C. at 508, 189 S.E.2d at 302. Although the Intervenor expressed concerns with the issuance of the License, he did not provide the Court with sufficient reason or factual support to deny the application. The Intervenor failed to show that he had any direct interaction with this establishment. In this instance, without probative evidence to show that this location is unsuitable, there is no sufficient legal basis for the Court to deny the issuance of the License. Notably absent from the record is evidence of any criminal activity or reports from SLED. The strain upon law enforcement's ability to adequately

protect the community is a factor in evaluating a permit. *Moore v. South Carolina Alcoholic Beverage Control Com'n*, 308 S.C. 160, 417 S.E.2d 555 (1992).

Moreover, the Department did not make a determination that the location was unsuitable and reiterated at the hearing but for the protest it would have granted the License. In sum, Petitioner meets the statutory requirements for holding a liquor by the drink license. There is no reasonable good cause for denial. Furthermore, the evidence admitted did not reflect that the issuance of the License for 5 Points Saloon would be detrimental to the general welfare of the community or adversely affect the public interest. *See Kearney*, 287 S.C. at 327, 338 S.E.2d at 337.

The Court is authorized to grant the issuance of a permit and may likewise place restrictions or conditions on the permit or license. *See Feldman v. S.C. Tax Commission*, 203 S.C. 49, 26 S.E.2d 22 (1943). The arguments proffered do not constitute a sufficient basis upon which to deny Petitioner's renewal application. However, the Court does find it necessary to reiterate that the License shall be operated in a manner consistent with the Restriction Agreement. The Restriction Agreement and its accompanying conditions are necessary to ensure that the location continues to be suitable and to assuage the concerns of the Intervenor.

ORDER

IT IS THEREFORE ORDERED that the Department shall **GRANT** Petitioner's renewal application for its liquor by the drink license for its business located at 812 Harden Street, Columbia, South Carolina, subject to the conditions set forth in the Restriction Agreement.

AND IT IS SO ORDERED.

Crystal M. Rookard

The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

December 31, 2025
Columbia, South Carolina

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

December 31, 2025
Columbia, South Carolina

EXHIBIT B

(February 20, 2026 Order denying motion for reconsideration)

RECEIVED
FEB 23 2026
Richard A. Harpootlian, P.A.
Calendared

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.

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02/20/2026
SC Admin. Law Court

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

EXHIBIT C

(September 10, 2025 hearing transcript excerpt)

OF SOUTH CAROLI
ADMINISTRATIVE LAW COURT DIVISION

MPC Harden, LLC, d/b/a 5 Points Saloon, Petitioner, v. SCDOR and Coley Frank Adams, Respondent.	)	Docket No. 24-ALJ-17-0420-CC
Eighteen Ink, LLC d/b/a Group Therapy, Petitioner, v. SCDOR, Respondent.	)	Docket No. 24-ALJ-17-0421-CC

SEALED
MOTIONS HEARING

****

Wednesday, September 10, 2025
11:01 a.m. - 1:27 p.m.

The hearing before the Honorable Crystal M. Rookard was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 10th day of September, 2025 before Nadine A. Garrett, Court Reporter and Notary Public in and for the State of South Carolina.

reporter, please.

COURT REPORTER: State and spell your first and last name for the record.

THE WITNESS: First name is Kirkland, K-I-R-K-L-A-N-D; last name is Paturzo, P-A-T-U-R-Z-O.

KIRKLAND PATURZO, having been duly sworn, testifies as follows:

MS. PATURZO - DIRECT EXAMINATION BY MR. ALPHIN:

Q: Good morning, Special Agent Paturzo.

A: Morning.

Q: Can you tell the Court what agency you are with?

A: The South Carolina Law Enforcement Division, other known as SLED.

Q: And what position do you hold at SLED?

A: I am a special agent, class three -- well, not class three, but special agent three, in the alcohol enforcement unit with SLED.

Q: And which territory do you cover?

A: I cover Richland County.

Q: Okay. So that would include both the petitioners in this case, Group Therapy and 5 Points Saloon, correct?

A: Yes, sir. That's correct.

Q: Okay. And what are your duties and

responsibilities as it relates to inspections for compliance with licensure requirements?

A: Right. So a huge part of what we do, we call them alcohol inspections. So our unit specifically is tasked with looking into locations that are licensed to sell alcohol, beer, wine, or liquor. Routinely every month we go to various locations within our assigned areas, do a walk-through of the location, check their licenses, make sure they're valid, up-to-date. Go to that address.

We check to make sure that they've got everything that they're supposed to; that all their alcohol is coming from the proper locations. Beer and wine has to come from a distributor. Liquor has to come from class B wholesalers. So we'll check their invoices. We will also do a walk-through of the kitchen, make sure that they meet all the restaurant requirements. Check to make sure that they have a menu; that they've got enough food for 40 people to serve throughout the day, and make sure that they have seating for 40 people as well. They also have to maintain an A rating from DHEC.

Q: During that -- so you're looking to make sure that they are even bonafide primarily and substantially in the service of food, correct?
A: So we don't dig into the substantiality of how much food they are selling. For all our inspection purposes, we just physically look at the kitchen. I open fridges, freezers, make sure that I see that there is enough food to meet those restaurant requirements.
Q: And you're familiar with the statutes that meet your enforcement, correct?
A: Yes, sir.
Q: And are you familiar -- is there any statute that requires a percentage of food sales?
A: I believe that there is. To be honest, I don't have it memorized -- that one memorized. That's just not something that I typically dig into.
Q: I would like to address -- I would like to address that, actually. If you look -- we're going to look at the statute, but one of the statutes is 61-6-1610(H). And I think what you're talking about, it deals with primarily, correct?
A: Yes, sir.

Q: And it deals with whether it's a regular source of business or not, correct?
A: I believe so.
Q: But there's nothing that says you have to serve ten percent of your food, correct?
A: For -- for that, I'm not -- I'd have to have the statute in front of me.
MR. ALPHIN: Your Honor, if I may?
THE COURT: Yes.
MR. ALPHIN: May I approach, Your Honor?
THE COURT: Yes.
MR. ALPHIN: And for the record, I've handed the witness Section 61-6-1610(H).
A: Yep.
Q: Do you see that it says there has to be a certain percentage of food sales?
A: No, sir, I don't.
Q: Okay. And that's not something y'all would look at when you are doing enforcement?
A: No, sir.
Q: But you do actually go out and do enforcement and make sure they meet all the requirements set forth in the statute, correct?
A: That's correct.
Q: And do y'all have the checklist or something

that's been provided to you?
A: Not like a physical checklist. We do have something we call our cheat sheet. Essentially it's a stack of papers with the alcohol laws and regulations that we typically come across, the things that we are more likely to write. There is a page that falls under restaurant requirements where it lays out this statute, along with a code of regulation as well that essentially tells us what to look for; the kitchen, food for 40, seating for 40. They must have a menu. They have to have an A rating. Those are the sort of the things that are in our cheat sheet that we look for.
Q: And that's what you look for when you are enforcing?
A: Yes, sir.
Q: And you're enforcing on behalf of the South Carolina Law Enforcement Division, correct?
A: Yes, sir.
Q: And when you do those, do you issue reports?
A: Not an inspection, no, sir. The only time I would have a report is if I found a violation.
Q: Okay. And so if you don't have a violation, nothing gets reported to anybody?

A: No, sir.
Q: Did you go out and do inspections for Group Therapy and 5 Points Saloon prior to their renewal, in June/July of last year?
A: Yes, sir. Sometime in the last semester, early summer.
Q: And did you find that they met all the requirements?
A: Yes, sir. I did not issue any violations or warnings.

MR. ALPHIN: No further questions, Your Honor.

MR. HAND: May it please the Court.

MS. PATURZO - CROSS-EXAMINATION BY MR. HAND:

Q: Good afternoon. Well, actually, it's still morning. Good morning. How are you?
A: Good morning. I'm doing well.
Q: I just have a couple of questions. You were handed a statute. I believe it was South Carolina code Section 61-6-1610 Subsection (H). Is that correct?
A: Yes, sir.
Q: Okay. Are you familiar with the same statute, Subsection (I)? That's the one immediately after it. You may not have that in front of you.

A: I'm sure I've sen it before, but not off the top of my head. No, sir.

MR. HAND: May I approach the witness, Your Honor?

THE COURT: Yes. You may.

Q: This is my copy, but I just wanted you to be able to reference that. During your testimony, you mentioned -- you use it had word 40 a couple of times. I'll give you a moment to review that.

A: Okay.

Q: And during your testimony, you referenced the number 40 a couple of times. Is that a reference to the requirement in the statute, that the establishment have sufficient seating for 40 people and be able to serve meals to at least that many people at one time?

