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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2018-001613
Case No. 18-ALJ-17-0216-CC

Ex Parte: Representative Chip Huggins,.....Appellant.

In re: WKSC, LLC d/b/a
Savannah's Gentlemen's Club & Steakhouse,.....Petitioner, Respondent,

v.

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

RECORD ON APPEAL

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THE STATE OF SOUTH CAROLINA
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v.

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

RECORD ON APPEAL

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**RECORD ON APPEAL
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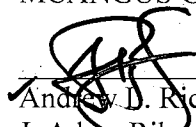
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Certificate by Appellantii

I certify that this designation contains no matter which is irrelevant to this appeal.

MCANGUS GOUDELOCK & COURIE, L.L.C.

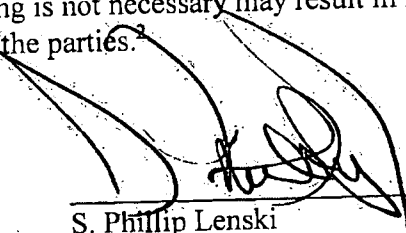


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hearing to confirm the availability of the equipment if desired for your hearing. If special equipment is required for the presentation of evidence, the party presenting the evidence is responsible for obtaining the equipment and its custody.

4. Stipulations of fact and stipulations as to the admissibility of documents are encouraged by the Court. **Prior to the hearing the parties must confer and develop:**
 - a) a list of facts the parties agree upon; and
 - b) a list of documents all parties agree may be admitted as evidence at the hearing.
5. Subpoenas are available to the parties pursuant to SC Code Ann. § 1-23-320(d) (Supp. 2016) and the rules of the Court, to compel the attendance of witnesses or for the production of documents at the hearing. The parties are responsible for service of subpoenas.
6. An attorney representing a party must file a Notice of Appearance within ten (10) days of service of this Notice, unless previously filed with the Court.
7. **TAKE NOTICE THAT A FAILURE TO APPEAR AT THE HEARING MAY RESULT IN:**
 - a. A finding that the party who fails to appear does not object to the relief of which notice has been given;
 - b. Dismissal of the case or striking of the pleading of the party who fails to appear;
 - c. Exclusion of evidence proffered by the party who fails to appear; or
 - d. Such other rulings as are deemed appropriate by the Administrative Law Judge.
8. **Continuances will be granted only when extraordinary circumstances exist.** Parties seeking a continuance must do so in writing no later than 24 hours prior to the scheduled hearing date.
9. In case of settlement or dismissal, failure of the parties to inform the Court prior to the scheduled hearing that the hearing is not necessary may result in imposition of Court costs and Court Reporter fees against the parties.

July 19, 2018
Columbia, SC


S. Phillip Lenski
Administrative Law Judge

² Individuals or entities seeking to intervene in this matter pursuant to SCALC Rule 20 must file a Motion to Intervene with the court no later than August 10, 2018. Motions to Intervene filed after that date will be deemed by the court to be untimely and prejudicial to the rights of existing parties. Motions to Intervene must comply with the requirements set forth in SCALC Rule 20(B).

**ADMINISTRATIVE MEMORANDUM TO INDIVIDUALS
PROTESTING A LICENSE OR PERMIT**

To: All Valid Protestants
From: The South Carolina Administrative Law Court
Re: WKSC, LLC, d/b/a Savannah's Gentlemen's Club & Steakhouse vs.
South Carolina Department of Revenue, Docket #18-ALJ-17-0216-CC

Upon **written** request of a person who resides in the county where the license is requested to be issued, the Department of Revenue must not issue the permanent **alcoholic beverage license** until interested persons have been given an opportunity to be heard. S.C. Code Ann. § 61-6-1820 (Supp. 2016.) In the present case, the Applicant (WKSC, LLC, d/b/a Savannah's Gentlemen's Club & Steakhouse), upon being notified of your written protest, has requested a hearing before an Administrative Law Judge to hear evidence and determine whether its protested **alcoholic beverage application(s)** should be granted.

As a **Protestant**, you have the right to be notified of the date, time, and place of the hearing, to appear at the hearing, and to testify in opposition to the application(s). A group of Protestants with common opposition should designate a spokesperson to present evidence and speak for the group. There is no maximum number of witnesses which may be called, but the Administrative Law Judge will limit cumulative testimony. **In this case, due to the large number of Protestants, the court cannot hear from each individual Protestant. Therefore, it is incumbent upon Protestants with common opposition or who are members of a group or organization protesting the application to identify a spokesperson who can effectively present the concerns of the group or organization.**

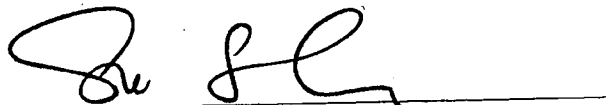
A Protestant is not considered a party of record to the contested case. Byers v. S.C. Alcoholic Beverage Control Commission, 316 S.E.2d 705 (S.C. App. 1984.) To have full participation rights at the hearing, including the right to cross examine witnesses, to request a continuance of the hearing, and to appeal an adverse decision, a Protestant must request to be admitted as a party, by making a motion to intervene. See Sabella v. S.C. Alcoholic Beverage Control Commission, 346 S.E.2d 530 (S.C. App. 1986.) Protestants may choose to be represented by an attorney.

SCALC Rule 20 governs motions to intervene. **If you wish to intervene as a party in this case, you must file a motion to intervene with the Administrative Law Judge assigned to hear the case no later than August 10, 2018.** Any motion to intervene filed after that date will be deemed by the court to be untimely and prejudicial to the rights of existing parties. All motions to intervene must meet the qualifications set forth in SCALC Rule 20(B).

If you decide to withdraw your protest or are unable to attend the hearing, please let the Administrative Law Court know as soon as possible. You may reach us by telephone at: 803-734-0550, by mail at: South Carolina Administrative Law Court, Attn: Judge S. Phillip Lenski, 1205 Pendleton Street, Suite 224, Columbia, SC 29201, or by fax at: 803-734-6400. Please note the case name and docket number on your correspondence.

CERTIFICATE OF SERVICE

I, Erika S. Easler, 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, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler
Judicial Law Clerk

July 1st, 2018
Columbia, South Carolina

matter, the court issued an Administrative Memorandum to Individuals Protesting A License or Permit. This memorandum set forth, among other things, that the protestants with common objections or who are members of a group or organization protesting the Petitioner's license applications should appoint a spokesperson who can effectively present the concerns of the group or organization, in order to minimize the number of witnesses that would be speaking at the hearing. Additionally, the Memorandum contained the following paragraph:

SCALC Rule 20 governs motions to intervene. **If you wish to intervene as a party in this case, you must file a motion to intervene with the Administrative Law Judge assigned to hear the case no later than August 10, 2018.** Any motion to intervene filed after that date will be deemed by the court to be untimely and prejudicial to the rights of existing parties. All motions to intervene must meet the qualifications set forth in SCALC Rule 20(B).

The court's Order and Notice of Hearing and the Memorandum were electronically transmitted to all parties and protestants on July 19, 2018.

On August 30, 2018, the court received a Motion for Leave to Intervene, filed by counsel, seeking to permit The Honorable Chip Huggins of South Carolina House of Representatives District 85 (Lexington County) to intervene in the matter. The Movant (already a protestant) sought to intervene, alleging that: (1) he would be aggrieved or adversely affected by potential issuance of the license; (2) his interests would not be properly represented by the Department; (3) his interest would not be represented by the Petitioner; and (4) he would not unduly prolong the proceeding or otherwise prejudice the rights of existing parties. The Movant further asserted that by permitting intervention, the court could potentially streamline the process of hearing the case and enhance the rights of existing parties. In addressing the tardiness of the motion, the Movant asserted that he had good cause for filing the motion late because (1) his interest would not be properly satisfied unless he was afforded the rights bestowed upon parties to the litigation, (2) judicial economy would best be served with an officially named Party Protestant, and (3) the Movant's counsel was not retained until August 29, 2018, the day before the filing of the motion.

On September 4, 2018, the court conducted a telephone conference with counsel for all existing parties and the Movant. During that telephone conference, the Movant's counsel restated his grounds for seeking leave to intervene. He asserted that the Movant did not feel that his interests or the interests of his constituents, residing in and around the proposed location, were adequately represented by the current parties, and that while Representative Huggins was the only person seeking to intervene, he believed that his arguments against licensing the Petitioner represented a

grassroots position in general opposition to the licensing of the establishment. Furthermore, he asserted that by permitting the intervention, it might streamline the process of hearing the matter because as a party, Representative Huggins could better present the objections held by the other protestants. While he could not represent that the Movant's intervention would curtail the number of protestants seeking to speak at the hearing, counsel for the Movant asserted that he believed such would be the case.

