

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

IN THE MATTER OF)	
THE PERMIT OF)	
)	
Brandy Leinenback)	PERMIT NO. BR1641889
814 S 330 E)	VIOLATION NO: EX19008868
Jasper IN 47546)	
)	
Permittee.)	

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

I. BACKGROUND OF THE CASE

Brandy Leinenback, permit number BR1641889 (Permittee), is the holder of an employee permit 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 July 10, 2019 which included notice of a pre-hearing conference on August 8, 2019.
2. Notice of Violation included allegations of:
 - a. IC 7.1-3-18-9 – failure to meet employee permit requirements.
3. Allegations were based on Permittee having two unrelated convictions for operating while intoxicated as defined by IC 7.1-1-3-13.5.

4. Permittee was sentenced for the second conviction on August 21, 2019 resulting in a 120 day sentence in the county jail starting on August 26, 2019.
5. Permittee's estimated release date is December 24, 2019.
6. Permittee failed to appear for the pre-hearing conference on August 8, 2019.
7. An order to show cause was mailed to the permittee at the address on record setting the matter for a hearing on August 29, 2019.
8. Permittee failed to appear at the order to show cause hearing.
9. Permittee has not been in contact regarding order to show cause.
10. 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 BR1641889.
11. 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 on August 29, 2019. 905 IAC 1-37-9.
5. Permittee failed to appear for Order to Show Cause hearing.
6. Permittee's estimated eligibility date for a permit is December 24, 2021.

7. Permittee's eligibility date could change if Permittee submits evidence that the sentence for the second conviction for operating while intoxicated concluded prior to December 24, 2019.

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

9. 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 7.1-3-18-9, employee permit qualifications. Permit BR1641889 is hereby REVOKED.

DATE: November 18, 2019.



Jessica Allen, Hearing Officer

Distribution:

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

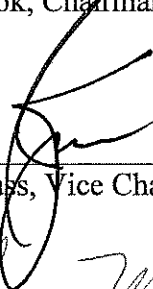
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ADOPTION OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
DEFAULT JUDGMENT ORDER

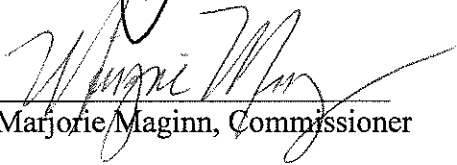


David Cook, Chairman

Dated: 1-7-20



John Krauss, Vice Chairman



Marjorie Maginn, Commissioner



Dale Grubb, Commissioner