

STATE OF INDIANA

BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION

IN THE MATTER OF)
THE PERMIT OF)
SAINT JOHN MALT BROTHERS, INC.) **RR45-34044**
9585 NORTH INDUSTRIAL DRIVE) **EX-23-021125**
SAINT JOHN, INDIANA 46373)

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 May 23, 2024 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 on February 12, 2024.
4. The Hearing Judge in an order from that hearing, set this matter for Rule to Show Cause hearing on May 23, 2024, at 11:30 AM which order was sent to the Permittee by certified mail.
5. Permittee was previously advised that the nature of the hearing on May 23, 2024, would be to determine if the Permittee 's certificate or permit should be fined, suspended, or revoked.
6. That 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, EX-23-021125, offered and received into evidence without objection, that on November 3, 2023, an excise officer entered the premises of the Permittee after receiving a complaint and stated that the business permits needed to be located at the premises---they were not---and the officer indicated that he would be back to see the permits.

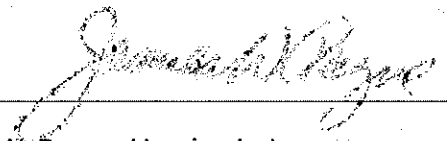
8. On November 10, 2023, the excise officer returned to the premises and the manager indicated that the owner never brought the permits, at which time the manager pointed across the street/cul-de-sac where the beer is brewed to see the permits.
9. The excise officer checked in MLO and found that the manufacturing license listed to the Permittee at the address at the cul-de-sac had expired and was dead.
10. Later in the day, an individual identifying himself as the owner, Daniel Cox, arrived at the premises and provided a copy of the dead/expired manufacturing license and stated that he did not have a restaurant license.
11. There were at the location at that time 21 kegs of beer and 4 smaller kegs of beer all dated after the permit had expired.
12. The owner indicated that the Permittee had distributed beer to other permittees but not for a "few months".
13. Violations under EX-23-021125 were written for:
 - a. IC 7.1-3-1-20 Failure to Display Permit
 - b. 905 IAC 1-35-5 Floor Plan Approval
 - c. IC 7.1-5-4-1 Possessing Untaxed Alcohol Beverages
 - d. IC 7.1-5-1-1 Unauthorized Commercial Activity
14. Since no one on behalf of or from the Permittee has appeared for this Order to Show Cause Hearing, the Hearing Judge, after hearing the statements and reviewing Exhibit #1, finds by a preponderance of the evidence that the violations filed in this matter are true and warrant the revocation of the above-entitled permit.
15. 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.
16. 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 by the letter sent May 3, 2024, which notice shall also inform the Permittee of the time and place of the hearing to be held regarding the proposed revocation.
17. The hearing on May 23, 2024, was held in the manner prescribed under IC 7.1-3-23-6.
18. Under IC 7.1-3-23-9 the Permittee is hereby advised that it may seek judicial review of this action by following IC 4-21.5-5 and has 15 days to so appeal this revocation.

19. Based upon the information and evidence presented at the hearing on May 23, 2024, the above-mentioned permit issued to Saint John Malt Brothers, Inc., under permit #RR45-34044, by the ATC is hereby revoked.

20. This revocation order will be scheduled for a final hearing before the ATC.

IT IS THEREFORE ORDERED that the permit of Saint John Malt Brothers, Inc., under permit #RR45-34044 is hereby revoked, subject to a hearing before the ATC.

All of which is ordered this 23rd day of May 2024.



James W. Payne, Hearing Judge

Cc:

James Estry
Saint John Malt Brothers Inc
9585 North Industrial Drive, Saint John, Indiana 46373

Approved this 2nd day of July, 2024.



JESSICA ALLEN, CHAIR



JAMES PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER



MARK A. JONES, COMMISSIONER