

STATE OF INDIANA

BEFORE THE ALCOHOL AND TOBACCO COMMISSION

IN THE MATTER OF)
THE PERMIT OF)
RUSTIC RIVER OUTFITTERS, INC.) **PERMIT NO. RR35-35570**
6415 SOUTH 594 WEST) **EX 22010506**
WARREN, INDIANA 46750)

Permittee.

ORDER ON TRIAL HEARING

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Rustic River Outfitters Inc., (Permittee) is the holder of an alcohol permit issued by the Indiana Alcohol Tobacco Commission (ATC) under permit number RR 35–35570 doing business at 6062 W. 600 S., Huntington, IN. While conducting a compliance check for the sale of alcohol, on September 21, 2022, a sale of alcohol to a minor occurred in the bar area while in the presence of the Indiana State Excise Police. As a result of those actions, a violation under IC 7.1-5-7-8(A) Serving Alcohol to a Minor and IC 7.1-5-7-10(B) Allowing Loitering, against the Permittee.

After attempts to resolve the matter failed, the matter was set for hearing on the violations on February 15, 2023.

Participating the hearing were Andrew Wignall, Prosecutor for the ATC; Douglas Schwertfager for the Indiana State Excise Police; Maria Solios as a participant in the sale of alcohol; Kevin Smith as owner of the Permittee; and, Steven Gregg, employee of Permittee at the time of the sale.

Exhibits submitted and admitted into evidence are:

1. exhibit A- Indiana Server Training Certificate of Stephen Greg
2. exhibit B – employee permit of Stephen Greg
3. exhibit C- guide to conducting alcohol purchase surveys
4. exhibit D- not submitted
5. exhibit E - floor plan of permittee location
6. exhibit F- itemized list of sales for September 21, 2022 of permittee
7. exhibit G- picture of warning sign to bar area
8. exhibit H- OJJDP Guide to Conducting Alcohol Purchase Surveys
9. exhibit I- picture of outside of permittee location
10. exhibit I2- picture of Maria scoliosis
11. exhibit J– picture of Quaff On brewing Co, IPA, India Pale Ale
12. exhibit K– picture of Quaff On brewing Co, Hoosier Red, Red Ale

13. exhibit L – ATC Alcohol SAC Violation Report

Having heard the testimony and evidence and considering the exhibits admitted into evidence, the Hearing Judge issues the following:

FINDINGS OF FACTS

1. The Permittee is the holder of an alcohol permit under RR 35–35570 authorizing the sale of alcohol in Huntington Indiana.
2. On September 21, 2022, the Permittee was open for business at the permittee’s address of 6062 W. 600 S., Huntington, IN.
3. On September 21, 2022 the Indiana Excise Police were conducting a standard Survey for Alcohol Compliance (SAC) conducted by officer Douglas Schwertfager.
4. With the officer was Maria Solios who participated in the purchase of alcohol.
5. The two individuals entered the premises of Permittee and finding no one in the bar area went to the ice cream shop where they located an employee of Permittee Steven Gregg.
6. Upon approaching that employee, Steven Gregg, Maria Solaris asked him, “What does it take to get a beer here?”.
7. The employee, Steven Gregg, apparently flustered by understaffing that day and some difficult patrons, led the officer and Maria Solios into the bar area, obtained a beer for her, handed her the beer, received payment of \$4.00, and did not give her receipt.
8. Maria Solios left the bar area without taking the beer with her, met with the officer, and reviewed the occurrence.
9. The excise officer returned to the Permittee’s place of business and cited Steven Gregg for a violation of, in effect, serving an underage purchaser of an alcohol beverage and also cited the Permittee for allowing a minor to be in the bar area.
10. At the time that Maria Solios purchased the beer from Permittee, she was under the age of 21, her date of birth being April 13, 2003.
11. Maria Solios at the time was an IU student working with the Indiana State Excise Police and had done quite a few minor purchases of alcohol in the past.
12. While Permittee questioned what type of beer was purchased, and the right of Maria Solios to be in the bar area considering Exhibit G, the Hearing Judge finds that those do not rise to overcome the fact that Steven Gregg, employee of Permittee, did not ask for or receive ID

identification from Maria Solios, that she was under 21 years of age at the time of the purchase, and that an alcohol beverage was sold to her.

13. As a result of the sale of the alcohol beverage to Maria Solios, Permittee fired Steven Gregg as its employee.
14. Any findings of fact that should more appropriately be conclusion of law is hereby so delineated.

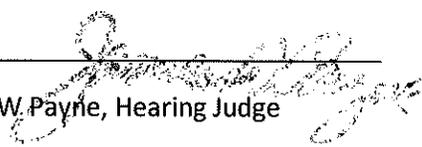
CONCLUSIONS OF LAW

1. The Indiana Alcohol and Tobacco Commission has jurisdiction over this matter pursuant to Ind. Code Sec 7.1-1-2-2 and Ind. Code Sec 7.1-2-3-7
2. The Indiana Alcohol and Tobacco Commission has jurisdiction to hear matters of enforcement of its rules and regulations. (Ind. Code Sec 7.1-2-3-7 (4).
3. The Hearing Judge complied with the requirements for a hearing on a permit violation by giving at least five days' notice of the hearing (905 IAC 1-37-7).
4. The Hearing Judge conducted the hearing consistent with 905 IAC 1-37-10 and heard evidence consistent with 905 IAC 1-37-11.
5. IC 7.1-5-7-8(A) states that an alcohol beverage may not be served or sold to an individual under the age of 21.
6. IC 7.1-5-7-10(B) states that an individual under the age of 21 may not be in a bar area and is not allowed to loiter in such area.
7. A violation under statement 5 above was issued to Steven Gregg as the individual who sold an alcohol beverage to an individual under the age of 21 and he was at that time an employee of the Permittee conducting services under his authority as an employee of the Permittee.
8. The permittee is the holder of an alcohol permit under RR3 5-355070 and as such, under Indiana law and as a condition of the alcohol permit issued to it is responsible for the actions of its employees.

9. The Permittee, as the holder of an alcohol permit, and under the guidelines of *Respondent Superior* is responsible for the actions of its employees.
10. The evidence presented at the violation showed by a preponderance of the evidence that an alcohol beverage was served to an individual under the age of 21 and that she was not carded or request to provide verification of age at the time of the sale.
11. The Permittee violated the rules and regulations of the Indiana Alcohol and Tobacco Commission and the laws of the State of Indiana, specifically under IC 7.1-5-7-8(A) and IC 7.1-5-7-10(B).
12. Any conclusion of law that should more appropriately be designated a finding of fact is hereby delineated.

IT IS THEREFORE ORDERED AND ADJUDGED that Rustic River Outfitters, Inc. is hereby found in violation of IC 7.1-5-7-8(A) and IC 7.1-5-7-10(B) and that it is hereby ordered to pay a fine of \$1,000.00 under IC 7.1-5-7-8 (A) but that no fine shall be ordered for the violation under IC 7.1-5-7-10(B).

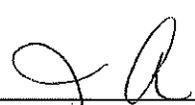
All of which is ordered this 15 day of February 2023.

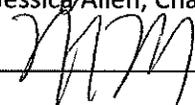


James W. Payne, Hearing Judge
Indiana Alcohol and Tobacco Commission

Commission Adoption:

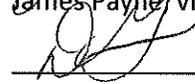
Date: 4/4/23



Jessica Allen, Chair


Marjorie Maginn, Commissioner



James Payne, vice Chair


Dale Grubb, Commissioner

Cc: