

**TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**Minutes  
June 27, 2012  
1:30 pm**

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The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, June 27, 2012, in Nashville, Tennessee at 1:30 p.m. Although Chairperson Mary McDaniel was not present, a quorum was present with Commissioner Bryan Kaegi, and Commissioner John Jones and therefore the meeting was conducted. Commissioner Jones presided as Chairman in Chairperson McDaniel's absence. Executive Director Danielle Elks, Assistant Director Keith Bell, and CLEO Mark Hutchens were present.

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**1. The Minutes for May 23, 2012 Commission Meeting were approved.**

**A. 2. RETAIL**

**1. GRAPEVINE WINE AND SPIRITS  
BRENTWOOD, TENNESSEE (WILLIAMSON COUNTY)**

**Licensee: Grapevine Wine and Spirits, LLC**  
**Members: John A. Lee and Gary Sasser**  
**Proposed Member: John A. Lee**

Before the Commission is a request for a partial change in ownership of the retail business located at 8109 Moores Lane in Brentwood, Tennessee. Currently, John A. Lee and Gary Sasser each own 50% membership interest in this business. Mr. Lee wishes to purchase Mr. Sasser's interest for \$500,000 to become the sole member with 100% ownership interest. Financing is based upon a promissory note between Mr. Lee and Mr. Sasser. All documentation has been provided with the exception of the following:

- a. Payment of outstanding citations, if any.

**Discussion/Action Taken:**

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 2 ayes.

**2. 31-W LIQUOR  
GOODLETTSVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Licensee: 31-W Liquor Store, Inc.**  
**Stockholders: James M. Smith, Jr.**  
**Proposed New Stockholder: William Dustin Smith and Matthew Smith**

Before the Commission is a request for a change in ownership of the retail business located at 435 N. Main Street in Goodlettsville, Tennessee. Mr. James Smith, Jr. passed away on December 19, 2011. In his will, he left 25 ½% ownership interests each to William Dustin Smith and David Smith, and 49% ownership interest to Jimmy Smith. Mr. David Smith cannot have any ownership interest in the business because of the prohibition of elected officials having an interest in a retail business. Therefore, David Smith would like to give his interest in the business to his son, Matthew Smith, under a trust with Dustin Smith as the trustee. Jimmy Smith wants to sell his 49% interest to Jimmy and Matthew Smith so that each would ultimately own 50%. The corporate licensee will remain the same. Financing for the purchase of Mr. Jimmy Smith's interest is based upon a promissory note. All documentation has been submitted with the exception of the following:

- a. Death Certificate for James Smith, Jr.;
- b. Copy of pertinent parts of James Smith's will;
- c. Document transferring David Smith's interest to Matthew Smith;
- b. Bill of sale from Jimmy Smith to Matthew and Dustin Smith;
- c. Promissory note for the purchase.
- d. Trust for Matthew Smith.

**Discussion/Action Taken:**

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 2 ayes.

**3. DIXIE LEE WINES & LIQUORS  
FARRAGUT, TENNESSEE (KNOX COUNTY)**

**Licensee: Dixie Lee Wines and Liquors, Inc.**  
**Stockholders: Linda Taylor; Sam Taylor, III; Ellen Jones; Melanie Brown**

Before the Commission is a request for a re-distribution of stock in the ownership of the retail licensee found at 13044 Kingston Pike, Farragut, Tennessee. This is a family-owned business. Currently, Ms. Taylor owns 88.27% of the business, and Ellen Jones, Melanie Brown and Sam Taylor, III each own 3.91%. As part of the estate planning, Mrs. Taylor wishes to sell some her interest in the business to her children. Each child would purchase 1.01% of Mrs. Taylor's stock for \$10,000 each. The re-distribution of stock would result in the following: Linda Taylor (85.24); Sam Taylor, III (4.92); Ellen Jones (4.92) and Melanie Brown (4.92). All documentation has been submitted.

**Discussion/Action Taken:**

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 2 ayes.

