

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

IN THE MATTER OF)	
THE PERMIT OF)	
)	
KTKSB ENTERPRISES, LLC)	PERMIT NO. TC01887002
1007-B W 7TH ST.)	VIOLATION NO: EX19016523
AUBURN, IN 46706)	
)	
Permittee.)	

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

I. BACKGROUND OF THE CASE

KTKSB Enterprises, LLC, certificate number TC01887002 (Permittee), is the holder of a retail tobacco certificate issued by the Alcohol and Tobacco Commission (ATC). ATC Prosecutor sent notice of violation to permittee scheduling a prehearing conference. Permittee failed to appear for prehearing conference. Hearing judge issued an order to show cause scheduling the matter for hearing. Permittee again failed to appear for order to show cause hearing.

II. FINDINGS OF FACT

1. Prosecutor Josh Harrison (Prosecutor) sent notice of violations to permittee at the address of record on December 20, 2019 which included notice of a pre-hearing conference on January 23, 2020.

2. Violations are:

a. IC 35-46-1-10.2, retail establishment's sale or distribution of tobacco to minors; and

b. IC 35-46-1-11.7, allow a juvenile in a tobacco store.

3. Permittee failed to appear for the pre-hearing conference on January 23, 2020.
4. On January 23, 2020, an order to show cause was mailed to the permittee at the address on record setting the matter for an order to show cause hearing on February 20, 2020.
5. Permittee failed to appear at the order to show cause hearing.
6. Permittee has not been in contact regarding order to show cause.
7. Prosecutor was present for the order to show cause hearing at which time he made a request for revocation of the retail tobacco certificate.
8. 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. Notice of violation was proper. 905 IAC 1-37-1 and 905 IAC 1-37-2.
3. Prehearing conference was held pursuant to 905 IAC 1-37-6 and Permittee had had opportunity to participate in the prehearing conference but failed to appear.
4. Hearing judge issued an order to show cause to Permittee which ordered Permittee to appear. 905 IAC 1-37-9.
5. Permittee failed to appear for Order to Show Cause hearing.
6. Default judgment is appropriate to complete the disposition of the violations. 905 IAC 1-37-9.
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 pre-hearing conference and order to show cause hearings in this matter.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the permittee is found in default for a violation of IC 35-46-1-10.2 and IC 35-46-1-11.7. Tobacco certificate TC01887002 is hereby REVOKED.

DATE: February 24, 2020.



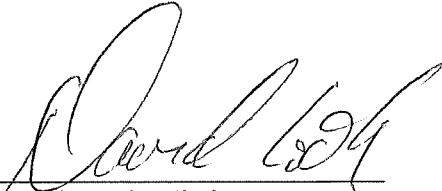
Jessica Allen, Hearing Officer

Distribution:

Josh Harrison
Prosecutor
Indiana Alcohol and Tobacco Commission
302 W. Washington Street, Room E114
Indianapolis, Indiana 46205

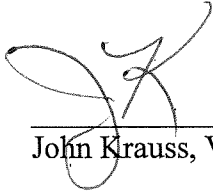
KTKSB ENTERPRISES, LLC
12114 GOLDEN HARVEST DRIVE
FORT WAYNE, IN 46845

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

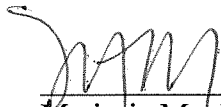


David Cook, Chairman


Dated: 5-5-20



John Krauss, Vice Chairman



Marjorie Maginn, Commissioner



Dale Grubb, Commissioner