When asked about the reason for the tardiness of the motion, counsel for the Movant again pointed out to the court that he was retained on August 29, 2018 and filed his Motion for Leave to Intervene the following day. As to why the Movant waited until August 29, 2018 to retain counsel and seek to intervene, he stated that he believed there was some difficulty or delay in acquiring the funds for his representation, and that there may have been some uncertainty about the process, due to the Movant not being an attorney. Finally, the Movant's counsel asserted that he would be ready to proceed on the scheduled hearing date, and that he would not delay the proceedings.

Counsel for the Department did not take a position on the Motion for Leave to Intervene. However, counsel for the Petitioner strongly opposed the motion. The Petitioner's counsel pointed out that the Motion for Leave to Intervene was filed outside the standard timeline established in SCALC Rule 20(c), which requires motions to intervene to be filed within twenty (20) days before the hearing, and it was filed outside the specific August 10, 2018 deadline this court established for this hearing in the court's Administrative Memorandum attached to its July 19, 2018 Order and Notice of Hearing. Counsel for the Petitioner further asserted that the basis for seeking to intervene was political rather than based on real opposition to the location, in that the Movant is involved in a contested race for re-election and is seeking to curry political capital with constituents. Finally, the Petitioner's counsel asserted that permitting intervention at this late date would prejudice his client. He stated that he does not generally depose non-party protestants to a liquor license because protestants are mere witnesses and do not have the right to call witnesses, cross-examine, or make argument. On the other hand, he generally does depose an intervening party protesting a liquor license, and any witnesses the party may seek to call, due to the greater rights afforded a party. However, because of the late date of the Movant's motion, effectively one business week before the hearing, he would be unable to prepare and depose the Movant and any other witnesses the Movant might seek to call in his case before the court.

DISCUSSION

The issue before the court is whether the Movant should be granted leave to intervene. ALC Rule

20. ALC Rule 20 governs intervention in contested cases pending before the ALC. Rule 20 states in pertinent part:

Any person may intervene in any pending contested case hearing upon a showing that: (1) the movant will be aggrieved or adversely affected by the final order; (2) the interests of the movant are not being adequately represented by existing parties, or that it is otherwise entitled to intervene; (3) that intervention will not unduly prolong the proceedings or otherwise prejudice the rights of existing parties. ALC Rule 20(B).

A party seeking to intervene has the burden of showing that intervention is proper. *See In re Horry Co. State Bank*, 361 S.C. 503, 508, 604 S.E.2d 723, 725 (Ct. App. 2004) (stating that the applicant for intervention bears the burden of demonstrating required elements for intervention). The time for filing a motion to intervene is governed by ALC Rule 20(C), which provides:

The motion for leave to intervene shall be filed as early in the proceedings as possible to avoid adverse impact on the existing parties or the disposition of the proceedings. Unless otherwise ordered by the administrative law judge, the motion to intervene shall be filed at least twenty (20) days before the hearing. Any later motion shall contain a statement of good cause for the failure to intervene earlier.

In this case, the court is dealing with a cumbersome proceeding and an extraordinarily large number of attendees. The 239 protestants, all potential witnesses, coupled with anticipated spectators, have strained the court's ability to effectively and safely conduct the hearing. No other hearings have been scheduled during the date of the hearing², and the court has carefully developed a plan, borrowing space from a neighboring state agency, and wired an adjoining conference room with video and audio feed to accommodate the large number of attendees. In recognition of the unique nature of this proceeding, the court sent out a memorandum with its Order and Notice of Hearing, informing protestants that if they **"...wish to intervene as a party in this case, you must file a motion to intervene with the Administrative Law Judge assigned to hear the case no later than August 10, 2018."** (emphasis included). Further, the memorandum stated "(a)ny motion to intervene filed after that date will be deemed by the court to be untimely and prejudicial to the rights

²The South Carolina Administrative Law Court has six judges who sit on its bench and there are three courtrooms in the building. No other hearings are being held on the scheduled day of this hearing due to the strain on the court's personnel and resources.

of existing parties.” A copy of the Order and Memorandum was electronically sent to all protestants on July 19, 2018, and the Movant electronically acknowledged receipt on the same day.

In evaluating the Movant’s Motion for Leave to Intervene, the court focuses on the timeliness of the motion, and the justification given for its late filing. The motion was not filed until Friday, August 30, 2018. It was filed twelve (12) days before the scheduled hearing, and on a Friday before the long Labor Day weekend, effectively leaving only one business week for the existing parties to adjust to the addition of a new party if granted. This is well outside the 20-day deadline for filing set forth in SCALC Rule 20, and 20 days after the August 10, 2018 deadline set by this court for this case. The Petitioner has asserted that granting the Movant’s motion at this late hour will prejudice the Petitioner’s ability to prepare for the hearing on the scheduled date, as he will be unable to schedule, conduct, and review depositions of any of the Movant’s witnesses.³

In the Movant’s motion, the grounds offered for its late filing are that (1) the Movant’s interest will not be properly satisfied unless he is afforded the rights bestowed upon parties to the litigation, (2) judicial economy would best be served with an officially named Party Protestant, and (3) the Movant’s counsel was not retained until August 29, 2018, the day before the filing of the motion. None of these offer any justification for the motion’s tardiness. While the Movant’s interests and any judicial economy realized by adding an intervenor may go towards good cause for being permitted to intervene, they fail to answer why the motion was filed out of time. The final justification, that counsel was not retained until the day before the filing, may address why the Movant’s counsel did not file the motion until August 30, 2018, however, it in no way addresses why the Movant failed to retain counsel until long after both the standard regulatory filing deadline and the special deadline set by the court in this case had expired. In the telephonic conference held by the court on September 4, 2018, the Movant’s counsel expounded upon the justifications asserted in the written motion establishing the Movant’s grounds for seeking intervention. However, when he attempted to explain or justify the late filing he could only suggest that there may have been some difficulty with the funding of counsel to intervene, and that there may have been some confusion about the administrative process, given that neither the Movant nor any of the other protestants the Movant has been communicating with are attorneys skilled in practicing before the court. While the court does not doubt this, the court does not find any of that explanation sufficient to justify permitting the Movant to intervene so late in the process, especially given the court’s written notice

³The Movant’s counsel points out that the Petitioner could have deposed the Movant and any other protestants at any time prior to the hearing, as he knew the names of all protesting persons. However, this assertion ignores that there are 239 protestants in this matter. The thought that the Petitioner could have deposed all of them prior to the hearing, in anticipation that one or more might move to intervene in the action, is unrealistic, especially given the

to the Movant sent and received on July 19, 2018, stating that motions to intervene must be received no later than August 10, 2018 or they would be deemed untimely and prejudicial.

The court is persuaded by the test employed by this state's Supreme Court in evaluating the timeliness of motions to intervene filed by movants in Circuit Court, pursuant to SCRCRCP Rule 24. In *Davis v. Jennings*, 304 S.C. 502, 405 S.E.2d 601 (1991), the South Carolina Supreme Court held that courts employ a four-part test for determining the timeliness of motions to intervene in civil proceedings pursuant to SCRCRCP Rule 24:

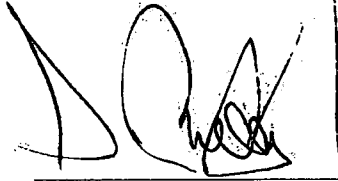
- (1) the time that has passed since the applicant knew or should have known of his or her interest in the suit;
- (2) the reason for the delay;
- (3) the stage to which the litigation has progressed; and
- (4) the prejudice the original parties would suffer from granting intervention and the applicant would suffer from denial.

Davis, 406 S.E.2d at 603. While SCALC Rule 20 is not identical to SCRCRCP Rule 24, they are analogous, and the test provides a sound basis for evaluating late filed SCALC Rule 20 motions to intervene. Here, the Movant was already a protestant in this action and had filed a written protest with the Department objecting to the Petitioner's license application sometime before June 19, 2018, the date the Department denied the Petitioner's application. Therefore, the Movant has known of and asserted his interest in this matter for months. The explanation for the late filing of this motion, discussed above, does not sufficiently justify its tardiness. The hearing, which is designed to be conducted expeditiously to afford the Petitioner an answer on whether its alcoholic beverage license and permit applications will be granted, is only one week away. Finally, the court accepts that the Petitioner would be prejudiced if it were to permit the Movant to intervene in that there is likely too little time for the Petitioner to schedule and conduct depositions of the Movant's witnesses. As to the harm the Movant will suffer, the court finds that while the Movant will not have the same rights as a party, he is still a protestant in this matter and will be afforded the opportunity to present his objections to the Petitioner's license applications on the day of the hearing.

Because the court finds that there was not good cause for the untimely filing of the Movant's Motion for Leave to Intervene, it must deny the motion.