A: So I didn't actually see 40 within the statute. That is something that is written on our cheat sheet that was before my time.

Q: You've aware -- I mean, you've reviewed Subsection (H). You're aware there are additional requirements -- and I think you actually talked about some of them in your testimony -- other than the establishment having a grade A food rating, correct?

A: Yes, sir.
Q: There's a -- in Subsection (I), there's a provision that defines what a kitchen is, correct?
A: Yes, sir.
Q: And there's a provision that defines what a meal is, correct?
A: Yes, sir.
Q: And there's a provision that defines the word primarily. And it says, Primarily means that the serving of the meals by a business establishment is a regular source of business to the licensed establishment, that meals are served upon the demand of guests and patrons during the normal mealtimes that occur when the licensed business establishment is open to the public, and that an adequate supply of food is present on the licensed premises to meet the demand. Is that your understanding of what -- what that -- what's contained in that subsection of the statute?
A: Yes, sir.
Q: Here is my question: What does SLED do to determine that the serving of meals by a licensee is a regular source of business to the

licensed establishment?

A: To my knowledge, that's not something that we've checked.

Q: Does SLED have any sort of independent definition or interpretation or -- or understanding the phrase, regular source of business, that you're aware of?

A: I do not believe so, no, sir.

MR. HAND: No further questions, Your Honor.

MS. PATURZO - QUESTIONS BY THE COURT:

THE COURT: Ma'am, I have just a quick question. Well, maybe more than a quick question.

A: Yes, ma'am.

THE COURT: The SLED review, is that the same for enforcement versus the initial renewal licensing?

A: So we have separate agents that do licensing for alcohol. We're within the same unit, but we all have different supervisors. So sometimes we'll work together, but typically, if a licensing agent is doing some sort of paperwork for a renewal or even a license that's in the initial application process, I typically don't know about it.

THE COURT: So let's -- let's dig a little bit

deeper. I understand -- back to that cheat sheet. So that cheat sheet that you have and you're doing a review of these establishments, is it going to cover the same things, the same things that you're going to check?

A: So it depends on the location, but for this specific example, they both fall under restaurants. So they have a business liquor by the drink license, which allows them to sell alcoholic liquor to -- to persons, as well as a beer and wine license, which can vary between a -- a PBW, which is a -- just an on-premise license. You've also got off premise licenses, seven days. But for this purpose, they both have the beer and wine license and a liquor by the drink license, which qualifies them as a restaurant.

So when I go in and I inspect a restaurant, I typically go in. The first thing I do is I grab a picture of their alcohol license. Make that it's accurate, it's not expired. Sometimes if they're expired they'll be working off of a temporary permit, which I believe both of these establishments have been operating off of until they can have their --

their court appearance. Then I go behind the bar. I check to make sure that all of their liquor bottles look good.

With that type of license, these locations can't have liquor bottles that are over a liter in size. So if I see what we call handles, which are one point seven five liter containers, that is something I would seize and write a violation for.

I request to see their invoices for their alcohol purchases. Make sure they are not buying alcohol from Sam's Club or Wal-Mart, Circle K, something like that. It all comes -- has to come from a licensed distributor, class B wholesaler. I'll check their liquor liability insurance, make sure they've got a valid copy of that with their million dollar coverage.

And then typically I'll do the kitchen last as a part of my walk-through. I just walk in the kitchen, start opening drawers, opening the refrigerator, the freezer, make sure that I do see food within there. I don't typically wait to see if people are ordering the food. Most of these places I'm in and out within five

to ten minutes, depending on how large the establishment is, and if I have another agent with me to help speed things along.

THE COURT: Okay. Thank you. That was very thorough.

A: Yes. Yes, ma'am.

THE COURT: It's apparent you know your job.

I don't know if you're aware -- I am not sure if you can answer this question. Hopefully you can. There's history with both these establishments and there were some stipulations from before. Would you have those stipulations and go -- and go over them during your view to make sure their complying with those stipulations?

A: Yes, ma'am. So partly because of me they have those stipulations. I've been working this county for eight years now, in the alcohol unit for the duration of my career was SLED. So I am the agent that is assigned to the 5 Points area. We do heavy enforcement down there administratively as well as criminally with underage drinking and fake ID citations, stuff of the sort. So that is something that we have gone into.