**4. CROSS CREEK WINE AND SPIRITS  
HARTSVILLE, TENNESSEE**

**Licensee/Seller: Robert E. Powers**  
**Applicant/Buyer: Shane Ryan Burton, Sr.**

Before the Commission is a request for a change in ownership of the retail store located at 784 McMurry Boulevard in Hartsville, Tennessee. Mr. Burton wishes to purchase the business for \$52,000. Financing is based upon existing personal funds. He will be leasing the property from Mr. Powers for a period of three years at \$500/month. In January, 2012, Cross Creek Wine and Spirits paid a citation for the failure of a licensee to notify the agency of a change in ownership—Mr. Burton. It was determined that Mr. Burton had purchased the business in 2010. Since that time, Mr. Burton has been attempting to complete the application for a change in ownership of the business. All documentation has been submitted with the exception of the following:

- a. Current Certificate of Compliance for Shane Burton, Sr.;
- b. Current newspaper affidavit and notice.
- c. Deed to Mr. Powers
- d. Sales tax number;
- e. Payment of any outstanding citations, if any.

**Discussion/Action Taken:**

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 2 ayes.

**3. WINERY MATTERS**

**A. NATCHEZ HILLS VINEYARD  
HAMPSHIRE, TENNESSEE (LEWIS COUNTY)**

**Applicant: JKO Enterprises, Inc.**  
**Stockholders: James and Karen Odom**

Before the Commission is a request for a new winery to be located at 109 Overhead Bridge Road in Hampshire, Tennessee. James and Karen Odom will be initially investing \$1,141,000 to operate the winery. The corporate applicant is leasing the property from James Odom on a year-to-year basis with monthly rent at \$2,650. All documentation has been submitted with the exception of the following:

- a. Deed to James Odom;
- b. TABC Inspection;
- c. Use and Occupancy permit;
- d. Acknowledgement of the rules/regulations;
- e. Sales tax number.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the TABC Inspection and the Acknowledgement of the rules/regulations.

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 2 ayes.

**B. THE GRAPE BARN AT NOLICHUCKY VINEYARD  
RUSSELLVILLE, TENNESSEE (HAMBLEN COUNTY)**

**Applicant: Katie Martin**

Before the Commission is a request for a new FARM WINERY LICENSE to be located at 6600 Fish Hatchery Road in Russellville, Tennessee. In the 2012 legislative session, the General Assembly created a new license to be designated a Farm Winery License which would allow farms consisting of commercial vineyards, fruit orchards or fruit gardens to be used in the making of wine when the resulting beverage contains 95% of the product of such vineyards. The farms will be allowed to contract with Tennessee licensed vineyards that will custom crush the fruit and produce the wine. The finished product will then be transported back to the farm and the farm will be allowed to sell the wine at retail. (See Public Chapter, 691.)

Ms. Martin has contracted with Hillside Winery in Sevierville to produce the wine on behalf of The Grape Barn at Nolichucky Vineyard. A report from the Department of Commerce and Insurance—Division of Fire Prevention has been submitted in lieu of a use and occupancy permit due to a farm’s “Greenbelt Designation”. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations.

**Discussion/Action Taken:**

Katie Martin and Jennifer Albrecht were present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the TABC Inspection and the Acknowledgement of the rules/regulations.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Commissioner Jones seconded the motion and it passed with 2 ayes.

**4. WHOLESALE MATTERS**

**A. BONUS BEV  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Licensee/Seller: Bonus Bev, LLC**  
**Members: Kurt Strickmaker**  
**Proposed New Members: Stephen Schultenover, Juan Vallarino, and John Dant, III**

Before the Commission is a request for a change in partial change in ownership of the wholesale business located at 3628-B Trousdale Drive in Nashville, Tennessee. Mr. Schultenover, Mr. Vallarino, and Mr. Dant wish to purchase 40% of Mr. Strickmaker's interest in the business for a total of \$100,000. This purchase would result in the following percentage ownership interest: Kurt Strickmaker --60%; Stephen Schultenover—10% (\$25,000); Juan Vallarino—15% (\$37,500); and John Dant—15% (\$37,500). All for documentation has been submitted.