ORDER

IT IS THEREFORE ORDERED that the Motion for Leave to Intervene is **DENIED**.
IT IS SO ORDERED.

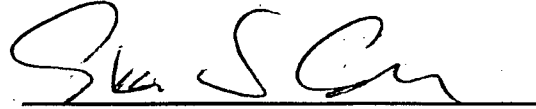


September 5, 2018
Columbia, South Carolina

S. Phillip Lenski
Administrative Law Judge

CERTIFICATE OF SERVICE

I, Erika S. Easler, 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, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler
Judicial Law Clerk

September 5, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

WKSC, LLC D/B/A SAVANNAH'S
GENTLEMEN'S CLUB &
STEAKHOUSE,

Petitioner,

v.

SOUTH CAROLINA DEPARTMENT OF
REVENUE,

Respondent.

Docket No. 18-ALJ-17-0216-CC

**MOTION FOR LEAVE TO
INTERVENE**

TO: KEN ALLEN, COUNSEL FOR WKSC, LLC D/B/A SAVANNAH'S GENTLEMEN'S CLUB & STEAKHOUSE and JASON LUTHER, COUNSEL FOR SOUTH CAROLINA DEPARTMENT OF REVENUE

Pursuant to Rule 20 of the Rules of Procedure for the Administrative Law Court, Representative Chip Huggins, (Movant), moves to intervene as a party in the above-captioned proceeding, and as grounds for this motion, alleges: (1) Movant will be aggrieved or adversely affected by potential issuance of the license; (2) the interests of the Movant will not be properly represented by South Carolina Department of Revenue due to the Department's position that Petitioner meets the statutory qualifications and would have issued the license but for the incredibly numerous and vast public protests; (3) the interest of the Movant will certainly not be properly represented by WKSC, LLC d/b/a Savannah's Gentlemen's Club & Steakhouse due to Petitioner seeking the issuance of the license and Movant adamantly being opposed to the issuance of such license; and (4) Movant asserts that intervention will not unduly prolong the proceeding or otherwise prejudice the rights of existing parties – alternately, Movant asserts that intervention could potentially assist with streamlining the proceeding which may enhance the

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SC ADMIN LAW COURT

rights of the existing parties. For the foregoing reasons, Movant respectfully asserts it is vitally interested in and affected by the outcome of this proceeding.

In view of these allegations, any order issued by the Court in this proceeding would be binding on Movant and its interest in these proceedings would not be adequately protected unless it is permitted to intervene. Notwithstanding the above, Movant is aware that such motion has been filed outside the 20 day time limit as provided pursuant to Rule 20(c) of the Administrative Law Court Rules of Civil Procedure. However, Movant asserts that good cause is found for the tardiness to timely intervene due to (1) Movant asserting that its interest shall not be properly satisfied without the rights afforded to properly identified parties to the litigation, (2) Judicial Economy may be best served with an officially named Party Protestant and (3) due to the below listed counsel having been recently retained on August 29, 2018 (*See* filed Notice of Appearance for Representative Chip Huggins).

Wherefore, Movant respectfully moves that it be granted leave to intervene in this proceeding.

McANGUS GOUDELOCK & COURIE, L.L.C.



Andrew L. Richardson, Jr.
Post Office Box 12519, Capitol Station Meridian,
1320 Main Street, 10th Floor (29201)
Columbia, South Carolina 29211-2519
(803) 779-2300

ATTORNEY FOR MOVANT

August 30, 2018.

ORDER

The foregoing Motion to Intervene is hereby

_____ GRANTED.

_____ DENIED for the following reasons:

AND IT IS SO ORDERED.

_____, 2018.

Administrative Law Judge

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

WKSC, LLC D/B/A SAVANNAH'S)
GENTLEMEN'S CLUB &)
STEAKHOUSE,)

Petitioner,)

v.)

SOUTH CAROLINA DEPARTMENT OF)
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Respondent.)

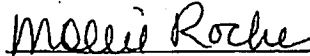
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PROOF OF SERVICE

I hereby certify that I have served the Motion for Leave to Intervene in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on August 30, 2018 to the below named parties at their address of record:

Kenneth E. Allen, Esquire
1201 Main Street, Suite 1980
Columbia, South Carolina 29201

Jason P. Luther, Esquire
S.C. Department of Revenue
Post Office Box 12265
Columbia, South Carolina 29211-9979



Mollie Roche
Legal Assistant for Andrew L. Richardson, Jr.
McAngus, Goudelock & Courie LLC
Post Office Box 12519, Capitol Station
Meridian, 1320 Main Street, 10th Floor (29201)
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(803) 779-2300

August 30, 2018

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SC ADMIN LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

WKSC, LLC D/B/A SAVANNAH'S)
GENTLEMEN'S CLUB &)
STEAKHOUSE,)
)
Petitioner,)
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v.)
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SOUTH CAROLINA DEPARTMENT OF)
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Respondent.)

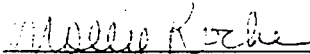
Docket No. 18-ALJ-17-0216-CC

PROOF OF SERVICE

I hereby certify that I have served the Notice of Appearance in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on August 30, 2018 to the below named parties at their address of record:

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Mollie Roche
Legal Assistant for Andrew L. Richardson, Jr.
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August 30, 2018

FILED

AUG 30 2018

SC ADMIN LAW COURT



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

**CONDITIONAL
APPLICATION DENIAL NOTICE**

04/13/2018

KEN ALLEN
1201 MAIN ST, SUITE 1980
COLUMBIA, SC, 29201

FILE # 10291582-9
SAV. GENTLEMENSCLUB&STEAKHOUSE
4029 FERNANDINA RD
COLUMBIA, SC, 292120000

Re: ON PREMISES BEER/WINE; BUSINESS LIQUOR BY THE DRINK

Dear Taxpayer:

Please be advised that the South Carolina Department of Revenue is conditionally denying the above referenced beer/wine and/or liquor application for the above referenced license(s) and /or permit(s). This denial is based upon the following:

[FAILURE TO PROVIDE] - The applicant failed to provide required information. SC Code Section 61-2-90

OTHER(5) Is the business open to sell alcoholic beverages for on premises consumption after 5 PM? If yes, you must provide a copy of your liquor liability policy or general liability insurance policy with a liquor endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license, Per SC Code Section 61-2-145

Need ABL920, ABL946 and Sled Background check for Store Manager

148 ✓ LEASE- A signed copy of lease agreement

[PROTEST] - The Department has received valid protest(s) for the proposed location. SC Code Section 61-4-525; 61-6-185

[RESTAURANT -GRADE A] - The Department prohibits the issuance of a liquor license if the location does not have a Grade A Retail Establishment Food Permit prior to issuance of a license. SC Regulation 61-6-20(2); 61-6-1820(1)

[UNSUITABLE LOCATION] - The department is unable to determine if the store or place of business to be occupied by the applicant is a suitable/proper place. SC Code Section 61-4-520(5); 61-6-910(2)

0027



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

You may still obtain your license or permit by supplying the requested information, documentation, or otherwise comply with the requirements necessary for licensure. You must do so within ninety (90) days of the date of this letter. If you are unable or unwilling to meet these requirements, within the time provided you may Protest this denial. Your Protest must be in writing and reach the department within ninety (90) days of the date of this letter. You must include the following information with your protest:

- Your name, address and telephone number; and
- A statement of facts supporting your position; and
- A statement outlining the reasons for your Protest, including any law or other authority upon which you are relying; and
- The relief which you are seeking.

You must forward your Protest to the ABL Section of the South Carolina Department of Revenue at the address shown above.

After review of your Information or Protest, the ABL Section of the Department of Revenue will either continue to process your application, or forward it to the Office of the General Counsel for the Department of Revenue for their review and final determination.

If you do not respond to this Notice of Denial as stated above, this Denial will be final and you will have no rights to Protest or Appeal.

