

STATE OF INDIANA

THE INDIANA ALCOHOL AND TOBACCO COMMISSION

IN THE MATTER OF)
THE PERMIT OF)
MICHAEL DELANEY) PERMIT NO. BR1818573
1306 MONUMENT ST) EV07212
NOBLESVILLE, INDIANA 46060)

PERMITTEE

ORDER ON RULE TO SHOW CAUSE HEARING

Comes now the Hearing Judge for the Indiana Alcohol and Tobacco Commission (ATC) and for the Order on Rule to Show Cause states as follows:

1. Andrew Wignall appears as prosecutor.
2. No appearance was filed, and no one appeared for the Show Cause hearing on November 14, 2023, at 11:30 AM.
3. The Permittee had previously failed to appear, after appropriate notice was given pursuant to 905 IAC 1-27-9, for a Notice of Violation and Settlement Offer.
4. The Hearing Judge set this matter for a Rule to Show Cause Hearing on November 14, 2023, at 11:30 AM which order was sent to the Permittee at the listed ATC address by certified mail.
5. Permittee was previously advised that the nature of the hearing on November 14, 2023, would be to determine if the Permittee's certificate or permit should be suspended or revoked.
6. The Notice also indicated that if the Permittee failed to appear that a default judgment shall be issued against the permit and a sanction imposed which could include suspension or revocation of the permit.
7. Evidence revealed in Exhibit #1, offered and received into evidence without objection, that the records of the Indiana Bureau of Motor Vehicles disclosed that the Permittee had three (3) unrelated convictions for operating a motor vehicle while intoxicated, on May 15, 2018, on July 2, 2020 and on June 12, 2023, that the dates therefore qualify as being within ten (10) years of each other.
8. IC 7.1-3-18-9 states that a Permittee may not hold a license to serve alcoholic beverages if the Permittee has two (2) unrelated convictions (in this matter the Permittee has 4) for operating a motor vehicle while intoxicated.

9. Since no one on behalf of or from the Permittee has appeared for this Order to Show Cause Hearing, the Hearing Judge finds that the convictions of the Permittee for three (3) unrelated offenses of operating a motor vehicle while intoxicated within ten (10) years in this matter are true and warrant the revocation of the above-entitled permit.
10. Pursuant to IC 7.1-3-23-5 the Commission shall revoke a permit of any type on account of the violations of or refusal to comply with a provision of IC Title 7.1 or a rule or regulation of the Commission, which must be found by a preponderance of the evidence, which has been done.
11. Pursuant to IC 7.1-3-23-6 the Commission shall give at least ten (10) days' notice to the holder of the permit proposed to be revoked, which notice was given by the letter sent on October 10, 2023, which notice shall also inform the Permittee of the time and place of the hearing to be held regarding the proposed revocation.
12. The hearing on November 14, 2023, was held in the manner prescribed under IC 7.1-3-23-6.
13. Under IC 7.1-3-23-9 the Permittee is hereby advised that she may seek judicial review of this action by following IC 4-21.5-5 and has 15 days to so appeal this revocation.
14. Based upon the information and evidence presented at the hearing on November 14, 2023, the above-mentioned permit issued to Jeremy Marcotte under BR1654761 by the ATC is hereby revoked.
15. This revocation order will be scheduled for a final hearing before the ATC Commission.

IT IS THEREFORE ORDERED that the permit of issued to Michael Delaney under BR-1818573 by the ATC is hereby revoked, subject to a hearing before the ATC Commission.

All of which is ordered this 14th day of November 2023.



James W. Payne, Hearing Judge

Cc Prosecutor Andrew Wignall Esq

Michael Delaney
1306 Monument St
Noblesville, Indiana 46060

Approved this 6th day of February, 2024.



JESSICA ALLEN, CHAIR



JAMES PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER

MARK A. JONES, COMMISSIONER