**Discussion/Action Taken:**

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 2 ayes.

**B. BETTER BEVERAGE, INC.  
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

**Applicant: Better Beverage, Inc.**  
**Stockholders: Otis Phillips, Jr.**

Before the Commission is a request for a new wholesale business to be located at 730-A Middle Tennessee Boulevard; Suite 11-A in Murfreesboro, Tennessee. Mr. Phillips wishes to initially invest \$5000 to operate the business. The corporate applicant is leasing the property from Swanson Properties for eight months at \$625 per month. All documentation has been submitted with the exception of the following:

- a. Lease between Tennessee Builders Management Services and Swanson;
- b. Written statement regarding nature of SEC Enterprises, Inc. business and acknowledgement that the two businesses must be operated separately and distinctly;
- c. Acknowledgement of the rules and regulations;
- d. Final TABC inspection.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following information:

- e. Lease between Tennessee Builders Management Services and Swanson;
- f. Written statement regarding nature of SEC Enterprises, Inc. business and acknowledgement that the two businesses must be operated separately and distinctly;
- g. Acknowledgement of the rules and regulations;
- h. Final TABC inspection.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Commissioner Jones seconded the motion and it passed with 2 ayes.

**C. TENNESSEE WINE WHOLSALERS—(CONTINUED FROM MAY, 2012 COMMISSION MEETING)  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Applicant: David Anthony Neihoff**

Before the Commission is a request for a new wholesale business to be located at 6937 Stage Road, Unit G196 in Memphis, Tennessee. Mr. Neihoff, a City of Jackson resident, wishes to initially invest \$5000 to operate the business. Mr. Neihoff is leasing a storage unit for \$40/month for the storage of the alcohol on a month to month basis. Mr. Neihoff has indicated that the only product he wishes to distribute would be wine from his uncle's winery in Kentucky. **Issue:** Is a storage facility sufficient to operate a beginning wholesale business? All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations;
- c. Use and Occupancy permit;
- d. Written business plan.

**Discussion/Action Taken: (May 23, 2012)**

Director Elks reviewed the matter to the Commission and stated that she has requested a written business plan and stated she has not received the plan; therefore she stated she could not recommend approval.

Commissioner Jones made a motion to continue this matter to the June, 2012 Commission meeting. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended the application be withdrawn.

Commissioner Kaegi made a motion to withdraw the application. Commissioner Jones seconded the motion and it passed with 2 ayes.

**5. DISTILLERY MATTERS**

**A. BLACKSTONE BREWERY  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Applicant: NFB Partners, LP**  
**Partners: CERES, Inc. and certain limited partners**

Before the Commission is a request to for a new manufacturer to be located at 1918 Wend End Avenue in Nashville, Tennessee. Pursuant to T.C.A. §57-2-103, a manufacturer is allowed to produce high alcoholic content beer. Further, pursuant to T.C.A. §57-4-201 such manufacturer is allowed to obtain a license as a restaurant or limited service restaurant that will be located on the premises of the manufacturer. NFB Partners, LP will brew and manufacture high alcoholic content beer at this location and will continue to operate Blackstone Restaurant and Brewery. Their lease is with Cooke/Wilson Properties, with a monthly rent of \$11,718,75. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. Use and Occupancy permit
- d. Charter CERES, Inc. and list of stockholders;
- e. List of limited partners and percentage of ownership;
- f. Deed to Cooke/Wilson Properties.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. List of limited partners and percentage of ownership;
- d. Deed to Cooke/Wilson Properties.

Commissioner Kaegi made a motion to approve.  
Commissioner Jones seconded the motion and it passed with 2 ayes.

