

STATE OF INDIANA

BEFORE THE ALCOHOL AND TOBACCO COMMISSION

IN THE MATTER OF)
THE PERMIT OF)
Mosiah Kosinski) PERMIT NO. RE1753031
1704 Goder Avenue) EX EV06865
Frankfort, Indiana 46041)
Licensee)

PROPOSED DEFAULT JUDGEMENT ORDER

I. BACKGROUND OF THE CASE

Mosiah Kosinski, Permit Number RE1753031 (Permit Holder), is the holder of a permit issued by the Indiana Alcohol and Tobacco Commission (ATC) as a temporary exception, or a restricted permit, to the rule that a server of alcohol must be 21 of age or over – he was 20 years of age at the time of the issuance of the permit. The ATC Prosecutor sent notice of a violation to the Permit Holder scheduling a Prehearing Conference. The Prosecutor sent a letter with a settlement offer and order to appear through an Order to Show Cause letter pursuant to the order of the Hearing Judge. Permit Holder again failed to appear for the Order to Show Cause Hearing.

II. FINDINGS OF FACT

1. ATC Prosecutor, Andrew Wignall (Prosecutor) sent notice of violation to Permit Holder at the address of record, 1704 Goder Avenue, Frankfurt Indiana, on July 25, 2022, which included notice of a Prehearing Conference to be held on October 24, 2022.
2. The alleged violation was IC 7.1-5-7-10(A), Minor in Tavern Prohibited.
3. Permit Holder failed to appear for the Prehearing Conference on October 24, 2022.
4. Prosecutor then sent an Order to Show Cause letter on November 16, 2022, notifying Permit Holder that he must appear on December 8, 2022, 11:30 AM at the ATC office located at IGCS Room E114, 302 W. Washington St., Indianapolis, IN to determine whether he should be fined, suspended or the permit revoked for his failure to appear.

5. Permit Holder was also notified that a default judgment shall be issued against the Permit Holder regarding the violation and a sanction imposed, which could include suspension or revocation of the permit.
6. On the scheduled date and time, December 8, 2022, at 11:30 AM, Permit Holder failed to appear, and evidence was presented.
7. Prosecutor presented evidence and testimony regarding efforts to notify Permit Holder of his responsibility to appear and the consequences of the failure to do so.
8. Prosecutor indicated that with a companion case, an attorney was mentioned but was not retained on this matter.
9. Prosecutor offered into evidence, the Incident Report Form filed by the Indiana State Excise Police under EX-22-00990 as Exhibit 1 which was offered and received into evidence without objection.
10. The evidence indicated as follows:
 - a. The officer went to Ashbrook Dr. in Westfield, Hamilton County Indiana and observed the Topsy Truck trailer serving alcoholic beverages from a vehicle owned or operated by Sarah Hine.
 - b. Sarah Hine was busy at the time and the Excise Officer ordered a Taxman beer which cost five dollars (\$5.00) which the officer paid for with a twenty-dollar (\$20.00) bill.
 - c. The Excise Officer was served the alcoholic beverage by Permit Holder who had a temporary, restricted permit that allowed him to only deliver alcoholic beverages and not act as a bartender when he served the Excise Officer the Taxman beer and received payment for same.
11. The fact that Permit Holder acted as a bartender serving alcoholic beverages beyond the authority of his temporary, restricted permit meant that he was a minor serving alcohol and was located in a trailer serving as a bar at the time the incident occurred.
12. Any Finding of Fact may be considered A Conclusion of Law if the context so warrants.

III. CONCLUSION OF LAW

1. The Commission has jurisdiction over this matter pursuant to IC 7.1-1-1-1 and IC 7.1-2-3-4.
2. The Notice of Violation and Order to Show Cause was proper. 905 IAC 1-37-1 and 905 IAC 1-37-2.

3. The Prehearing Conference scheduled for October 24, 2022, was scheduled pursuant to 905 IAC 1-37-6 and Permit Holder had the opportunity to participate in the Prehearing Conference but failed to appear.
4. The Hearing Judge ordered an Order to Show cause letter sent to Permit Holder which ordered Permit Holder to appear. 905 IAC 1-37-9.
5. Permit Holder failed to appear on December 8, 2022, and the Hearing Judge had authority to impose sanctions which could include suspension or revocation of Permit Holders permit.
6. Any Conclusion of Law may be considered a Finding of Fact if the context so warrants.

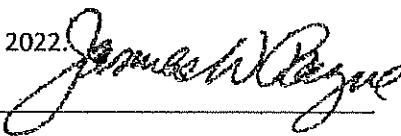
IV. DEFAULT JUDGMENT ORDER

Permit Holder failed to appear for the Prehearing Conference and the Order to Show Cause hearings in this matter.

THEREFORE, IT IS ORDERED, AGJUDGED AND DECREED that the permit of Mosiah Kosinski issued by the Indiana Alcohol Tobacco Commission under Permit Number RE1753031 is hereby REVOKED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Permit Holder, Mosiah Kosinski is prohibited for one year from the date of the effect of this order from receiving from the Indiana Alcohol Tobacco Commission a permit to serve or sell alcoholic beverages

All of which is ordered this 14th day of December 2022.

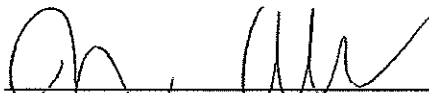


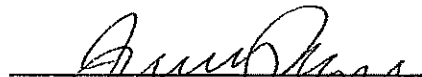
James W. Payne, Hearing Judge

CC: Prosecutor


Mosiah Kosinski, 1704 Goder Avenue, Frankfort, Indiana 46041

Approved by the full Commission this 10th day of January 2022



Jessica Allen, Chair, ATC

James W Payne, Vice Chair, ATC

Marjorie Maginn, Commissioner, ATC

Dale Grubb, Commissioner, ATC