Sincerely,

Ratcliff, Rosemarie
South Carolina Department of Revenue
Alcohol Beverage Licensing
Phone # (803) 898-5361
Fax # (803) 896-0110

0028

DEPARTMENT DETERMINATION

Applicant:

WKSC, LLC
d/b/a Savannah's Gentlemens Club & Steakhouse
4029 Fernandina Road
Columbia, SC 29212

File No.:

102915829-PBW/PLB

Date of Application:

March 7, 2018

Matters in Dispute:

1. Did the South Carolina Department of Revenue (Department) properly deny the issuance of the on-premises beer and wine permit and the restaurant liquor by the drink license based on the suitability of the location as alleged in public protests filed pursuant to S.C. Code Ann. §§ 61-4-525 and 61-6-1825 (2009)?
2. Did the Department properly deny the issuance of the on-premises beer and wine permit and the restaurant liquor by the drink license based upon the Applicant's failure to provide information required pursuant to S.C. Code Ann. §§ 61-2-90 (2009) and 61-2-145(2017)?
3. Did the Department properly deny the issuance of the on-premises beer and wine permit based upon the suitability of the proposed location pursuant to S.C. Code Ann. § 61-4-520 (2009)?
4. Did the Department properly deny the application of the restaurant liquor by the drink license based upon the Applicant's failure to obtain a Grade A Retail Establishment Food Permit pursuant to S.C. Ann. Code §§ 61-6-20(2) (Supp. 2016) and 61-6-1820(1) (Supp. 2016)?
5. Did the Department properly deny the issuance of the on-premises beer and wine permit and restaurant liquor by the drink license based upon the failure of the Applicant to disclose all of its principals pursuant to S.C. Code Ann. § 61-2-100(J) (2009)?
6. Did the Department properly deny the issuance of the restaurant liquor by the drink license based upon the Applicant's failure to meet the restaurant requirements set forth in § 61-6-20(2) and S.C. Ann. Regs. 7-401.3 (Supp. 2017)?

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Determinations:

1. The Department properly denied the issuance of on-premises beer and wine permit and the restaurant liquor by the drink license based on timely filed public protest.
2. The Department properly denied the issuance of the on-premises beer and wine permit and restaurant liquor by the drink license based upon the Applicant's failure to provide information required pursuant to §§ 61-2-90 and 61-2-145.
3. The Department properly denied the issuance of the on-premises beer and wine permit based upon the suitability of the proposed location pursuant to § 61-4-520.
4. The Department properly denied the issuance of the restaurant liquor by the drink license based upon the Applicant's failure to obtain a Grade A Retail Establishment Food Permit pursuant to §§ 61-6-20(2) and 61-6-1820(1).
5. The Department properly denied the issuance of the on-premises beer and wine permit and restaurant liquor by the drink license based upon the failure of the Applicant to disclose all of its principals pursuant to § 61-2-100(J).
6. The Department properly denied the issuance of the restaurant liquor by the drink license based upon the Applicant's failure to meet the restaurant requirements set forth in § 61-6-20(2) and Regulation 7-401.3.

Relevant Facts:

1. On March 7, 2018, The Department received an application for an on-premises beer and wine permit and restaurant liquor by the drink license from WKSC, LLC, d/b/a Savannah's Gentlemens Club and Steakhouse, located at 4029 Fernandina Road, Columbia, South Carolina.
2. As a result of filing the application, the South Carolina Law Enforcement Division (SLED) conducted a standard investigation of the location to determine compliance with the statutory requirements for licensure. However, due to the fact the construction of the proposed location has not begun, SLED is unable to determine compliance with S.C. Code Ann. § 61-2-170, and §§ 61-4-520, 61-6-20(2) and Regulation 7-401.3.
3. The Department received 239 timely public protests. The names of the Protestants are attached as Exhibit A.
4. The Department mailed an ABL information Request to the Applicant on March 15, 2018. That letter requested the following information:
 - a. Affidavit of publication from an approved newspaper¹

¹This information was subsequently provided to the Department.

- b. Proof of a Grade A health rating from DHEC.
 - c. A signed copy of the lease agreement.²
 - d. A copy of the Applicant's liquor liability insurance.
 - e. The Applicant's retail sales tax license number.³
 - f. A consent and waiver form, verification of lawful presence, and a criminal background check for the Applicant's daily operational manager.
5. The Department denied the issuance of the permit and license pursuant to a denial letter dated April 13, 2018.
 6. The Applicant timely protested the denial of the permit and license pursuant to a letter received by the department on April 19, 2018.

Analysis:

- I. **A contested hearing is necessary since timely public protests have been filed with the department.**

Section 61-6-1825 and S.C. Code Ann. Regs. 7-201 (Supp. 2011) allow the public to submit written protest to the Department against the issuance of a liquor by the drink license if the Protestant complies with the requirements of the statute in rendering the protest. Further, the Protestant must express the intent to attend a contested-case hearing and must reside in the same county as the location or within five miles of the location.

Specifically, § 61-6-1825 provides:

(A) A person residing in the county in which a license pursuant to the provisions of subarticle 1 of this article is requested to be granted, or a person residing within five miles of the location for which a permit pursuant to the provisions of subarticle 1 of this article is requested, may protest the issuance or renewal of the license if he files a written protest providing:

(1) the name, address, and telephone number of the person filing the protest;

(2) the name of the applicant for the license and the address of the premises sought to be licensed, or the name and address of the license holder if the application is for renewal;

(3) the specific reasons why the application should be denied; and

(4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

(B) Upon receipt of a timely filed protest, the department must determine the protestant's intent to attend a contested hearing

²This information was subsequently provided to the Department.

³This information was subsequently provided to the Department.

before the Administrative Law Court. 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.

(C) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.

(D) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.

Section 61-4-525 provides substantially the same language as cited above in allowing the public to submit protest against the issuance of a beer and wine permit at a proposed location.

The Department received 239 valid public protests. Except for determining that the statutory requirements for protest have been met, the Department does not have the authority to issue the permit and license over the objection of the public protests; rather, this matter must be heard by the Administrative Law Court.⁴ Pursuant to the mandates of §§ 61-6-1825 and 61-4-525, the Department may not issue the permit and license.

II. The Department properly denied the issuance of the restaurant liquor by the drink license based upon the Applicant's failure to provide required information.

Section 61-2-90 provides what information is required of "a person desiring a license under [Title 61] . . .," which includes any "other information [aside from what is specifically referenced herein] required by the department to determine if the application meets all statutory requirements for the license or permit . . ." S.C. Code Ann. § 61-2-90(6) (2009). As of July 1, 2017, an additional statutory requirement that must be met if applying for a liquor license is the maintenance of a liquor liability insurance policy. Specifically, § 61-2-145(A) provides:

In addition to all other requirements, a person license or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. .

⁴The Department is reviewing information provided by the protestant regarding the suitability of the location and reserves the right to pursue additional grounds for denial if warranted.

Section 61-2-145(B) further provides:

The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on-premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after five o'clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

The Applicant has indicated that they intend to sell alcoholic beverages for on-premises consumption after five o'clock p.m. Because of the Applicant's intention to sell alcoholic beverages for on-premises consumption after five o'clock p.m., pursuant to § 61-2-145, the Applicant must "provide the [D]epartment with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts."

Because the Licensee has been unable to provide the necessary liquor liability insurance documentation for on-premises consumption of alcoholic beverages after five o'clock p.m., the Department properly denied the issuance of the on-premises beer and wine permit and restaurant liquor by the drink license.

III. The Department properly denied the issuance of the on-premises beer and wine permit based upon the suitability of the proposed location.

"The [D]epartment has the sole and exclusive power to issue all licenses, permits, and certificates provided for in this title." S.C. Code Ann. § 61-2-70 (2009). Section 61-4-520 establishes the criteria for the issuance of a beer and wine permit. Included in the criteria is the requirement that "the location of the proposed place of business of the applicant is in the opinion of the [D]epartment a proper one." See § 61-4-520(5). Section 61-2-170 also provides requirements for a building in which a licensed applicant may operate. Specifically, § 61-2-170 states "[t]he department may not generate license fees . . . through the issuance of licenses or permits for on or off-premises consumption which authorize alcoholic liquors, beer or wine to be sold on a drive-through or curbside service basis."

At the time of the SLED investigation, construction had not commenced at the proposed location. The Department cannot verify statutory compliance; therefore, it properly denied the on-premises beer and wine permit based upon the unsuitability of the location.

IV. The Department properly denied the issuance of the restaurant liquor by the drink license based upon the Applicant's failure to provide a Grade A Retail Establishment Food Permit.

S.C. Code Ann. § 61-6-1610(H) (2009) sets forth the following requirement:

An establishment licensed pursuant to the provisions of Section 61-6-20(2) as a business that is bona fide engaged primarily and substantially in the preparation and serving of meals **is authorized to continue to operate as the licensed establishment so long as the licensed establishment maintains a Grade A retail food establishment permit from the Department of Health and Environmental Control.** Upon notice by the Department of Health and Environmental Control to the licensed establishment and to the Department of Revenue that the retail food establishment permit has been reduced to a grade below Grade A, the licensed establishment has thirty days within which to request a subsequent inspection by the Department of Health and Environmental Control. If a subsequent inspection is not requested within thirty days after the reduction in a grade below Grade A, or the subsequent inspection results in a grade below Grade A, then the Department of Revenue shall suspend the license of the licensed establishment until the Department of Health and Environmental Control issues a Grade A retail food establishment permit.

(Emphasis added).