**B. BLACKSTONE BREWING COMPANY, LLC  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Applicant: Blackstone Brewing Company, LLC**

**Members: Kent Taylor, Todd Taylor and Stephanie Wilkerson**

Before the Commission is a request for a new manufacturer to be located at 2312 Clifton Avenue in Nashville, Tennessee. Kent Taylor (42.5%), Todd Taylor (15%) and Stephanie Wilkerson (42.5%) intend to invest approximately \$3 million dollars to operate at this manufacturer's location. It is intended that the applicant will be bottling high gravity beer manufactured by NFB Partners, LP at 1918 West End Avenue, in Nashville, Tennessee. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations;
- c. Current Use and Occupancy permit;
- d. Deed to property owner;
- e. Lease to applicant.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended the application be approved upon submission of the following documentation:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations;
- c. Current Use and Occupancy permit;
- d. Lease to applicant.

Commissioner Kaegi made a motion to approve the application subject to the receipt of the pending documents. Commissioner Jones seconded the motion and it passed with 2 ayes.

**6. CONTESTED CASES—SERVER PERMITS**

**A. Tamika Michelle Greenlee**

Ms Greenlee pled guilty to and was convicted of Attempted Sale of Cocaine (a Schedule 2- Class D Drug Felony-T.C.A. § 39-17-417) in Knox County, Tennessee Criminal Court on January 26, 2007 and was sentence as a standard offender to two (2) years in the state penitentiary, sentence was suspended and she was placed on probation that expired January 26, 2009. She was denied the server permit based on T.C.A. § 57-3-704(2): “...An applicant...must meet... the following requirements:...(2) The applicant has not been convicted of any crime relating to the sale of alcoholic beverages, beer, schedules 1 and 2 controlled substances or any sex-related crime or embezzlement within the previous eight (8) years;...”

**Discussion/Action Taken:**

Assistant Director Bell stated that Tamika Michelle Greenlee was not present at the meeting. Assistant Director Bell recommended the Commission to confirm denial of Tamika Michelle Greenlee’s server permit card for the eight year period.

Commissioner Kaegi made a motion to uphold the staff’s denial of the server permit card. Commissioner Jones seconded the motion and it passed with 2 ayes.

**B. Katharine Vela**

Ms Vela pled guilty to and was convicted of Possession of Cocaine Less Than One Gram (a Schedule 2 Drug Felony) in Harris County, Texas District Court on July 5, 2011 and was sentence to ten (10) months state jail. She was denied the server permit based on T.C.A. § 57-3-704(2): “...An applicant...must meet... the following requirements:...(2) The applicant has not been convicted of any crime relating to the sale of alcoholic beverages, beer, schedules 1 and 2 controlled substances or any sex-related crime or embezzlement within the previous eight (8) years;...”

**Discussion/Action Taken:**

Katherine Vela was present at the meeting. Assistant Director Bell requested the Commission uphold the staff’s denial of the server permit card for the eight year period. Director Elks questioned whether Ms. Vela was convicted of a crime involving the sale of a schedule II controlled substance warranting an eight year prohibition or

whether it should be classified as a felony with a four year prohibition. Assistant Director Bell stated that because it was a felony involving the possession of a schedule II controlled substance that it was an eight year prohibition.

Commissioner Kaegi made a motion to uphold the staff's denial of the server permit card for the eight year period. Commissioner Jones seconded the motion and it passed with 2 ayes.

**C. Lisa Y. Story**

Ms Story pled guilty to and was convicted of Conspiracy to Distribute and Possession with the Intent to Distribute Five (5) Kilograms or more of Cocaine (a Schedule 2 Drug Felony) in the U.S. District Court for the Eastern District of Tennessee on October 30, 2006 and was sentence to forty-eight (48) months in prison follow by a 5-year term of supervised release that commenced on January 6, 2010 and expires on January 5, 2015.

She was denied the server permit based on T.C.A. § 57-3-704(2): "...An applicant...must meet... the following requirements:...(2) The applicant has not been convicted of any crime relating to the sale of alcoholic beverages, beer, schedules 1 and 2 controlled substances or any sex-related crime or embezzlement within the previous eight (8) years;..."

