

AL-48 (N 4/16)	ALCOHOL LAW ENFORCEMENT REPORT OF ENFORCEMENT ACTIVITY		CASE NUMBER	
			20-323-030	
CASE AGENT		C. E. Lowe		ABC FILE NUMBER
				00220867CM
PERMITTEE / LOCATION OF OFFENSE(S): Sugar Creek Brewing Company LLC SUGAR CREEK BREWING COMPANY 209 Southside Dr # 215 Charlotte, NC, 28217			<input type="checkbox"/>	Felony Arrest
			<input type="checkbox"/>	Misdemeanor Arrest
			<input checked="" type="checkbox"/>	ABC Violation
			<input type="checkbox"/>	Other
SUBJECT(S) AND OFFENSE(S):				
Subject:		SUGAR CREEK BREWING COMPANY		DOB:
Address:		209 Southside Dr # 215, Charlotte, NC, 28217		
Offense Date	Case #	Offense		
3/30/2020	20-323-030	18B-304 (a) It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and revenue licenses.		
3/30/2020	20-323-030	18B-904 (a) An ABC permit shall authorize the permitted activity only on the premises of the establishment named in the permit.		
3/30/2020	20-323-030	Executive Order 118(a)(vi) Social Distancing Guidelines		
Subject:				DOB:
Address:				
Offense Date	Case #	Offense		
Subject(s) and Offense(s) Continuation Page:		<input type="checkbox"/>	YES	
WITNESSES:				
1.				
2.				
3.				
Witnesses Continuation Page:		<input type="checkbox"/>	YES	
EXHIBITS:		<input type="checkbox"/>	YES (See Attached Property Sheet)	
		<input type="checkbox"/>	NO	
SPECIAL AGENT'S SIGNATURE		SUPERVISOR'S REVIEW		DATE OF REPORT
				4/1/2020

CHRONOLOGY OF EVENTS

On Saturday, March 28, 2020, at approximately 7:10 p.m., North Carolina Alcohol Law Enforcement Special Agent in Charge (SAC) Qureshi was contacted by an anonymous citizen stating a military surplus truck, referred to as a deuce and a half truck, from SUGAR CREEK BREWING COMPANY was driving around their neighborhood in Millbridge, North Carolina selling malt beverages in the manner of an ice cream truck.

At approximately 7:31 p.m., I contacted SAC Qureshi for more information from the anonymous citizen. SAC Qureshi advised me the anonymous citizen was observing the trucks movements through their neighborhood and on the business' Facebook page. SAC Qureshi advised the citizen had called because of concerns regarding SUGAR CREEK BREWING COMPANY'S violation of the social distancing guidelines set forth in Executive Orders 117-120 from Governor Cooper regarding stopping the spread of COVID-19. SAC Qureshi stated the citizen had told him the truck was causing people to leave their residences and congregate while the individuals on the truck sold them malt beverages. I obtained the contact information for the citizen from SAC Qureshi and attempted to contact the anonymous citizen via cellphone however they did not answer.

After attempting to contact the citizen I searched SUGAR CREEK BREWING COMPANY'S Facebook page (Located at: <https://www.facebook.com/pages/Sugar-Creek-Brewing/687074031447657>) for photographs of the truck and the sales of beer to private citizens. I could not find any mention of the truck on SUGAR CREEK BREWING COMPANY'S Facebook page. I then searched they SUGAR CREEK BREWING COMPANY website (Located at: <https://sugarcreekbrewing.com/>) for pictures of the truck and a schedule of routes for the truck to sell malt beverages. I found no mention of the routes for the truck, and no mention of the truck on the company's webpage. I found it odd there was no advertising for a truck selling malt beverages in the manner of an ice cream truck as doing so would bring a wider customer base.

