

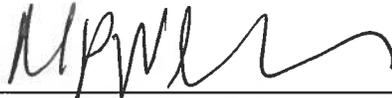
CERTIFICATE OF SERVICE

I certify that this date I have mailed the foregoing **MOTION FOR SANCTIONS** by depositing a copy thereof in an envelope bearing sufficient postage in the U.S. Mail in Raleigh, N.C., addressed to the following persons at the following addresses which are last known to me:

Melissa Owens Lassiter
Administrative Law Judge
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Akram Alnamer
AJA Mart Inc. T/A AJA Mart
4115 Old Tar Road
Greenville, NC 28590
(Respondent)

This the 4th day of March, 2016.



Missy P. Welch, State Bar No. 31452
Assistant Counsel
N.C. ABC Commission
4307 Mail Service Center
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STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
FILE NO. 16 ABC 00010

N.C. ALCOHOLIC)
BEVERAGE CONTROL)
COMMISSION,)
Petitioner,)
v.)
AJA MART INC)
T/A AJA MART,)
Respondent.)

ORDER

THIS MATTER is before the undersigned Melissa Owens Lassiter, Administrative Law Judge, on the Petitioner's Motion for Sanctions, based upon the Respondent's failure to comply with an interlocutory order of the Administrative Law Judge. The undersigned having considered the entire procedural record finds that this case is ripe for disposition on the issue of whether sanctions should be imposed upon the Respondent pursuant to NCGS § 150B-33(b)(10) and 26 NCAC 3 .0115.

FINDINGS OF FACT

1. Petitioner filed a Petition on 29 December, 2015 and requested an administrative hearing to determine whether Respondent had violated the ABC laws.
2. On 11th January, 2016, the Honorable Melissa Lassiter, Administrative Law Judge issued an Order for Prehearing Statements requiring each party to file such Prehearing Statement within 30 days of the date of the Order.
3. On 26th January, 2016, Petitioner filed a Prehearing Statement with the Office of Administrative Hearings. Petitioner sent a copy of its Prehearing Statement to the Respondent on the same date.
4. According to a review of the OAH Automated Case Tracking System, as of the issuance of this Order, Respondent has neither filed a Prehearing Statement with the Office of Administrative Hearings nor responded to Petitioner's Motion.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following Conclusions of Law:

1. The Office of Administrative Hearings has jurisdiction in this matter.
2. 26 NCAC 3 .0115(a) states in pertinent part:

If a party fails to comply with an interlocutory order....., the Administrative Law Judge may: (1) find the allegations of or issues set out in the Notice of Hearing or other pleading as true or deemed proved without further evidence.

3. NCGS §150B-33(b)(10) gives authority to the Administrative Law Judge to impose sanctions under Chapter 3 of Title 26 of the North Carolina Administrative Code.

FINAL DECISION

NOW THEREFORE, based on the foregoing and on upon consideration of the entire procedural record, the undersigned hereby finds the allegations and facts Petitioner has set out in its Notice of Alleged Violation, Petition and Prehearing Statement as true and deemed proved without further evidence.

ORDER

The Respondent's ABC permits shall be cancelled with such penalty to begin on dates determined by the North Carolina Alcoholic Beverage Control Commission.

NOTICE

This Final Decision is issued under the authority of N.C. Gen. Stat. § 150B-34. Pursuant to N.C. Gen. Stat. § 150B-45, any party wishing to appeal the Final Decision of the Administrative Law Judge may commence such appeal by filing a Petition for Judicial review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. The party seeking review must file the **petition within 30 days after being served** with a written copy of the Administrative Law Judge's Decision and Order.

N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. N.C. Gen. Stat. § 150B-47 requires the Office of Administrative Hearings to file the Official Record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. To ensure the timely filing of the record, the appealing party must send a copy of the Petition for Judicial Review to the Office of Administrative Hearings when the appeal is initiated.

This ____ day of _____ 2016.

Melissa Lassiter
Administrative Law Judge

A copy of the foregoing was mailed to:

Akram Alnamer
AJA Mart Inc.
T/A AJA Mart
4115 Old Tar Road
Greenville, NC 28590
(Respondent)

Missy P. Welch
Assistant Counsel
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ATTORNEY FOR PETITIONER

This ____ day of _____ 2016.

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