

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
November 18, 2010
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, November 18, 2010 in Nashville, Tennessee at 1:30 p.m. Chairman Jones, Commissioner Mathews and Commissioner Cynthia Bond were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, Melinda Arrington, Attorney, CLEO Mark Hutchens and SAC Al Watson were present.

1. The Minutes for October 21, 2010 Commission Meeting were approved.

2. NEW BUSINESS--RETAIL

**A. ON THE ROCKS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Licensee: On the Rocks, LLC
Members: Lynn Beeler and Catherine Henry
Proposed New Member: Carl Beeler

Before the Commission is a request for a partial transfer of ownership of the retail store located at 7545 Conner Road in Knoxville, Tennessee. In 2009, Lynn Beeler purchased Catherine Henry's 50% ownership interest in the business to become sole owner. Ms. Beeler is now requesting to give 50% of her interest to her husband, Carl Beeler. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval.

Chairman Jones made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

**B. VINTAGE COLLECTIONS
BRISTOL, TENNESSEE (SULLIVAN COUNTY)**

Licensee: RY-MIC INVESTMENTS, INC.
Stockholders: Michael Hilton and Ryan Hilton
Proposed Stockholder: Michael Hilton

Before the Commission is a request for a partial transfer of ownership of the retail store located at 1389 Volunteer Parkway in Bristol, Tennessee. Michael Hilton and Ryan Hilton each owned 50% of the stock. On February 26, 2010, Ryan Hilton obtained a loan from Michael Hilton for \$20,000. On June 6, 2010, Michael Hilton agreed to forgive this loan to Ryan Hilton in exchange for obtaining Ryan's 50% interest in the business. The transaction was completed on this date—thus, making Michael Ryan 100% owner of the business. The Commission was not notified of this transaction until October 20, 2010. All documentation has been submitted; however, TABC staff will be requesting a monetary fine for the change in ownership without prior notification to the Commission.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval. Director Elks recommended a fine be assessed against the licensee. Director Elks recommended a \$750 fine because the licensee ultimately advised the Commission of the transfer prior to a TABC investigation.

Chairman Jones made a motion to approve upon payment of the \$750 citation fee. Commissioner Bond seconded the motion and it passed with 3 ayes.

**C. CRAFT CENTER LIQUOR AND WINE
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

Licensee: Marsha and Tanya, LLC

Members: Marsha Wilson and Tanya McCarter

Before the Commission are two requests: the first request is for a transfer of location of the retail store currently located at 446 East Parkway, Suite 2 in Gatlinburg, Tennessee. The proposed new location is 115 North Mountain Trail in Gatlinburg. The request is based upon their losing the lease when the lessor (from whom they were leasing) defaulted on his payments. The LLC licensee will be leasing the proposed property from Ted and Anita Hercutt for a period of five years at \$248/month.

If approved, the licensee is requesting a name change to Liquor & Wine of the Smokies. All documentation associated with both requests have been submitted.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval for the transfer of location and the name change.

Chairman Jones made a motion to approve the transfer of location. Commissioner Bond seconded the motion and it passed with 3 ayes.

**D. SOMERVILLE WINES AND SPIRITS
SOMERVILLE, TENNESSEE (FAYETTE COUNTY)**

Applicant: Somerville Wines and Spirits, LLC
Members: Samuel Wolfe and Wallace Johnson

Before the Commission is a request for a new retail store to be located at 17503 Highway 64 in Somerville, Tennessee. Samuel Wolfe and Wallace Johnson wish to initially invest a total of \$100,000 to operate the business. Financing is based upon Mr. Johnson obtaining a loan with Somerville Bank and Trust. If approved, Mr. Wolfe and Mr. Johnson will each own 50%. The LLC applicant is leasing the property from Gerald Pulliam for a period of three years at \$1350/month. All documentation has been submitted with the exception of the following:

- a. Loan agreement;
- b. Acknowledgement of the rules/regulations;
- c. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the pending documentation.

Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**E. WINE AND SPIRIT SHOP
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: Vinh Tran
Applicant/Buyer: Tien Truong

Before the Commission is a request for a transfer of ownership of the retail store located at 1711 E. Holmes in Memphis, Tennessee. Mr. Truong wishes to purchase the business for \$120,000, including inventory.

Financing is based upon existing personal funds in the Bank of America. Mr. Truong will be sub-leasing the property from Mr. Tran, with permission of the landlord through July 1, 2014. All documentation has been submitted with the exception of the following:

- a. Verification of existing personal funds, and
- b. Verification from Mr. Truong that on-premise consumption of alcohol is prohibited.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the pending documentation.

Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**E. SMYRNA LIQUORS
SMYRNA, TENNESSEE (RUTHERFORD COUNTY)**

Applicant: Randal Smyrna, Inc.
Stockholder: Bina Ashok Patel

Before the Commission is a request for a new retail store to be located at 1868 Almaville Road in Smyrna, Tennessee. Ms. Patel wishes to initially invest \$150,000 to operate the business. Financing is based upon existing personal funds. The corporate applicant will be leasing the property from Gautam Patel, Ashok Patel and Natvar Patel for a period of seven years with rent beginning at \$5,775/month and increasing to \$6,987/month over the term of the lease. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. Verification of existing personal funds.

Discussion/Action Taken:

Bina Ashok Patel and William Cheek, III, attorney, were present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval. Director Elks advised the Commission that Ms. Patel's brother-in-law, Natvar Patel, owned a retail store and was a licensee. Ms. Patel acknowledged that she is the sole owner of the business and that her brother-in-law would have no contact and/or association with this business. Director Elks recommended approval.

Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

**F. MURFREESBORO CITY LIMITS LIQUORS AND WINES
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Licensee/Seller: Murfreesboro City Limits Liquor and Wine, Inc.
Stockholder: Gary Houk
Applicant/Buyer: Ronald Poteete, Jr and Charles Ferrell

Before the Commission is a request for a transfer of ownership of the retail store located at 5353 NW Broad Street, in Murfreesboro, Tennessee. Mr. Poteete, Jr. and Mr. Ferrell wish to purchase the business for \$50,000, plus inventory. Financing is based upon existing personal funds at Pinnacle Bank and Tennessee Bank and Trust. Mr. Poteete and Mr. Ferrell will be leasing the property from Mr. Houk for a period of three years at \$2500/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations.

Discussion/Action Taken:

Charles Ferrell and Ronald Poteete, Jr. were present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval.

Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

3. WHOLESALE MATTERS

**A. HORIZON WINE & SPIRITS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee: Horizon Wine & Spirits—Chattanooga, Inc.
Stockholders: Thomas Bernard and Andy Cox
Proposed New Stockholder: Kahn Ventures, Inc.

Before the Commission is a request for a transfer of stock ownership of the wholesaler doing business as Horizon Wine and Spirits. Currently, Thomas Bernard owns 95% of the stock and Andy Cox owns 5% of the stock. They wish to sell 100% of their stock interest to Kahn Ventures, Inc.; Horizon Wine & Spirits will remain the licensee, and Mr. Bernard will

remain CEO; Mr. Cox will be the President. Kahn Ventures, Inc. is a Georgia corporation, whose primary officers are David Kahn, President; Michael Kahn, COO, and James Schwarzkopf, Secretary/Treasurer. T.C.A. §57-3-203(g) sets forth that a wholesale license may be issued to “any corporation which has been domiciled in the state of Tennessee for twenty-five (25) years, and the majority of whose assets are located in the state of Tennessee and all of whose active officers shall be residents of Tennessee....” All documentation has been provided with the exception of the following:

- a. Bill of Sale;
- b. Kahn Ventures, Inc. charter.

Discussion/Action Taken:

Thomas Bernard, owner and Henry Hildebrand, III were present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval.

Chairman Jones made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**B. HORIZON WINE AND SPIRITS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: Horizon Wine and Spirits—Nashville, Inc.
Stockholder: Thomas Bernard
Proposed New Stockholder: Kahn Ventures, Inc.