At approximately 9:51 p.m., the anonymous citizen returned my call and advised the Facebook page they had spoken of with SAC Qureshi was a private group page for residents of the citizen's neighborhood. The citizen advised the residents of the neighborhood, and the owners at SUGAR CREEK BREWING COMPANY were referring to the trick as an "ice cream truck" or an "adult ice cream truck." The citizen then forwarded me several screenshots of the group Facebook page. Of the screenshots several contained pictures of the truck parked at various places in the neighborhood. Several of the screenshots also included a turn by turn layout of the route the truck would be traveling as well as a price list stating "\$12 for 4-pack of Hazy Creek IPA \$10 For 4-Pack All Other Can Flavors \$10 For 6-Pack Bottles of Pilsner". The anonymous complainant stated exchanges of money were taking place at the truck. The complainant also stated the truck would be returning to the neighborhood the following night to sell more beer to the residents of the neighborhood. I thanked the complainant for their time and told them I would be keeping them updated with my progress with the complaint.

On Sunday, March 28, 2020, at approximately 12:34 p.m., I attempted to make contact with SUGAR CREEK BREWING COMPANY in order to speak with them about the truck and their sales of beer from it. As there were multiple numbers listed on the application for commercial permits, I called the cellphone number listed for the owner, Joseph Vogelbacher, which had a [REDACTED], NJ area code. The woman who answered advised she had no relation to SUGAR CREEK BREWING COMPANY.

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I next called the phone number listed for the business location. The number lead to an automated menu with several choices of portions of the business to be directed to. The first selection I made was the option offered for the whole sale/beer order department. No one answered the phone and I left a message identifying myself as an ALE agent and asking for someone to return my call at my state cellphone number.

After leaving a message with their wholesale/beer order department, I called the business again. This time selecting the taproom menu option. Keo Inthisane, the taproom manager at SUGAR CREEK BREWING COMPANY, answered the phone. I identified myself as an ALE agent to Inthisane and advised him the reason I was calling was to speak with him about the business' "ice cream truck." I asked Inthisane, when the business first started using the truck to sell beer and he advised the business had started using the truck for sales of beer this past Friday. Inthisane advised, prior to Friday, March 27, 2020 the business had used the truck specifically for promotional purposes.

I asked Inthisane if he knew how the routes for the truck were chosen. Inthisane said the routes were chosen by the driver. I asked Inthisane who drove the truck for the business and he advised it was an individual named Brian, later identified as Brian William Keefe, a friend of Vogelbacher. Inthisane stated Keefe had not worked at the business prior to Friday, March 27, 2020, and he was not certain if he was an employee of the business at all. I asked Inthisane whether or not Keefe held any permits and he advised he did not know.

I then asked Inthisane if he knew how transactions were made on the truck. Inthisane stated transactions occurred on a person to person basis wherever the truck was. Inthisane stated money would be exchanged through Brian. When I began to ask more technical questions about the truck and the selling of alcoholic beverages, Inthisane offered to give me Vogelbacher's cellphone number so I could call him directly. The "adult ice cream truck" concept and the selling of alcoholic beverages from the truck had been Vogelbacher's idea, Inthisane explained, and Vogelbacher would be able to answer my questions better. I accepted Vogelbacher's cellphone number from Inthisane and thanked him for his assistance and his time.

Prior to ending the phone call Inthisane told me he thought he "said some stuff I shouldn't have" and requested I not mention him when I spoke to Vogelbacher. While speaking with Inthisane, I noticed when I asked a question Inthisane hesitated before answering each question.

On Monday, March 30, 2020, at approximately 11:50 a.m., I performed a secondary search on Facebook for posts regarding SUGAR CREEK BREWING COMPANY. I queried "sugar creek brewing" and limited the search results to publicly viewable posts containing the queried words. I located a post from an individual named [REDACTED] dated "March 28 at 4:25 PM" with pictures of 4 different SUGAR CREEK BREWING malt beverages and the truck. I screenshotted the post and returned to the search results.

