

STATE OF INDIANA

BEFORE THE ALCOHOL AND TOBACCO COMMISSION

IN THE MATTER OF)
THE PERMIT OF:)
) PERMIT NO. RR4937006
MARABOU LAKAY RESTAURANT CORP.)
9982 E. WASHINGTON STREET) VIOLATION NO. EX-22-001223
INDIANAPOLIS, INDIANA 46229)
)
Permittee.)

PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND DEFAULT

JUDGMENT ORDER

I. BACKGROUND OF THE CASE

Marabou Lakay Restaurant Corp., DBA Marabou Lakay Restaurant is the holder of a beer and wine permit Issued by the Indiana Alcohol and Tobacco Commission (ATC) under Permit Number RR4937006, doing business at 9982 E. Washington St., Indianapolis, Marion County, IN 46229. After several investigations in January and February 2022, Notices of Violation (NOV) were filed by the Indiana state Excise Police, on occasion accompanied by Indianapolis Metropolitan Police Department (IMPD). As a result of those actions, ATC prosecutor sent notice of those violations through a Notice of Violation and Settlement Offer Letter to the permittee, scheduling a prehearing conference as authorized under 905 IAC 1-37-5. Permittee failed to appear for the prehearing conference. The hearing judge for ATC issued an Order to Show Cause scheduling the matter for hearing. Permittee failed to appear for the Order to Show Cause hearing.

II. FINDINGS OF FACT

1. The ATC Prosecutor sent notice of the violations to Permittee at the address of record on March 4, 2022, including a notice of the prehearing conference on April 25, 2022 at 10 AM.
2. The violations are listed in Exhibit 1 (admitted into evidence), consisting of the Indiana State Excise Police report under EX-22-001223 prepared by Anthony McGail on February 11, 2022.
3. Permittee failed to appear for the Prehearing Conference on April 25, 2022 at 10 a.m.
4. Additionally, ATC prosecutor, Andrew Wignall, was unable to make contact with the Permittee to discuss the pending violations and as a result, under 905 IAC 1-37-9, the ATC hearing officer for this matter set a hearing to show cause why the permit should not be revoked.
5. Prosecutor Andrew Wignall prepared and sent an Order to Show Cause notification setting the matter for July 7, 2022 at 10 AM, at the commission's office at 302 W. Washington St., Indianapolis, IN.
6. While there was no email or phone response, Andre Alexis acknowledged receiving the notice.
7. On June 9, 2022, Prosecutor Andrew Wignall received a letter from M. Esther Barber, 2226 S. Shelby St., Indianapolis, IN 46203, indicating that she had given Mr. Alexis personally the letter from the prosecutor along with all documents that were included and advised him to contact the prosecutor.
8. She further indicated that she was the preparer for the initial application for the permit and that Mr. Je' Andre Alexis came to her office in August 2021, and informed her that he was no longer in the business and that his brother-in-law and sister would be handling the restaurant, to which she advised that he needed to do the changes including transfer of

ownership with the Indiana Department of Revenue, Alcohol Tobacco Commission, Marion County Health Department and the Internal Revenue Service.

9. She further indicated in that letter that she talked to Mr. Junot Herard (nee Junot Heard) about the changes needed to be made but he never came back to help make those changes and she sent information both to Mr. Alexis and Mr. Heard. It is noted for the record Mr. Junot Herard is prominently and continuously mentioned in Excise report EX-22-001223 as being disrespectful, condescending and belligerent to the officers on numerous occasions.
10. Exhibit 1, the report of the Indiana State Excise Police, submitted and accepted into the record of the show cause hearing, indicated numerous violations. In fact, too numerous to mention and outline herein but stated that on three occasions, January 24, 2022, January 29, 2022, and February 4, 2022, that the business was operating under an expired permit and on two of those occasions had no employee permit, no record of employee permit, failed to display permit, sold beer unauthorized to be purchased in Indiana, times when consumption was unlawful, and other numerous violations.
11. The violations indicated in Exhibit 1, as documented by the Indiana State Excise Police, are so egregious and inflammatory to the laws of the State of Indiana and the authority of the Indiana Alcohol and Tobacco Commission that they require an immediate and aggressive response by the State of Indiana.
12. 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 Sec. IC 7.1-1-2-2 and Ind. Code Sec. IC 5.1-2-3-4.
2. Notice of the violations was proper. 905 IAC 1-37-1 and 905 IAC 1-37-2.

3. A Prehearing Conference was held pursuant to 905 IAC 1-37-6 and Permittee had an opportunity to participate in the Prehearing Conference but failed to appear.
4. The hearing judge issued an Order to Show Cause to Permittee which ordered Permittee to appear. 905 IAC 1-37-9.
5. Permittee received notification of the Order to Show Cause and to appear at the ATC for a hearing as indicated in the letter sent to ATC by M. Esther Barber.
6. Permittee failed to appear for the Order to Show Cause hearing.
7. A default judgment is appropriate to complete the disposition of the violations. 905 IAC 1-37-9.
8. 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 Prehearing Conference and the 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 7.1-3-27-11 and IC 7.1-3-27-8, and the permit of Marabou Lakay Restaurant Corp, permit #RR4937006, is hereby revoked.

DATE: July 19, 2022



James W Payne, Hearing Officer

Distribution:

Andrew Wignall

Prosecutor

Indiana Alcohol and Tobacco Commission

114, 302 W. Washington St.


Indianapolis, IN 46205

Marabou Lakay Restaurant Corp.

9982 E. Washington St.

Indianapolis, IN 46229

Approved this 7th day of September, 2022.



JESSICA ALLEN, CHAIR



JAMES PAYNE, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER