

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
March 28, 2012
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, March 28, 2012, in Nashville, Tennessee at 1:30 p.m. Chairperson Mary McDaniel, Commissioner John Jones and Commissioner Bryan Kaegi were present. Executive Director Danielle Elks, Assistant Director Keith Bell and CLEO Mark Hutchens were present.

1. The Minutes for February 22, 2011 Commission Meeting were approved.

2. NEW BUSINESS--RETAIL

**A. 1. CORNERSTONE WINE AND SPIRITS
LEXINGTON, TENNESSEE (HENDERSON COUNTY)**

Applicant: Darren Ross McDaniel

Before the Commission is a request for a new retail store to be located at 600 East Church Street in Lexington, Tennessee. Mr. McDaniel wishes to initially invest \$65,000. Financing is based upon a loan for \$25,000 with Debbie Garner, \$25,000 loan with Dennis Ray McDaniel, and the remainder from existing personal funds. Mr. McDaniel is leasing the property from Danny Maness for a period of one year at \$1000/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Questionnaire, financial background check and bank check on Debbie Garner and Dennis Ray McDaniel.

Discussion/Action Taken:

Darren Ross McDaniel was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the TABC Inspection and the Acknowledgment 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 3 ayes.

**2. JOHNNY’S EAST END LIQUOR
LEXINGTON, TENNESSEE (HENDERSON COUNTY)**

Applicant: Diane Hatchett Adams

Before the Commission is a request for a new retail store to be located at 680 Each Church Street in Lexington, Tennessee. Ms. Adams wishes to initially invest \$150,000. Financing is based upon a loan from First Bank. Ms. Adams owns the property where the business will be located. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Use and Occupancy.

Discussion/Action Taken:

Diane Hatchett Adams was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the TABC Inspection the Use and Occupancy and the Acknowledgment 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 3 ayes.

**3. STOP N SHOP DISCOUNT LIQUOR STORE
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Licensee/Seller: A & H, Inc.

Stockholders: George Hanna and Hanni Abdelmelek

Applicant/Buyer: George Hanna

Before the Commission is a request for a transfer of ownership of the retail store located at 490 St. Andrew’s Drive, Suite 102 in Murfreesboro, Tennessee. George Hanna and Hanni Abdelmelek are the current 50% owners each of the licensee, A & H, Inc. Mr. Hanna wishes to purchase Mr. Abdelmelek’s interest in the business for \$43,000. Financing is based upon existing personal funds. Mr. Hanna will operate the business as a sole proprietorship. Mr. Hanna is leasing the property from Elgin Oliver, Jr. for a period of one year at \$2140/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. “Applicant” must be filled in on application;
- d. Payment of outstanding citations, if any.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and stated that all documentation has been submitted. Therefore, Director Elks recommended approval.

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

**4. WEST MAIN WINES AND SPIRITS
LEBANON, TENNESSEE (WILSON COUNTY)**

Licensee/Seller: West Main Wine and Spirits, LLC
Members: Robert North, Executor of Joyce North Estate
Applicant/Buyer: West Main Wines and Spirits, LLC
Members: Brian Gleaves

Before the Commission is a request for a transfer of ownership in the business located at 512-B West Main Street in Lebanon, Tennessee. Mr. Gleaves wishes to purchase the assets of the business for \$18,000, and operate the business as a new LLC. Financing is based upon existing personal funds. The landlord, West Main Partners, has indicated they will allow Mr. Gleaves to assume the current lease. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Use and Occupancy permit;
- d.
- e. Lease from D & B Land Company to West Main Wines and Spirits, LLC;
- f. Payment of outstanding citations, if any
- g. Signatures on purchase agreement.

Discussion/Action Taken:

Brian Gleaves was present at the meeting. Director Elks reviewed the matter to the Commission and stated that all

documentation has been received and, therefore, recommended approval.

