

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

IN THE MATTER OF)	
THE PERMIT OF)	
)	
MINTO RESTAURANT & CONVENIENCE)	
STORE, LLC)	PERMIT NO. EX17007457
7398 E SR 66)	EX17006896
CANNELTON, IN 47520)	
)	
Permittee.)	

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

I. BACKGROUND OF THE CASE

Minto Restaurant & Convenience Store, LLC, 7398 E SR 66, Cannelton, IN 47520, permit number RR6225097 (Permittee), is the holder of a permit to sell beer, wine, and liquor, in a restaurant located in an unincorporated area issued by the Alcohol and Tobacco Commission (ATC). Indiana State Excise Police (ISEP) issued to the Permittee violations under the alcoholic beverage laws and rules of Indiana. Notice of violation was sent 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. On March 28, 2017, ISEP observed violations by Permittee and issued a citation under violation number EX17007457 for violations of the following:
 - a. IC 7.1-5-12-4(d), failure to post no smoking sign at the door;
 - b. IC 7.1-5-12-7(c), failure to post entry sign;

- c. IC 7.1-5-10-6, Sale of adulterated or misbranded beverages;
- d. IC 7.1-3-1-20, Failure to properly display permit;
- e. 905 IAC 1-53-6, Failure to display house rules;
- f. 905 IAC 1-12-1(2), Failure to maintain employee permits; and
- g. IC 7.1-5-6-3, Acting without an employee permit.

2. One April 5, 2017, ISEP observed violations by Permittee and issued a citation under violation number EX17006896 for violations of the following:

1. IC 7.1-5-6-4, Falsification of records for permit application;
2. IC 7.1-5-10-2, Dealing in unauthorized beverages;
3. IC 7.1-5-10-5, Bootlegging; and
4. IC 7.1-5-10-7, Purchases from non-permittee.

3. Prosecutor Josh Harrison (Prosecutor) sent notice of violations to permittee at the address of record on November 1, 2017 which included notice of a pre-hearing conference on December 7, 2017.

4. Permittee failed to appear for the pre-hearing conference on December 7, 2017.

5. An order to show cause was mailed to the permittee at the address on record setting the matter for a hearing on September 11, 2018.

6. Permittee failed to appear at the order to show cause hearing.

7. Prosecutor was present for the order to show cause hearing on September 11, 2018 at which time he made a request for judicial notice to be taken of the violation file, including the Incident Report Form and the Property Record Card.

8. The hearing judge took judicial notice as requested and the documents were incorporated into the record.

9. Prosecutor further requested that a default judgment be order in the amount of \$300 for violation number EX17007457 and in the amount of \$500 for violation number EX17006896.

10. Finally, the prosecutor requested that any evidence or product confiscated or collected during the investigations of EX17007457 and EX17006896 are surrendered to the ATC and subject to destruction or sale as applicable.

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 September 11, 2018. 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. Permittee shall be fined \$300 for violation number EX17-007457. Permittee shall be fined \$500 for violation number EX17-006896. Evidence and property collected and confiscated during the investigation shall be surrendered.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the permittee is found in violation of all alleged violations of Indiana Code 7.1 and Chapter 905 Indiana Administrative Code listed in EX17-007457 and EX17-006896 by default. Fines shall be in the amount of \$300 for violation EX17-007457 and in the amount of \$500 for violation EX17-006896, for total fines in the amount of \$800. All evidence and property collected and confiscated during the investigation is hereby ordered surrendered.

DATE: January 15, 2019.



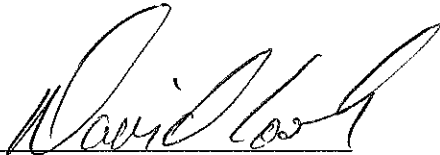
Jessica Allen, Hearing Officer

Distribution:

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

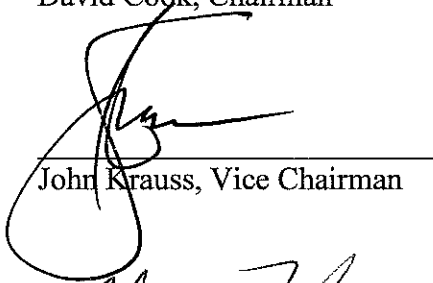
Minto Restaurant & Convenience Store, LLC
7398 E SR 66
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**ADOPTION OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
DEFAULT JUDGMENT ORDER**




David Cook, Chairman

Dated: 2-19-19



John Krauss, Vice Chairman



Marjorie Maginn, Commissioner



Dale Grubb, Commissioner