At the time of the SLED investigation, the Applicant was unable to provide the Department with a Grade A Retail Food Establishment Permit. Therefore, the Department properly denied the restaurant liquor by the drink license.

- V. **The Department properly denied the issuance of the on-premises beer and wine permit and restaurant liquor by the drink license based upon the Applicant's failure to provide the Department with of a principal who will be responsible for the day-to-day management of the proposed location.**

The Department is charged with determining whether applicants for alcohol licenses meet all of the statutory requirements for licensure. See S.C. Code Ann. §§ 61-2-70 and 61-2-80 (2009). In order to make that determination, the Department needs to know the identity of all of the Applicant's principals. See e.g. Section 61-2-100(C) (stating that all principals are deemed to be the applicant under S.C. Code Ann. § 61-2-160 (2009); § 61-2-100(D) (requiring all principals be of good moral character); and § 61-2-100(E) (requiring all principals to be over the age of twenty-one). Therefore, an applicant must disclose all of its principals to the Department when applying for an alcohol license.

Section 61-2-100(H)(2) provides:

"Principal" of a business or entity means a person who is described in any one or more of the following terms:

- (a) an officer of the business or entity which owns the business;
- (b) a partner other than a limited partner who cannot exercise any management control;
- (c) a manager of the limited liability company which is managed by managers;
- (d) a member of the limited liability company which is not managed by managers;
- (e) a fiduciary, including personal representatives, trustees, guardians, committees, and receivers, who manage, hold, or control title to or who is otherwise in direct or indirect control of the business;
- (f) a person who owns twenty-five percent or more of the combined voting power of the business or entity;
- (g) a person who owns twenty-five percent or more of the value of the business entity; or
- (h) an employee who has day-to-day operational management responsibilities for the business or entity.

(Emphasis added).

In this case, the sole principal, Mr. Jimmie Ellis, is a citizen of Winston-Salem, North Carolina. Mr. Ellis will be relying on an employee who will be responsible for the day-to-day operational management of the proposed location. As the Applicant failed to provide the Department with the required information for this principal, the Department properly denied the on-premises beer and wine permit and restaurant liquor by the drink license.

VI. The Department properly denied the issuance of the restaurant liquor by the drink license based upon the Applicant's failure to meet the restaurant requirements

Under Section 61-6-1610, a business establishment may lawfully sell alcoholic liquors by the drink if the business is "bona fide engaged primarily and substantially in the preparation and serving of meals . . ." Section 61-6-20(2) defines bona fide engaged primarily and substantially in the preparation and serving of meals as:

[A] business that provides facilities for seating not fewer than forty persons simultaneously at tables for the service of meals and that:

(a) is equipped with a kitchen that is utilized for the cooking, preparation, and serving of meals upon customer request at normal meal times;

(b) has readily available to its guests and patrons either menus with the listings of various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons; and

(c) prepares for service to customers, upon the demand of the customer, hot meals at least once each day the business establishment chooses to be open.

Regulation 7-401.3 further defines the restaurant requirements as:

1. "Meal" means an assortment of various prepared foods which shall be available to guests on the licensed premises during the normal "mealtimes" which occur when the licensed business establishment is open to the public. Sandwiches, boiled eggs, sausages, and other snacks prepared off the licensed premises but sold thereon, shall not constitute a meal.

2. "Kitchen" means a separate and distinct area of the business establishment that is used solely for the preparation, serving and disposal of solid foods that make up meals. Such area must be adequately equipped for the cooking and serving of solid foods, and the storage of same, and must include at least twenty-one cubic feet of refrigerated space for food and a stove.

3. "Primarily" means that the serving of meals by a business establishment constitutes a regular and substantial source of business to the licensed establishment and that meals shall be served upon the demand of guests and patrons during the normal "mealtimes" which 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 such demand.

At the time of the SLED investigation, construction has not commenced at the proposed location. As such, the agent cannot determine the following: whether the proposed location can seat at least forty (40) or more persons simultaneously at tables for service of meals; whether the business has a kitchen that is a separate area of the business that is used solely for the preparation, serving, and disposal of meals; whether the business has a kitchen with a working fixed grill, stove, or microwave oven; whether the kitchen has a functioning cold storage unit with a minimum of twenty-one (21) cubic feet capacity for food storage; whether the business had a menu or sign listing the meals offered for service; and, whether the business had any food on the premises with which to serve forty (40) hot meals as required by §§ 61-6-20(2), 61-6-1610, and Regulation 7-401.3.

The Department cannot verify statutory compliance, therefore; it properly denied the restaurant liquor by the drink license based upon the failure to meet the restaurant requirements set forth in §§ 61-6-20(2), 61-6-1610, and Regulation 7-401.3.

Conclusion:

If you agree with this Department Determination, please withdraw (in writing) your application within thirty (30) days of the date of this Determination. If you disagree, please

0038

appeal the Determination within such thirty (30) day period as noted on the attached cover letter.

June 19, 2018

0039

PROTESTANTS- WKSC, LLC

Received on:

February 14, 2018

Tom Renedo

March 22, 2018

Tricia Flowers

Joanne and Eddie Kelly

Elizabeth Timms

March 23, 2018

April Alsup

Matt Alsup

Stephen R. Ayers

Margo E. Burch

Randa Downs

Marjorie Ehrenclou

Farrah Garner

Merrilyn Hall

Mary Hornsby

Joyce Sweeney

Fran Tucker

Judith Wells

Michael Whitaker

Tina Whitaker

Elizabeth K. Williams

March 26, 2018

Nancy Bolling

Violet Clark

Lucinda Daniels

Carol M. Davis

Gloria H. Dowdey

Elizabeth Ford

Doug Foreman

Karen Foreman

Deborah Hayes

Henry B. Martin, Jr.

Margaret R. McKechnie

Diane & Richard Roshto

Joye Rush

Allison Shipman

Shari Nash Tolen
William Walker
Clyde N. Wilson

March 27, 2018

Robert T. Beym
Kristen Batchelor
David Batchelor
Kenneth W. Cabe
Carole Cabe
Mark & June Cannon
Linda Crain
William J. & Maxine W. Drake
Jane & Ted Gantt
Ken Gasque
Lawrence R. & Shanna L. Grannis
Monaca Harrelson
Chip Huggins
Susan B. Jackson
James Edward Johnson
Tiffany Hibshman-Johnson
Margaret McKerr
John B. Klunder
Ruth M. Klunder
D. J. Littlejohn
Andrew Lyon
Linda Lyon
Leila Nyikos
Peter Nyikos
Mary Parker
Ada Raybon
James & Marsha Sansonetti
Kelly Semenza
Hassan Al Shazly
Margaret A. Vitiello
Lynn B. Watson
Ralph Whalen
Edna B. Williams
Lee Wilson
Susan Wise

March 28, 2018

Bonnie A. Belser

Gloria K. Bowman
Betty Brooks
Taylor Bearchemin
Michael Bearchemin
Hans Peter Brown
Jean Brown
Axa M. Carnes
Larry S. Carnes
Jennifer Cassidy
Peggy Clore
Jackie L. Daniels
Brian Davis
Renee Davis
Josh DeWees
Samantha DeWees
Kathy Dhotre
Councilwoman Joyce Dickerson
Elizabeth Foust-Drakeford
Gary Ellis
John H. English
Montez Rion English
David R. Grove
Susan L. Fulmer
Amy Galdamez
Mike Galdamez
Celia A. Galens
Christopher R. Gates
Paige Gates
Rebecca George
Kyle George
Kimberly Gray
Claudine Jordan
David R. Grove
Jesse Grote
Jonathan Hanberry
Thomas J. Hilbish
Curtis N. Holland
D.J. Intermill
William J. Lance
Sylvia R. Lewis
Thomas McDermott
Lorie L. McGraw
Brenda McGriff

Brenda B. Miller
Scott Malloy & Emily House for Avsome Gym
Athanasios Myers
Joanna Neal
Jack Allen Norris
Captain Joseph Odom on behalf of Richland County Sheriff's Department
Harriet Patrick
Wanda Pearson
Diane Perdue-Shu
Eleanor G. Perry
Brandon Franklin Pugh
Waletha H. Rish
Andrew Rogers
Tyler Rogers
Yvonne Shelby
John Sloan & Bennie Wilson as Representatives of New Covenant Assembly Christian Ministry
Tiffany Smith
Linda G. Sover
Carole Strange
Holly Street
Algernon B. Thompson
Beth Trotter
Richard & Beth Trotter
Rev. Dr. Charles R. Watkins on behalf of Pine Grove AME Church
James E. Watson
Annie G. Weir
Deborah West
V. LaNelle White
Larry S. Umberger
Constance Yearling
David Zannella
Donald J. Zelenka
Leslie Zelenka