I have copies of their stipulations on my phone, but I know most of them by heart by now, at least the -- the main ones that I'm looking for, which is they have to scan every person coming on to their licensed permits with a forensic ID scanner, which are these very large machines. They are -- they work very similarly to the ones that you would see at TSA when you go through the airport. They stick the ID in. It sucks it in, reads the information and determines if it's a fraudulent document or not. They have to have some sort of the hand stamp system or wristband marking system where they mark underage persons versus people that are over age. They to maintain their security surveillance equipment for at least 30 days, and they have to maintain it upon request by law enforcement. They have to give it to us as well.

So with their stipulations, I'm also very familiar with those. And with those particular bars that is something that I do look for.

THE COURT: And so based on your review you found that they were in compliance with those stipulations as well?

A: Yes, ma'am. I found no violations or any warnings that were issued at that time.

THE COURT: Okay. All right. As a result of my questions, the attorneys may have some follow up questions.

THE WITNESS: Yes, ma'am.

THE COURT: Okay.

MR. ALPHIN: No questions, Your Honor.

MR. HAND: I have one, Your Honor, and it's maybe outside the scope of Your Honor's questioning a little bit, but ...

MS. PATURZO - RE-CROSS EXAMINATION BY MR. HAND:

Q: I wonder if the -- the requirement that says, in the statute, that meals are served upon the demand of guests and patrons during the normal meal time. Does SLED do anything to check to see if that requirement is being met?

A: So if I were to receive a complaint -- there has been one or two bars in 5 Points where I did send someone in to try to purchase a meal. And I won't name the location, but I did find one location in non-compliance with that that I cited. Typically, that's going to be more complaint-driven. And only because in Richland County there's maybe 1500 licensed locations.

I just don't have the manpower to go and check every restaurant to try to purchase food.

Q: I understand. Have you ever made that kind of check on either 5 Points Saloon or Group Therapy?

A: No, sir.

MR. HAND: Thank you.

MS. PATURZO - REDIRECT EXAMINATION BY MR. ALPHIN:

Q: One question just in response to that. But that is in your purview as SLED to check if you so chose, correct?

A: Yes, sir. I could have gone then. Yep.

MS. PATURZO - QUESTIONS BY THE COURT:

THE COURT: One quick last question, just because -- I think I -- I want to make sure I heard what you said. Your -- you're part of the enforcement division?

A: Enforcement. Yes, ma'am.

THE COURT: But you were part of this renewal?

A: No, ma'am. I had nothing to do with the renewal.

THE COURT: Okay. So you're just here to tell us generally what happens? Did you -- go ahead.

A: Yes. So I believe I was here to inform the Court about what goes into an alcohol

inspection, and the sort of things that the enforcement agents, which would have been me, look for when we do these compliance walk-throughs.

THE COURT: Uh-huh.

A: And I can't give you the exact date, but some time near the end of the last school semester and the spring semester, beginning of summer --

THE COURT: Uh-huh.

A: -- I did do an inspection of both of these said locations and did not find any violations.

THE COURT: But not the basis for this process, you're just talking generally. You didn't actually do it.

A: I did not send someone in to purchase food.

THE COURT: Okay.

A: I did myself do a walk-through of each location for an alcohol inspection and looked through their kitchens while I was there.

THE COURT: And when did that occur, the date?

A: I don't have the exact date. It was late spring, early summer.

THE COURT: But prior to this -- prior to arriving here, we're here based on a public protest, and that renewal of the license, that was someone

else completely different?

A: For -- I'm sorry, Your Honor, I'm not ---

THE COURT: For both of these establishments. I am confused as to ---

A: So I believe the renewal would have gone into effect August 31st of 2024.

THE COURT: Okay.

A: That is the deadline for Richland County when their licenses expire. It's every two years, August 31st every even year. So their licenses would have expired August 31st of 2024. And I believe this would be for the new license period, which would cover '25 through '26.

THE COURT: And who conducted that renewal? Were you the SLED agent that handled that?

A: So we don't -- the SLED agents don't -- to my knowledge I don't think we do anything with the renewal. It goes through the Department of Revenue.

THE COURT: So there was no SLED inspection?

A: I don't believe so. Not for the renewal. If there was, it was not done by me.

THE COURT: And so you're just testifying as to what the general -- generally speaking with the process is for the ---

A: For the -- for the enforcement side. Yes, ma'am.