**Discussion/Action Taken:**

Lisa Y. Story was present at the meeting. Assistant Director Bell requested the Commission uphold the staff's denial of the server permit card for the eight year period.

Commissioner Kaegi made a motion to uphold the staff's denial of the server permit card. Commissioner Jones seconded the motion and it passed with 2 ayes.

**D. Susan M. Williams**

Ms Williams pled guilty to and was convicted of Prescription Fraud (a Felony) in February, 2009 and was sentence to 240 hours of community service and supervised probation. Ms Williams's probation was revoked in August of 2010 when she was convicted of DUI. In 2011, Ms Williams again was placed on supervised probation. She was denied the replacement server permit based on T.C.A. §57-3-704(1): "...An applicant...must meet[s] the following requirements:...(1) The applicant has not been convicted of any felony within the previous four (4) years;..."

**Discussion/Action Taken:**

Susan Williams was not present at the meeting. Assistant Director Bell requested the Commission uphold the staff's denial of the server permit card for a four year period.

Commissioner Kaegi made a motion to uphold the staff's denial of the server permit card for a four year period. Commissioner Jones seconded the motion and it passed with 2 ayes.

**7. BUDGET**

**8. CONSENT ORDERS**

**9. PENDING MATTERS LIST**

**10. MISCELLANEOUS**

**A. Monthly Summary of TABC Activity**

**B. Review of June 6, 2012 Attorney General Opinion opining that the residency and corporate asset location requirements of T.C.A. §§57-3-203 and 57-3-204 violate the Commerce Clause and are not enforceable.**

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and stated the Attorney General office opined that the residency and corporate asset location requirements are unconstitutional and as such, violate the Commerce Clause and are not enforceable. Director Elks stated that the legislative history of the original bill indicated from the sponsor that the purpose of the bill was to restrict trade.

Director Elks suggested that out-of-state applicants would soon be applying for retail and/or wholesale licenses, and asked the Commission if a decision would be made during the meeting whether staff should continue to enforce the residency requirements.

Commissioner Jones stated that the Commission has heard Director Elks report on the Attorney General's Opinion regarding the Commerce Clause. After discussion, Commissioner Jones stated that a decision would be made on the impact of the Attorney General's Opinion when such applications were before the

Commission. Commissioner Jones seconded the motion and it passed with 2 ayes.

**C. Review of TABC Rule 0100-06-(13)(d) which prohibits retail stores from accepting coupons for a refund (“cents off” coupon) in light of Public Chapter 947 which allows retail licensees to offer discounts.**

**Discussion/Action Taken:**

Kurt Winstead and Janna Maples, TWASA, Bart Quillman, owner of Red Dog Wine & Spirits, Franklin and Henry Hildebrand, III, attorney, were present. Director Elks stated that current rules prohibited retailers from accepting cents off coupons. However, Public Chapter 947 allows retailers to provide discounts for their products. She indicated that the rule appeared to be in conflict with the new statute and requested the Commission’s approval to allow retail stores to publish, or have published, their own coupons to allow customers discounts. Mr. Quillman agreed that the rule was in conflict with the new statute. He further stated that the coupons were a good marketing technique that would be beneficial to the retailer. Mr. Hildebrand suggested that the rule goes further by prohibiting manufacturers from offering “cents off” coupons, and then having retailers accept the manufacturer’s coupons to be reimbursed directly from the manufacturer.

After additional discussion, the Commission agreed to lift the prohibition of retail stores offering coupons to their customers, but left the rule in place to prohibit retailers from accepting “cents off” coupons distributed by manufacturers.

Commissioner Kaegi made a motion approve retail package stores to be excluded from TABC Rule #0100-.06(13)(d). Commissioner Jones seconded the motion and it passed with 2 ayes.

**11. DATE OF NEXT MEETING – Wednesday, July 25, 2012 and Wednesday, August 22, 2012 at 1:30 p.m.**

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Mary McDaniel  
Chairperson

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Shari Danielle Elks  
Executive Director