March 29, 2018

Stephen C. Anderson
Tina Bridgewater
Derrick Buschatz
Jim Carter
Margaret Chambers
Roberta Culbertson
Donna W. Barfield
Frances L. Brannon

June Cannon
Katherine Carter
Elizabeth M. DeRidder for Michael J. Mungo Foundation
James R. DeLong
Donna Dennis
Kathy Dhotre
William Bradford Dillon
Delaney Faircloth
Wendy W. Faircloth
Donna C. Forrest
Stacey French
Scott French
Mary Ann Gilbert
Gregory & Michele Glenn
Janet M. Glenn
Steve Gracien
Jim Griffin
David R. Grove
Lauren Halyak
Jason Jeffers
Sheriff Bryan Koon, Lexington County Sheriff's Department
Joey C. Labelle
Kristyn Leonard
Letitia Lowe
Larry B. Mack
Lori Mack
Elizabeth Martin
Paul Maynard
Cynthia Waltone-McCawley
Dough & Kelli McClure
Bette McClure
Alan MacDermut
Ian MacDermut
Mary MacDermut
Jennifer McPherson
Brenda Baker on behalf of National Association for Campus Activities
Dr. Ryan Pack on behalf of Riverland Hills Baptist Church
Barbara & Dalton Parker
Ann Porterfield
Diana Robinson
Barbara Ruddle Rothfuss
Melissa E. Shattuck
Roger A. Shattuck

Sharon S. Simpson
Stacy & Marilyn Smith
Charles & Harriette Sparks
Marianna Uszkay
James R. Washington
John Daniel Williams, Jr.
Paris Alana Williams
Jomona Williamson
Susan Wise
Shawn Wodecki
Melissa Wofford

March 30, 2018

Christy Clonts
Donald L. Burnett, Sr.
Bob & Linda Debenport
Douglas Hodak
Michael Jennings
Jeff Lawson
Kristyn Leonard
Debra McMillan
Robert S. McWhorter
Kaye Miller
Brenda Russell
Sarah Williams
Rachel Wilson

April 4, 2018

Bill & Marge Almack
Laura Cooper
Kevin L. Grimes
Joshua Knott
Diane MacIntyre
Nichole McIntosh
Donna T. Mayes
Vicki Wahab
Jay Williams

April 10, 2018

Bobbie Jo Kelley



BEER, WINE & LIQUOR PROTEST FORM

LOCATION BEING PROTESTED:

Name of Applicant or Permit/License Holder: WKSC LLC db/a Savannah's

Location Being Protested: Gentlemen's Club & Steakhouse

Address: 4029 Fernandina Rd City: Columbia

State: SC Zip Code: 29212 County: Richland/Lexington

Type of Permit or License Being Protested (Check All Appropriate Spaces):

Retail Liquor Store: Beer and Wine Permit: Liquor by the Drink License: Liquor Wholesaler:

New Location: Renewal: File # 10291582-9

Note: Your protest must be received by the Department of Revenue NOT later than (1) 15 days from the date the proposed location was posted by SLED; or (2) The last date to protest as sworn in the Notice of Advertisement in the newspaper; whichever occurs the latest.

PERSON FILING THE PROTEST:

Name: Chip Huggins - 56 House Dist. 85

Home Address: 308 Wayworth Ct City: Columbia

State: SC Zip Code: 29212 County: Lexington

Phone No.: 803 331-8468 Fax No.: 803 734-9947

E-mail Address: chiphuggins@schouse.gov

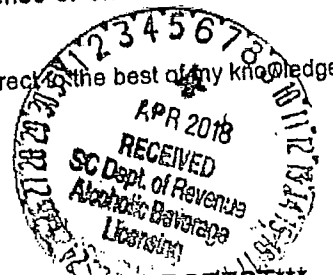
If you do not live within the same county as the location that is being protested, do you live within five (5) miles of the location being protested: Yes No I represent the area close to the location

I, Chip Huggins, will will not (Check Only One) attend a contested case hearing before the Administrative Law Court and offer testimony as to why I believe the location listed in this protest should not be issued a new beer and wine permit and/or liquor license or should not have its beer and wine permit and/or liquor license renewed. (See item 1 on back)

Under penalties of perjury, the information contained in this protest form is true and correct to the best of my knowledge.

Signature of Person Protesting Permit/License: Chip Huggins

Date: 3/26/18



BOTH PAGES OF THIS FORM MUST BE ATTACHED TO BE A VALID PROTEST

Mall to: South Carolina Department of Revenue, Alcoholic Beverage Licensing, PO Box 125, Columbia, SC 29214-0907

NOTE: THE INFORMATION COLLECTED ON THIS FORM IS SUBJECT TO PUBLIC SCRUTINY AND RELEASE.

Please note the following:

(1) If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Court, then the protest is invalid and the department, by law, must continue to process the application and must issue the permit or license if all other statutory requirements are met.

(2) If the protest is valid and states that the protestant wishes to attend a contested case hearing before the Administrative Law Court, then the department must determine, via letter, e-mail, fax or some other method, that the protestant does intend to attend the contested case hearing and offer testimony before the Administrative Law Court.

(3) If the protestant advised the department of his or her intention to attend the contested case hearing before the Administrative Law Court, but does not attend the hearing, then such protestant may, by law, be assessed a fine or penalty to include court costs.

(4) The protestant must either live in the same county as the location that is being protested or must live within five (5) miles of the location being protested.

SPECIFIC REASONS WHY THE APPLICATION OR RENEWAL SHOULD BE DENIED (Attach Additional Pages if Needed):

Churches, Schools, Daycare, Emergency
Facilities, Business is Non-Conforming
to other Surrounding Businesses

42462028

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214-0907

March 26, 2018

Chip Huggins
202 Blatt Building
Columbia, SC 29201

Re: WKSC LLC
d/b/a Savannah's Gentlemens Club & Steakhouse
4029 Fernandina Rd
Columbia, SC 29212
File Number: 10291582-9

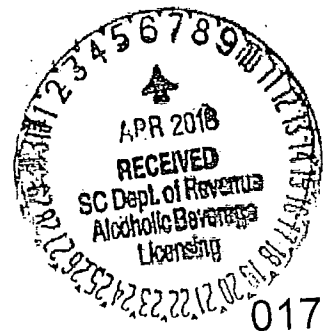
Dear Taxpayer:

We received the protest form you sent in for the above location; however, you did not complete the form. Please complete the form by checking will or will not attend a hearing. Please return it to me within ten (10) days. Failure to do so will render your protest invalid. If you have any questions, please feel free to call me.

Sincerely,

Misty Rambo
Administrative Specialist B
South Carolina Department of Revenue
Alcohol Beverage Licensing
803- 898-5241
misty.rambo@dor.sc.gov

Yes - I will
attend the hearing





STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214-0907

March 26, 2018

Chip Huggins
202 Blatt Building
Columbia, SC 29201

Re: WKSC LLC
d/b/a Savannah's Gentlemens Club & Steakhouse
4029 Fernandina Rd
Columbia, SC 29212
File Number: 10291582-9

Emailed
3/26/18

handcopy mailed
us post office
3/26/18

Dear Taxpayer:

We received the protest form you sent in for the above location; however, you did not complete the form. Please complete the form by checking will or will not attend a hearing. Please return it to me within ten (10) days. Failure to do so will render your protest invalid. If you have any questions, please feel free to call me.

Sincerely,

Misty Rambo
Administrative Specialist B
South Carolina Department of Revenue
Alcohol Beverage Licensing
803- 898-5241
misty.rambo@dor.sc.gov



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Chip Huggins
Member, SC House of Representatives
308 Wayworth Court
Columbia, SC 29212

Master
04/03/2018
US POSTAGE \$000.47

FIRST-CLASS MAIL

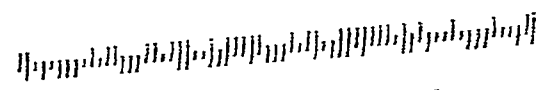


ZIP 29201
011E12650652

Ms. Misty Rambo
Administrative Specialist B
SC Department of Revenue
Post Office Box 125
Columbia, SC 29214-0505



292140505



ROA_0040

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
APPLICATION FOR RETAIL BEER,
WINE, AND LIQUOR

ABL-901
(Rev. 5/1/15)
4280

Mail to: SC Department of Revenue, ABL Section, Columbia, SC 29214-0907.
Telephone: (803) 898-5864 DOR Website: www.dor.sc.gov