At approximately 11:52 a.m., I located another post from an individual named [REDACTED] dated "March 28 at 4:25 PM" containing photographs of a 4-pack of SUGAR CREEK BREWING COMPANY'S Raspberry White Ale, and the truck. The text of the post thanked SUGAR CREEK BREWING COMPANY for "coming to our neighborhood and delivering beer." I screenshotted the post and continued my search.

At approximately 11:59 a.m., I queried the words "sugar creek brewing" in the search function of Instagram. I located one post from an individual named [REDACTED] timestamped "18

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HOURS AGO". The post contained a photograph of the back of SUGAR CREEK BREWING COMPANY'S truck. In the picture there is a white sheet draped over the passenger side of the truck bearing the SUGAR CREEK BREWING COMPANY logo repeated thereon and the logo of the business printed on the passenger door of the truck. The picture also showed a sign affixed to the tailgate of the truck labeled as a "MENU". On the "MENU" were prices including what appears to be "\$10 4-Pack..." and "\$10 6-Pack..."

At approximately 12:13 p.m., I pulled up SUGAR CREEK BREWING COMPANY'S Twitter page. I found a postdated "12:21 PM · May 4, 2019" containing photos of the truck and text identifying the truck as "#GeneralGrowler" indicating SUGAR CREEK BREWING COMPANY'S ownership of the truck.

At approximately 1:16 p.m., I returned to the Facebook from [REDACTED] dated "March 28 at 4:25 PM" and scrolled through the comments section. I located a comment from [REDACTED] replying to an individual named "Karen Johnson Horne" dated "1 day" ago stating "... A lady and her son volunteered to drive around with him and sell beer."

At approximately 3:00 p.m., I traveled to SUGAR CREEK BREWING COMPANY, located at 209 Southside Drive, # 215, Charlotte, NC, 28217, to conduct outlet surveillance. When I arrived I could not see the truck parked anywhere near the business.

At approximately 3:53 p.m., dressed in covert attire I approached an unidentified redheaded female employee working the curbside pickup service in front of the business. I was dressed in a blue collard work t-shirt and green chino pants. I did not identify myself as an ALE agent and asked the female employee whether or not the truck would be returning to Millbridge again that evening. The female employee advised she did not know whether or not the truck would be going back out that evening. She stated it was "Joe's", referring to Vogelbacher, idea and he was running the truck with a guy he "brought in."

Prior to ending the conversation with the female employee I stated the truck made for a great idea to sell more beer. The female employee responded, "Yeah, until they shut us down." After this response I thanked the female employee for her time and returned to my vehicle and moved in order to find a more discrete surveillance position. I chose a spot several streets over where I believed the truck would have to come past in order to reach the business.

At approximately 5:01 p.m., I changed surveillance positions to view the front of the business from the parking lot of a construction business one street over. I could clearly see the truck was now at the business and parked in front of a loading bay marked with a white sign as "Receiving". On the truck were three individuals. One of the individuals who resembled Vogelbacher DMV photograph I had pulled from CJLEADS, an unidentified male employee of the business wearing a reflective harness, and an older white male wearing a t-shirt with writing in the front, later identified as Keefe. I could not make out all of the writing on the t-shirt but I could make out the word "Waxhaw." Waxhaw is approximately a 7-minute car ride from Millbridge where the truck was selling beer over the weekend.

At approximately 5:30 p.m., after joining me in surveying SUGAR CREEK BREWING COMPANY, SAC Qureshi contacted me via radio and stated we should go in and speak with Vogelbacher in order to avoid future violations of ABC Laws.

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SAC Qureshi and I entered SUGAR CREEK BREWING COMPANY, identified ourselves as ALE Special Agents, and asked to speak to an owner or manager. The unidentified redheaded female employee directed us to speak with the individual I identified as Vogelbacher on the truck outside of the business earlier.

Vogelbacher introduced himself to us and suggested, without prompting, we go and speak somewhere private. I introduced myself to Vogelbacher and mentioned I was the same ALE Agent who had called and left him a message over the weekend. Vogelbacher wouldn't meet my gaze but apologized for "missing that call." At the bar area, seated behind Vogelbacher, was Keefe. Keefe was drinking a malt beverage out of a pint glass at the bar of the business.

