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12-6-2010

Alcoholic Beverage Commission vs. LUKE HUTCHISON, Petitioner

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**BEFORE THE TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION**

| | | |
|--------------------------|---|---------------------------------|
| IN THE MATTER OF: |) | |
| |) | |
| LUKE HUTCHISON |) | |
| |) | DOCKET NO. 33.05-110282J |
| Petitioner |) | |

ORDER

This matter came to be heard on December 6, 2010, before Administrative Judge Thomas G. Stovall, assigned by the Administrative Procedures Division, Office of the Secretary of State, sitting for the Tennessee Alcoholic Beverage Commission (ABC) in Nashville, Tennessee. Ms. Melinda Arrington, staff attorney for the ABC represented the Commission. The Petitioner was present and not represented by counsel.

The subject of this hearing was the denial of the ABC of the Petitioner's application for a server permit due to a prior felony conviction. After consideration of the record it is determined that the Petitioner's application for a server's permit should be **DENIED**. This decision is based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On October 23, 2010, the Petitioner completed an Application For Employee's On Premises Permit (server's permit). The application was denied because he had been convicted of a felony within four (4) years of the date of application.
2. On January 29, 2008, the Petitioner was convicted of Aggravated Burglary, a Class C felony.
3. The Petitioner is employed by a hotel as a front desk clerk. One of the responsibilities of the clerk is to ring up sales for hotel guests of items from the mini-market in

the hotel lobby. Beer is one of the items sold in the mini-market. The hotel is required to have all of its front desk clerks obtain server permits from the ABC.

CONCLUSIONS OF LAW

Tenn. Code Ann. Sec. 57-3-704 (1) provides that to be eligible for a server's permit an applicant must "...not have been convicted of any felony within the previous four (4) years." The Petitioner has failed to carry his burden of proof by a preponderance of the evidence that he met the statutory criteria for a server's permit. By having received a felony conviction four (4) years of the date of his application he is not eligible for a server's permit to be issued by the ABC. The Petitioner's application for a server's permit is hereby **DENIED**.

This Initial Order entered this 4th day of January, 2011.

Thomas G. Stovall
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 4th day of January, 2011.

Thomas G. Stovall, Director
Administrative Procedures Division