

**STATE OF INDIANA**

**BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION**

**IN THE MATTER OF**

)

**THE PERMIT OF**

**FIVE STAR DIVE BAR , INC.**

)

**RR20-34980**

**526 S. MAIN STREET**

)

**EX-24-004270**

**ELKHART, INDIANA 46516**

)

**PERMITTEE**

**HEARING ON PRE-TRIAL**


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 August 21, 2025, at 10:00 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. That the Hearing Judge set this matter for Rule to Show Cause hearing on August 21, 2025, at 10:00 AM, which order was sent to the Permittee by certified mail.
5. That the Notice indicated that, if the Permittee failed to appear, a default judgment shall be issued against the permit and a sanction imposed which could include suspension or revocation of the permit.
6. The notice in the letter of the Order to Show Cause was sent by certified mail to the Permittee at the address stated above.
7. The Indiana State Excise Police report of the incident number EX24 – 004270 was offered and received into evidence as Exhibit 1.
8. Evidence revealed in Exhibit #1, offered and received into evidence without objection, that an investigation was carried out at Permittee's place of business on December 14, 2024.
9. The excise officer found that the Permittee had liquor bottles, both empty and with liquor, that had not been purchased from a wholesale distributor, there being liquor bottles

showing New Amsterdam liquor boxes shipping labels for Belmont Beverages in Fort Wayne, Indiana.

10. All of this constituted a violation for scope of permit due to the boxes located showing they originated at Belmont in Fort Wayne.
  11. As a result of the investigation, violations were written against the Permittee.
  12. Since no one on behalf of or the Permittee has appeared for this Order to Show Cause Hearing, the Hearing Judge finds by a preponderance of the evidence contained in Exhibit #1, EX24- 004270, that the violations filed in this matter are true and warrant the revocation of the above-entitled permit.
  13. 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.
  14. Pursuant to IC 7.1-3-23-6 the Commission shall give at least 10 days' notice to the holder of the permit proposed to be revoked, which notice was given, and which notice also informed the Permittee of the time and place of the hearing to be held regarding the proposed revocation.
  15. The hearing on August 21, 2025, was held in the manner prescribed under IC 7.1-3-23-6.
  16. Under IC 7.1-3-23-9 the Permittee is hereby advised that he may seek judicial review of this action by following IC 4-21.5-5 and has 15 days to appeal this revocation.
  17. Based upon the information and evidence presented at the hearing on August 21, 2025, the above-mentioned permit issued to Five Star Dive Bar Inc. under RR20-34980 by the ATC is hereby revoked.
  18. This revocation order will be scheduled for a final hearing before the ATC Commission.
- IT IS THEREFORE ORDERED that the permit issued to Five Star Dive Bar Inc under RR20-34980 is hereby revoked, subject to a hearing before the ATC Commission.

All of which is ordered this 21<sup>st</sup> day of August 2025.

  
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James W. Payne, Hearing Judge

Approved this 7<sup>th</sup> day of October, 2025

  
JESSICA ALLEN, CHAIR

  
JAMES PAYNE, VICE CHAIRMAN

  
MARJORIE MAGINN, COMMISSIONER

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MARK A. JONES, COMMISSIONER