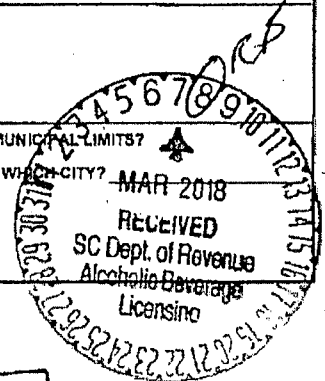
File Number: 102915829

License Type	Nonrefundable Filing Fee	License Fee
<input checked="" type="checkbox"/> On premises beer & wine	\$ 300.00	\$ 600.00 biennially
<input type="checkbox"/> Off premises beer & wine	\$ 300.00	\$ 600.00 biennially
<input type="checkbox"/> Brewpub	\$ 300.00	\$ 2,200.00 biennially
<input type="checkbox"/> 7-day on-premises beer & wine	\$ 300.00	\$ 2,200.00 biennially
<input type="checkbox"/> 7-day off-premises beer & wine	\$ 300.00	\$ 2,200.00 biennially
<input type="checkbox"/> Sunday/Sabbath beer & wine	\$ 300.00	\$ 650.00 biennially
<input checked="" type="checkbox"/> Business (restaurant/hotel/motel) liquor by the drink	\$ 200.00	\$ 1,700.00 biennially
<input type="checkbox"/> Nonprofit private club liquor by the drink	\$ 200.00	\$ 1,700.00 biennially
<input type="checkbox"/> Retail liquor store	\$ 200.00	\$ 1,400.00 biennially
<input type="checkbox"/> Alcoholic liquors (cooking license)	\$ -0-	\$ 250.00 biennially
<input type="checkbox"/> 120 day temporary beer & wine	\$ -0-	\$ 25.00
<input type="checkbox"/> *120 day temporary liquor by the drink	\$ -0-	\$ 25.00
<input type="checkbox"/> *120 day temporary retail liquor	\$ -0-	\$ 25.00
<input type="checkbox"/> *Certification fee	\$ -0-	\$ 5.00

Kenneth E. Allen, Attorney
1201 Main Street, Suite 1980
Columbia, South Carolina 29220

*(Certification fee is required, in addition to filing fees, if you are applying for a license at a location that is currently licensed to sell liquor by the drink or retail liquor. 61-6-120)

PLEASE PRINT OR TYPE ALL INFORMATION	
1. OWNER, PARTNERSHIP, OR CORPORATE CHARTER NAME WKSC, LLC	5. TRADE NAME (DOING BUSINESS AS) Savannah's Gentlemens Club & Steakhouse
2. PHYSICAL LOCATION OF BUSINESS REQUIRED (NO P.O. BOX) 4029 Fernandina Rd STREET Columbia, Lexington, South Carolina 29212 CITY COUNTY (REQUIRED) STATE ZIP	6. BUSINESS PHONE NUMBER DAYTIME PHONE NUMBER 803-422-3401
3. MAILING ADDRESS (FOR ALL CORRESPONDENCE) Jimmie Ellis IN CARE OF 1790 Woodstone Drive STREET Winston Salem Forsyth NC 27127 CITY COUNTY STATE ZIP	7. SSN/EIN [REDACTED]
4. TYPE OF OWNERSHIP <input type="checkbox"/> SOLE PROPRIETOR (one owner) <input type="checkbox"/> PARTNERSHIP (two or more owners) <input checked="" type="checkbox"/> LLC/LLP <input type="checkbox"/> SC CORPORATION DATE INC _____ <input type="checkbox"/> FOREIGN CORPORATION STATE INC _____ DATE OF INC _____ <input type="checkbox"/> NON-PROFIT ORGANIZATION <input type="checkbox"/> OTHER (EXPLAIN) _____	8. NATURE OF BUSINESS Restaurant
If the corporation is publicly traded, you must designate an officer or other person to hold the license. This person must be of good moral character, over the age 21, and a SC resident. This person should be included on the Consent and Waiver along with other principals of the corporation. Name of designated officer or other employee:	9. WHAT IS YOUR RETAIL SALES TAX NUMBER? pending
11. IS BUSINESS WITHIN SC MUNICIPAL LIMITS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, WHICH CITY?	10. EMAIL ADDRESS



42801035

S.C.
DEPT. OF REVENUE
MAR 07 2018
RECEIVED COLUMBIA
TAXPAYER'S ASSISTANCE

0001

11. HAS THIS LOCATION BEEN PREVIOUSLY LICENSED TO SELL BEER, WINE AND/OR ALCOHOLIC LIQUORS?
IF YES PRINT NAME OF BUSINESS AND BEER, WINE AND LIQUOR LICENSE PERMIT NUMBER.

unk

A. PREVIOUS OPERATORS LICENSE NUMBER:

B. NAME OF BUSINESS:

(Full organization name including trade name)

DESIGNATED AGENT

A. You must designate a person to receive all notices from the Department of Revenue concerning your permit/license. These notices will be sent to the person at the mailing address shown in question 3. It is your responsibility to keep the department advised of any change regarding this person or your mailing address as the law will presume you received all notices sent to the address you have given us.

Name of Designated Agent: Jimmie Ellis

CONTACT PERSON

B. The S.C. State Law Enforcement Division will conduct an investigation on this application, and will need to meet with the contact person at the location for which you are seeking a permit or license, to discuss the business and ownership of the business. Give the name and telephone numbers (daytime and evening) of the contact person who can meet with the SLED agent for this purpose.

Name of Contact Person Ken Allen, Attorney

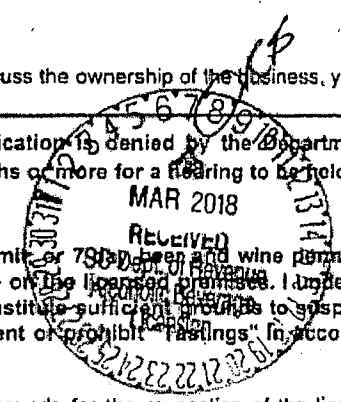
Telephone Number 803-748-1335 (daytime)

Telephone Number _____ (evening)

If the agent is unable to contact the Contact Person or if the Contact Person cannot discuss the ownership of the business, your application will be delayed.

Processing of this application may take six to eight weeks, or more. If the application is denied by the Department or protested by a member of the public or law enforcement, it could take up to six months or more for a hearing to be held and a decision made on the application by the Administrative Law Court.

If applying for an off-premises beer and wine permit, wholesale beer and wine permit, or 7500 beer and wine permit, I do hereby stipulate that I will not permit the on-premise consumption of beer and wine on the licensed premises. I understand that a violation of this stipulation will be a violation against the permit and shall constitute sufficient grounds to suspend or revoke the beer and wine permit. Nothing herein shall be construed so as to prevent or prohibit "fastings" in accordance with and as specifically permitted by S.C. Code Ann. Section 61-4-960.



I understand that a misstatement or concealment of fact in an application is sufficient grounds for the revocation of the license or permit. I consent to the inspection of the premises covered by this license or permit by any agent of the SC Department of Revenue or any law enforcement officer.

I have read the instructions to this application and to the best of my knowledge, all information provided with this application is true and accurate.

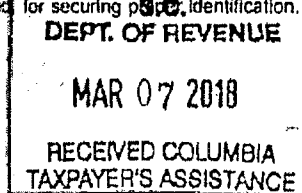
SWORN to and subscribed before me this 6th day of March year of 2018
Notary Public for SE
My Commission Expires 7-20-21
Notary (L.S.) [Signature]
Notary (printed name) Ken Allen

[Signature]
Applicant (owner, partner, or corporate officer)

Social Security Privacy Act Disclosure

It is mandatory that you provide your social security number on this tax form. 42 U.S.C 405(c)(2)(C)(i) permits a state to use an individual's social security number as means of identification in administration of any tax. SC Regulation 117.201 mandates that any person required to make a return to the SC Department of Revenue shall provide identifying numbers, as prescribed for securing state identification. Your social security number is used for identification purposes.

42802033



0002

File Number: _____

Name of Sole Proprietorship, Corporation, Partnership, LLC, etc. FEI/SSN

Name KBE Holdings, LLC

Home Address 1790 Woodstone Drive

City Winston Salem State NC Zip 27127

Yr/Mo/Date of SC Residency n/a Date of Birth n/a

Social Security No. n/a Federal Employer Identification No. [REDACTED]

Principal/Type: (use above #1-12) 7.4 Percent of ownership 100

Have you as an individual, or as an organization in which you were a principal, had revoked or suspended in this state or any other state any license to sell beer, wine, or alcoholic liquors?
 Yes No If yes, attach explanation.

Have you been convicted of a crime in South Carolina or any other state?
 Yes No If yes, attach explanation.

SWORN to and subscribed before me this 6th day of March, year of 2018
Notary Public for SC
My Commission Expires 7-20-21
Notary (L.S.) [Signature]
Notary (printed name) Ron A. Hill

This Consent and Waiver shall be effective as of the date set forth on the attached pages until revoked in writing by the ABL-946R completed by the applicant or a principal signing this Consent and Waiver, or until the applicable permit or license is terminated or revoked.

