

**STATE OF INDIANA  
BEFORE THE ALCOHOL AND TOBACCO COMMISSION**

**IN THE MATTER OF  
THE PERMIT OF**

**James Smith  
1463 Beech Street  
Terre Haute IN 47804**

**Permittee.**

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) **PERMIT NO. BR1884332**  
) **VIOLATION NO: EX19007331**  
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**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DEFAULT  
JUDGMENT ORDER**

**I. BACKGROUND OF THE CASE**

James Smith, permit number BR1884332 (Permittee), is the holder of an employee permit issued by the Alcohol and Tobacco Commission (ATC). The ATC staff determined that Permittee had two unrelated convictions for operating while intoxicated as defined by IC 7.1-1-3-13.5, specifically Permittee was convicted on February 6, 2015 and April 15, 2019 (Convictions.) Convictions disqualified Permittee from continuing to hold an employee permit. IC 7.1-3-18-9. Hearing judge issued an order to show cause scheduling the matter for hearing. Permittee failed to appear for order to show cause hearing.

**II. FINDINGS OF FACT**

1. An order to show cause was mailed to Permittee at the address on record setting the matter for a hearing on August 29, 2019.
2. Permittee failed to appear at the order to show cause hearing.
3. Permittee has not been in contact regarding order to show cause.
4. Prosecutor was present for the order to show cause hearing on August 29, 2019, at which time he made a request for revocation of permit number BR1884332.

5. Permittee's second conviction for operating while intoxicated was April 15, 2019. Permittee was sentenced to 363 days probation.

6. Permittee's probation is estimated to end on April 12, 2020.

7. Any Finding of Fact may be considered a Conclusion of Law if the context so warrants.

### **III. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to Ind. Code § 7.1-1-2-2 and § IC 7.1-2-3-4.

2. Hearing judge issued an order to show cause to Permittee which ordered Permittee to appear on August 29, 2019. 905 IAC 1-37-9.

3. Permittee failed to appear for Order to Show Cause hearing.

4. Default judgment is appropriate to complete the disposition of the violations. 905 IAC 1-37-9.

5. Permittee's estimated eligibility date for a permit is April 12, 2022.

6. Permittee's eligibility date could change if Permittee submits documentation showing that Permittee's probation ends prior to April 12, 2020.

7. Any Conclusion of Law may be considered a Finding of Fact if the context so warrants.

### **IV. DEFAULT JUDGMENT ORDER**

Permittee failed to appear for the order to show cause hearing in this matter.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the permittee is found in default for a violation of IC 7.1-3-18-9, employee permit qualifications. Permit BR1884332 is hereby REVOKED.

DATE: November 18, 2019.



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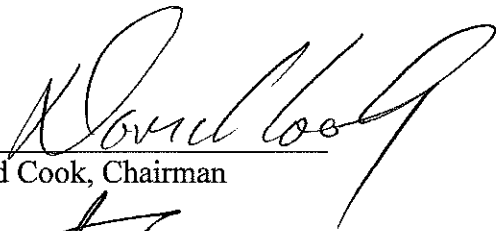
Jessica Allen, Hearing Officer

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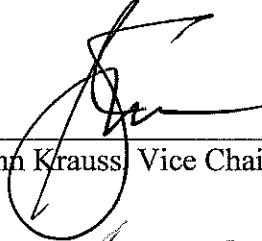
Josh Harrison, Prosecutor  
302 W. Washington Street, Room E114  
Indianapolis, Indiana 46205

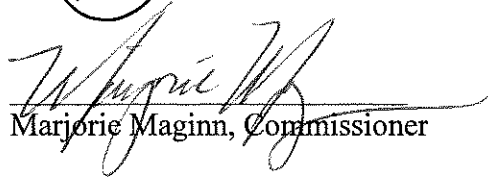
James Smith  
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**ADOPTION OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
DEFAULT JUDGMENT ORDER**

  
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David Cook, Chairman

Dated: 1-7-20

  
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John Krauss, Vice Chairman

  
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Marjorie Maginn, Commissioner

  
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Dale Grubb, Commissioner