THE COURT: And since there was no complaint, there wouldn't have been an enforcement as to the food?

A: Yes, ma'am. That's correct.

THE COURT: Okay. I'm with you.

MR. ALPHIN: I think what she was testifying about was the fact that she did an inspection. Had she found a violation, she would have sent it to the Department of Revenue and they would have not reviewed the license.

THE COURT: I get it. I get it. But she didn't do one.

MR. ALPHIN: No. She did do -- I think she's testified she did do an inspection.

THE WITNESS: I did do an inspection.

MR. ALPHIN: She did not find a violation.

THE COURT: I hear you, Mr. Alphin. I'm clear. I just wanted to know the date and you don't remember the date?

A: No, ma'am. I don't. I apologize.

THE COURT: Okay.

A: But it would have be after the -- it would have been 2025, after the renewal deadline for this

current license period.

THE COURT: Do you remember the month at all?

A: No, ma'am. I'm sorry. I apologize.

THE COURT: All right. Thank you.

A: Yes, ma'am.

MR. KRAJACK: Your Honor, I might. Could I be permitted to ask Agent Paturzo a question or two?

THE COURT: Sure.

MS. PATURZO - FURTHER CROSS-EXAMINATION BY MR. KRAJACK:

Q: Just for the Court's edification, once their location is licensed, typically do the licensing agents revisit that location?

A: I don't believe so.

Q: So in order for the existing license holders, SLED's involvement -- what is SLED's involvement as it relates to an existing license holder?

A: So that would then go to the enforcement side, where we just conduct regular alcohol inspections at the location. and typically with Richland County, because of the large amount of locations, I might visit a place two to three times per year. 5 Points does get an

uptake because I am down there during the school year for underage enforcement. So I am in those bars more often. But I'm not always doing inspections while I am there. I'm more there to look for underage drinking.

Q: Just out of curiosity -- and I don't know the answer to this question. But during your last visits to 5 Points Saloon and Group Therapy, did you notice anyone eating any food or meals?

A: No, sir, I don't believe so.

Q: So is it your testimony you don't recollect seeing that or you recollect that no one was eating any food or ---

A: I've not been inside Group Therapy this semester. I have been in Saloon probably three times, three to four times since the semester started about a month ago and I did not see anyone eating any food while I was inside the, location.

Q: Do you recall what time of the day you were there?

A: This would have been 11:00 clock at night.

MR. KRAJACK: Thank you very much.

MS. PATURZO - QUESTIONS BY THE COURT:

THE COURT: Did you notice if food was available?

A: Yes, ma'am. They have food. It's primarily frozen foods within their freezer. And I know that Saloon likes to do hot dogs. They've got a hot dog roller behind the bar that they utilize.

THE COURT: Okay. Thank you.

A: Yes, ma'am.

THE COURT: You probably never thought you'd say hot dog roller while you were testifying.

Anyone else have any questions?

MR. HAND: No, Your Honor.

MR. ALPHIN: No, Your Honor.

THE COURT: Thank you, ma'am.

THE WITNESS: Thank you, Your Honor.

THE COURT: Sorry to have kept you so long.

THE WITNESS: Hey, that's quite all right. No problem at all.

THE COURT: That's a part of the process.

MR. ALPHIN: I ask that she be excused, Your Honor.

THE COURT: You are excused, if -- unless anyone needs her?

(No response.)

THE COURT: Thank you so much for your time.

THE WITNESS: Yes, ma'am. Thank you, Your Honor. Appreciate it.

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Crystal M. Rookard, Administrative Law Judge

Appellate Case No. 2026-000734

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

v.

South Carolina Department of Revenue, Respondent,

and

Coley Frank Adams, Intervenor-Appellant.

CERTIFICATE OF SERVICE

I, Holli Miller, paralegal to Richard A. Harpootlian, P.A., located at 1410 Laurel Street, Columbia, South Carolina 29201, hereby certify that on July 20, 2026, did serve, via email, the following document to the below counsel:

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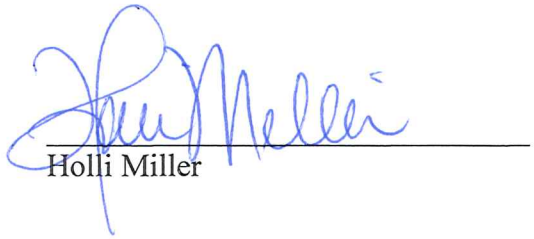

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