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

**5. OLD HICKORY PACKAGE STORE
JACKSON, TENNESSEE (MADISON COUNTY)**

Licensee/Seller: C & C Wine and Spirits, Inc.
Stockholder: Greg Heath

Proposed New Stockholder: Claude Heath

Before the Commission is a request for a transfer of stock ownership of the retail store located at 2030 N. Highland in Jackson, Tennessee. Greg Heath was the sole stockholder in C & C Wine and Spirits, Inc. On October 19, 2011, he transferred his stock to Claude Heath in consideration of Claude Heath assuming all outstanding liabilities—except any federal tax liability. The corporate licensee will remain the same, as well as the current lease with SIMA Investments, LLC. **Issue:** The transfer of ownership was executed on October 19, 2011, without Commission approval. It should be noted that, with the initial application, Claude Heath was approved as Secretary of the corporate licensee. TABC staff will recommend the assessment of a fine for transferring ownership without prior approval. All documentation has been submitted with the exception of the following:

- a. Payment of outstanding citations;
- b. Acknowledgement of the rules/regulations;
- c. Newspaper notice and affidavit.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the Acknowledgement of the rules/regulations and the newspaper notice and affidavit and the payment of a possible citation to be issued.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation and payment of possible

citation. Commissioner Jones seconded the motion and it passed with 3 ayes.

**6. HARTSVILLE LIQUORS
HARTSVILLE, TENNESSEE (TROUSDALE COUNTY)**

Licensee: Hartsville Liquors, Inc.
Stockholders: Keith Roddy and Charles Roddy
Proposed Stockholder: Keith Roddy

Before the Commission is a request for a transfer of ownership of the retail store located at 103 White Oak Street in Hartsville, Tennessee. Keith Roddy and Charles Roddy each owned 50% of the stock in Hartsville Liquors, Inc. On February 24, 2012, Charles Roddy passed away. His will indicated that his sons, Keith Roddy and Thomas Roddy, Sr. inherit all of his property and assets. Keith Roddy has made application to become sole stockholder of the corporate licensee. All documentation has been submitted with the exception of the following:

- a. Affidavit from Thomas Roddy, Sr. stating that he is giving the interest in the business that he would inherit pursuant to his father's will, to his brother, Keith.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and stated that all documentation has been submitted. Therefore, Director Elks recommended approval.

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

3. WHOLESALE MATTERS

**A. QUALITY BRANDS
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Applicant: Quality Brands, Inc.
Stockholders: Richard Gerwe, Molly King, and James Jones, III

Before the Commission is a request for a new wholesale business to be located at 730-A Middle Tennessee Boulevard in Murfreesboro, Tennessee. Mr. Gerwe (\$3720 for 31%), Ms. King (\$7,200 for 60%) and

Mr. Jones (\$1080 for 9%) intend to initially invest a total of \$12,000 to operate the business. Financing is based upon existing personal funds. The corporate applicant is leasing the property from Swanson Developments, LP for a period of two years at \$625/month. It should be noted that this business will be located within a warehouse that will be shared with a beer distributor; however, the applicant will be totally segregated from the beer distributorship. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Lease between Tennessee Builder’s Management Services, Inc. and Swanson Developments, LP

Discussion/Action Taken:

Richard Gerwe was present at the meeting. 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/regulations;
- c. Lease between Tennessee Builder’s Management Services, Inc. and Swanson Developments, LP .

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

**B. SAACHI IMPORTS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Saachi Imports, Inc.
Stockholders: Kevin Patel, Nathan Edwards and Rodney Shelton

Before the Commission is a request for a new wholesale business to located at 475 Metroplex Drive, Suite 110 in Nashville, Tennessee. Kevin Patel (\$17,000 for 34%), Nathan Edwards (\$16,500 for 33%) and Rodney Shelton (\$16,500 for 33%) intend to initially invest a total of \$50,000 to operate the business. Financing is based upon existing personal funds and credit cards. The corporate applicant will be leasing the property from

Pancal Metroplex 138, LLC for a period of three years with monthly rent beginning at \$1118.13 and increasing to \$1151.67 over the term of the lease.