SAC Qureshi, Vogelbacher, and I exited the bar area of the business and crossed over to the brewery side of the business. We stopped to speak on the large warehouse commercial side of the business. Vogelbacher asked why we were here and I advised him, as I had said in my voicemail I had left him, we were there to ask him about his "ice cream truck." Vogelbacher again apologized for "missing" my phone call and asked "What ice cream truck?" As Vogelbacher spoke with us his voice shook and he would not meet our gaze for extended periods of time.

I advised Vogelbacher we were there to speak to him about the "ice cream truck" he was driving around and selling malt beverages from. I advised Vogelbacher we had screenshots of pictures and posts regarding the truck from various social media platforms. I then asked Vogelbacher again to explain how his "ice cream truck" operated.

Vogelbacher advised he did not have an "ice cream truck" he had the truck parked outside of the business and he had used the truck to make some deliveries of malt beverages to individual who had ordered them in a neighborhood in Millbridge. Vogelbacher stated he had decided to use the truck to make the deliveries in order to drum up publicity for the business since they had lost so much to the COVID-19 crisis.

I advised Vogelbacher I had photographs of the truck with a price list indicating beer for sale and social media posts with pricelists. I also advised Vogelbacher we had anonymous citizens who informed us there were transactions and sales of beer occurring on the truck while it was in the neighborhood. I encouraged Vogelbacher to stop lying to us and to tell the truth about the truck because I already knew everything that was occurring.

Vogelbacher admitted "it was me" selling malt beverages on the truck. He advised since he could find nothing in ABC Laws preventing him from doing so, he had decided to bring extra malt beverages on the truck to sell in route to making actual deliveries from the business. Vogelbacher stated, because of the COVID-19 crisis he had lost all on premise business, which accounted for 50-55% of SUGAR CREEK BREWING COMPANY'S income. Vogelbacher stated selling the beer from the truck had been his idea of how the business could sell more beer to make ends meet.

I advised Vogelbacher there was ABC laws preventing him from selling. I advised him one such law was selling without permits. Vogelbacher stated he had permits and I agreed with him but advised him he was not permitted to sell from the back of a truck. I advised Vogelbacher he was only allowed to sale in a manner explicitly stated in his ABC Permits, none of which allowed him to sell from the truck. Vogelbacher asked if

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there were a set of permits that would allow him to sell from the truck and I advised him there were none that existed.

I advised Vogelbacher I understood his desire to find more outlets to sell alcoholic beverages. I advised him this was a difficult time for everyone and that was why I would not be charging him criminally but I would be submitting a violation report to the ABC Commission documenting the business' conduct of business outside of what was allowed by their permits by his selling of malt beverages on the truck without permits.

Before leaving, I advised Vogelbacher the reason the complainants from the neighborhood had originally called was not due to the business selling without permits, but his blatant disregard for the social distancing guidelines set forth by Governor Cooper in Executive Order 118. I advised Vogelbacher he was going into people's neighborhoods, bringing them out of their homes, and having them congregate while waiting for him to sell them malt beverages. I advised him this opened the entire neighborhood to exposure to COVID-19. I also advised him not only was he opening the neighborhood to exposure but he had also opened himself to exposure through exchanging money for beer. I stated he could contract the virus from an individual who was not showing symptoms and then bring it home to his family. I advised Vogelbacher, this was the real reason we were at SUGAR CREEK BREWING COMPANY that day, to prevent him, his staff, and his patrons from further risks of exposure. I encouraged him to continue his curbside service and his deliveries but advised him anything more could open him, his staff, and the public to exposure to COVID-19 and could violate the related Executive Orders.

I asked Vogelbacher if he understood everything we had spoken about and he stated he did. SAC Qureshi and I both thanked Vogelbacher for his time and departed the business.

No further action taken.

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