Before the Commission is a request for a transfer of stock ownership of the wholesaler doing business as Horizon Wine and Spirits. Currently, Thomas Bernard owns 100% of the stock. Mr. Bernard wishes to sell 100% of his stock interest to Kahn Ventures, Inc.; Horizon Wine & Spirits will remain the licensee, and Mr. Bernard will remain as President, and Greg Clarke will remain as Secretary and Vice-President. Kahn Ventures, Inc. is a Georgia corporation, whose primary officers are David Kahn, President; Michael Kahn, COO, and James Schwarzkopf, Secretary/Treasurer. T.C.A. §57-3-203(g) sets forth that a wholesale license may be issued to “any corporation which has been domiciled in the state of Tennessee for twenty-five (25) years, and the majority of whose assets are located in the state of Tennessee and all of whose active officers shall be residents of Tennessee....” All documentation has been provided with the exception of the following:

- a. Bill of Sale;
- b. Kahn Ventures, Inc. charter.

Discussion/Action Taken:

Thomas Bernard, owner and Henry Hildebrand, III were present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval.

Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

4. HEARINGS/NOTICE OF REVIEW

**A. TABC V. PROFITT'S DISCOUNT LIQUOR WAREHOUSE, INC.
DOCKET NUMBER: 33.01-107620j**

Before the Commission is a review of the Initial Order rendered in the above-styled case, wherein Administrative Law Judge Anthony Adgent ordered that the retail license held by Profitt's Discount Liquor Warehouse, Inc. be revoked for the failure to provide a certificate of compliance issued by the municipality where the store is located. The Initial Order was issued on October 20, 2010, and a Notice of Review was granted on October 26, 2010. The Commission will review the Order and will either adopt, amend or deny the Initial Order.

Discussion/Action Taken:

Randall Smith, owner and Patrick Froge, attorney, were present at the meeting. Director Elks stated that in 2009 Mr. Smith submitted his renewal application but was unable to provide his Certificate of Compliance from the city of Nashville. She further stated that every two years is a requirement of a certificate of compliance for all retail licensees. Because of Mr. Smith's inability to submit the requisite certificate of compliance, TABC staff conducted a hearing to revoke the license and on October 20, 2010 the administrative law judge issued an Initial Order revoking Mr. Smith's license. Director Elks stated the staff filed a Notice of Review for the Commission to review on October 26, 2010, and this Notice of Review is before the Commission.

Mr. Froge stated that the reason Mr. Smith was not able to obtain a Certificate of Compliance was because an employee of Mr. Smith's was selling novelty items that were being used by patrons as drug paraphernalia. Mr. Smith and an employee were both working at the store that adjoined the retail package store where the employee was doing this act. Mr. Froge stated that they were both charged with selling the paraphernalia.

Mr. Froge stated that the matter has not gone to trial at this time. He further stated that he believes in early 2011 that Mr. Smith will be vindicated, but while this charge is pending that the mayor's office is unwilling to grant the certificate of compliance. Mr. Froge requested that the Commission defer this matter until the criminal case is finished.

Chairman Jones asked Director Elks whether the Commission must immediately take action to amend, adopt or review the Order.

When told research would be necessary to determine the exact time frame, Commissioner Mathews made a motion to continue this matter to the February, 2011, Commission meeting to allow the TABC staff to research this matter. Commissioner Bond seconded the motion and it passed with 3 ayes.

B. ALICIA TANGASSI

On October 13, 2010, TABC Agent William Gammel issued an administrative citation to Alicia Tangassi for a violation of T.C.A. §57-4-203(b), sale of alcohol to a minor. On this date, TABC agents conducted an undercover compliance check at the establishment doing business as "My Favorite Place Mexican Bar and Grill". TABC Agents witnessed Ms. Tangassi sell an alcoholic beverage to a nineteen year old confidential informant. Currently, the citation remains outstanding.

Discussion/Action Taken:

The administrative citation was paid; therefore, no action is required.

5. BUDGET

6. CONSENT ORDERS

7. PENDING MATTERS LIST

8. MISCELLANEOUS – Chairman Jones stated that he would like a list of the pending matters that will be continued to the future meetings. Chairman Jones stated that he would like to have list of what the Commission has and has not accomplished since the present Commissioners have been on the Commission.

A. Monthly Summary of TABC Activity

- 9. DATE OF NEXT MEETING** – Thursday, December 16, 2010 and Thursday, January 20, 2011 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director