[Signature]
Taxpayer's Signature

Name Jimmie Ellis

Home Address 1790 Woodstone Drive

City Winston Salem State NC Zip 27127

Yr/Mo/Date of SC Residency n/a Date of Birth 1-10-54

Social Security No. [REDACTED] Federal Employer Identification No. n/a

Principal/Type: (use above #1-12) 2 Percent of ownership 0

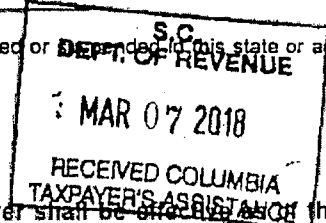
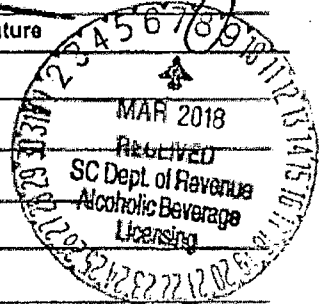
Have you as an individual, or as an organization in which you were a principal, had revoked or suspended in this state or any other state any license to sell beer, wine, or alcoholic liquors?
 Yes No If yes, attach explanation.

Have you been convicted of a crime in South Carolina or any other state?
 Yes No If yes, attach explanation.

SWORN to and subscribed before me this 6th day of March, year of 2018
Notary Public for SC
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This Consent and Waiver shall be effective as of the date set forth on the attached pages until revoked in writing by the ABL-946R completed by the applicant or a principal signing this Consent and Waiver, or until the applicable permit or license is terminated or revoked.

[Signature]
Taxpayer's Signature



44221024 IF MORE THAN TWO PRINCIPALS, PLEASE SUBMIT AN ADDITIONAL ABL-946

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
VERIFICATION OF LAWFUL PRESENCE IN THE
UNITED STATES -- APPLICANT AND PRINCIPALS

ABL-920
(Rev. 5/13/13)
4382

STATE OF South Carolina
COUNTY OF Richland

FOR INTERNAL USE ONLY
Case Verification Number _____
Result _____

Pursuant to the provisions of S.C. Code Ann. Section 8-29-10, et seq. of the South Carolina Illegal Immigration Reform Act and Title 61 of South Carolina Code Ann. Sections, every principal that is an individual must submit the following information:

The undersigned Jimmie Ellis of 1790 Woodstone Drive
(Print clearly First, Middle and Last name) (Home Address)
Winston Salem, NC 27127 being first duly sworn deposes and states as follows:
(City, State and Zip Code)

Name Change/ Alias: Yes No If yes, please list: _____

Check ONLY One Box: See reverse side for Instructions, Definitions, and Accepted Documents.

I am a United States Citizen eighteen years of age or older.

I am a Legal Permanent Resident eighteen years of age or older.

I am a Qualified Alien under the Federal Immigration and Nationality Act, Public Law 82-44, eighteen years of age or older, and lawfully present in the United States.

I am a Foreign Citizen, and resident of _____
(Country of Residency)
and reside at _____
(Street Address) (City, State, and Zip Code)

Other (Explain): _____

Date of Birth _____ Alien Registration Number _____
(MUST ATTACH COPY OF IMMIGRATION DOCUMENTS)

I UNDERSTAND AND ACKNOWLEDGE that any person who fails to execute this Affidavit will automatically be denied the license to which it applies; and further, that the representations made in this Affidavit shall apply throughout any license(s) or renewals issued; and further, that I shall have an affirmative duty to immediately advise the Department of Revenue in any change of my immigration or citizenship status. I, hereby, also understand and acknowledge that a person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit executed pursuant to South Carolina Code Section 8-29-10 entitled Verification of Lawful Presence shall in addition to other sanctions imposed by this state or the United States, be guilty of a felony and upon conviction must be fined and/or imprisoned for not more than 5 years (or both).

Under penalty of perjury and recognizing that I am subject to the criminal and civil penalties imposed by Title 12, of the South Carolina Code of Laws, I declare that I have examined this Affidavit and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Affiant _____

SWORN to and subscribed before me this
14 day of March, year of 2018
Notary Public for SC
My Commission Expires 7-20-21
Notary (L.S.) [Signature]
Notary (printed name) Ken Allen

REQUIRED: Fill out completely. MAR 2018

License Number: _____

Business Name: _____

Contact Person: _____
(Name)

Contact Person Phone Number: () _____

RECEIVED
SC Dept. of Revenue
Alcoholic Beverage
Licensing

43821024

S.C.
DEPT. OF REVENUE
MAR 07 2018
RECEIVED COLUMBIA

0004

KENNETH E. ALLEN
- ATTORNEY AT LAW
CAPITAL CENTER
COLUMBIA, SOUTH CAROLINA

MAILING ADDRESS:
1201 MAIN ST. STE 1980
COLUMBIA, S C 29201
KALLENLAW@SC.RR.COM

TELEPHONE:
1-803-748-1335
1-800-858-9237
FAX 1-803-748-1336

April 19, 2018

Ms. Rosemarie Ratcliffe
Alcohol Beverage Licensing
Regulatory Division
Post Office Box 125
Columbia, South Carolina 29214

Ref: WKSC, LLC File #10291582-9
 Dba Savannah's Gentlemens Club & Steakhouse,
 4029 Fernandina Rd
 Columbia, South Carolina 29212

Dear Rosemarie:

PLEASE NOTE MY REPRESENTATION OF THE APPLICANT IN THE
ABOVE CAPTIONED MATTER.

In response to your letter of April, 13, 2018, my clients are protesting the denial and will address the issue of the public protest when given the opportunity before the Administrative Law Judge.

Thank you for your assistance.

Sincerely,

Ken Allen

Kenneth E. Allen
Cc: WKSC, LLC

0029

KENNETH E. ALLEN
ATTORNEY AT LAW
CAPITAL CENTER
COLUMBIA, SOUTH CAROLINA

MAILING ADDRESS:
1201 MAIN ST. STE 1980
COLUMBIA, S C 29201
KALLENLAW@SC.RR.COM

TELEPHONE:
1-803-748-1335
1-800-858-9237
FAX 1-803-748-1336

June 20, 2018

Ms. Jana Shealy, Clerk
SC Administrative Law Court
1205 Pendleton St. Suite 224
Columbia, SC 29201

Ref: WKSC, LLC dba Savannah's Gentlemens Club & Steakhouse
DOR File # 10291582

Dear Jana:

In response to the enclosed Final Determination Letter from the Department of Revenue dated June 19, 2018, we are requesting a contested case hearing in the above captioned matter. This office represents the applicant and will be requesting that the court issue the license applied for.

A check for the \$150 filing fee is enclosed.

Thank you for your attention to this matter.

Sincerely,

Ken Allen

Kenneth E. Allen
cc: Patrick A. McCabe, Esquire
WKSC, LLC

FILED

JUN 20 2018

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

COUNTY OF RICHLAND

WKSC, LLC dba Savannah's
Gentlemens Club & Steakhouse)

Docket # 18-ALJ-17- -CC

Petitioner)

vs.)

CERTIFICATE OF SERVICE

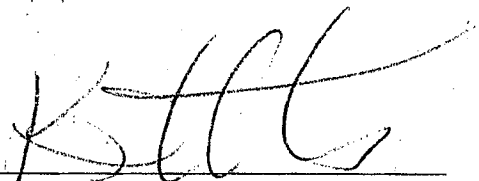
South Carolina Dept. of Revenue)

Respondent)

I, the undersigned Kenneth E. Allen, do hereby certify that I have served a copy of the foregoing Request for Contested Case Hearing in connection with the above-referenced case placing same in the U. S. Mail, postage paid to:

Patrick A. McCabe, Esquire
Counsel for Regulatory Litigation
Post Office Box 12265
Columbia, South Carolina 29211

Date: June 20, 2018
Columbia, SC


Kenneth E. Allen

FILED

JUN 20 2018

SC ADMIN. LAW COURT

RECEIVED

MAY 13 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2018-001613
Case No. 18-ALJ-17-0216-CC

Ex Parte: Representative Chip Huggins,.....Appellant.

In re: WKSC, LLC d/b/a
Savannah's Gentlemen's Club & Steakhouse,.....Petitioner, Respondent,


v.

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

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

MCANGUS GOUDELOCK & COURIE, L.L.C.



Andrew L. Richardson, Jr.
J. Adam Ribock
Meridian, 1320 Main Street, 10th Floor (29201)
Post Office Box 12519, Capitol Station
Columbia, South Carolina 29211-2519
(803) 779-2300
Attorneys for Appellant Rep. Chip Huggins