Please note that this applicant came before the Commission at the December 2011 meeting and was conditionally approved for a license at 1416 Antioch Pike, Suite 104 in Nashville, Tennessee, subject to the receipt of certain documentation. Saachi did not obtain a license for this location and did not operate any business. Since that time, Saachi has found the new proposed location that is currently before the Commission. TABC Staff has treated the request as a continuation of the December application and did not assess another \$300. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit.

Discussion/Action Taken:

Nathan Edwards was present at the meeting. Director Elks reviewed the matter to the Commission and stated that all documentation has been received and, therefore, recommended approval.

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

**C. BONUS BEV, LLC
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: Bonus Bev, LLC
Member: Kurt Strickmaker

Before the Commission is a request for a transfer of location of the wholesale business currently located at 3628-B Trousdale Drive in Nashville, Tennessee. Mr. Strickmaker wishes to move to 505 Ligon Drive, Suite B, in Nashville, Tennessee. The licensee will be leasing the property from BountyBev, LLC for a period of approximately 4 years with monthly rent beginning at \$2100 and increasing to \$2273.11. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Reason for request;
- c. Lease between 505 Ligon, LLC and BountyBev, LLC.

Discussion/Action Taken:

Kurt Strickmaker was present at the meeting. Director Elks reviewed the matter to the Commission and stated that all documentation has been received and, therefore, recommended approval.

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

**D. DELTA WHOLESALE LIQUORS, INC.
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: Delta Wholesale Liquors, Inc
Stockholders: Paul Lucchesi, Eugene Lucchesi, Jr. and William Lucchesi
Proposed New Stockholder: Kahn Ventures, Inc.

Before the Commission is a request for a transfer of stock ownership of the wholesaler doing business as Delta Wholesale Liquors. Currently, Paul Lucchesi, Eugene Lucchesi, Jr. and William Lucchesi currently own one third of the stock each. They wish to sell 100% of their stock interest to Kahn Ventures, Inc.; Delta Wholesale Liquors, Inc. will remain the licensee, and Mr. Paul Lucchesi and William Lucchesi will remain officers of the corporation and are Tennessee residents. The current lease with Atled Investments, LLC will remain in effect as the licensee will remain the same. Kahn Ventures, Inc. is a Georgia corporation, whose primary officers are David Kahn, President; Michael Kahn, COO, and James Schwarzkopf, Secretary/Treasurer, will be the sole stockholder of the corporation. 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. Kahn Ventures, Inc. charter.
- b. Payment of any outstanding citations, if any.

Discussion/Action Taken:

Paul Lucchesi and Henry Hildebrand, III, attorney, were present at the meeting. Director Elks reviewed the matter to the Commission and stated that all documentation has been received and, there were no outstanding citations, therefore, recommended approval.

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

4. DISTILLERY MATTERS

**A. EAST TENNESSEE DISTILLERY
PINEY FLATS, TENNESSEE (SULLIVAN COUNTY)**

Applicant: RMRH Enterprise, LLC

**Members: Neil Roberson, Gary Melvin, Darrel Hunt and Byron
Reece**

Before the Commission is a request for a new distillery to be located at 220 Piney Flats, Tennessee. Neil Roberson (\$15,000), Gary Melvin (\$1500), Darrel Hunt (\$1000) and Byron Reece (\$1000) wish to initially invest a total of \$18,500 to operate the business. Each member would own 25% of the membership. The LLC applicant is leasing the property from the Barnett Living Trust for a period of four years, with a monthly rent of beginning at \$500/month and increasing to \$7000/month over the term of the lease. Please note that Sullivan County is within the population restrictions of T.C.A. §57-2-103 and cities within Sullivan County have passed both retail and liquor-by-the-drink sales. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. TTB Registration.

Discussion/Action Taken:

Chris Raybeck, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and stated that since the TTB has not been submitted, she recommended that the matter be deferred until the TTB registration has been received.

There was no action required by the Commission.

**B. POPCORN SUTTON
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Popcorn Sutton Distilling, LLC

Members: J & M Concepts, LLC; Tee Tot, LLC; Sage Bray

Before the Commission is a request for a new distillery to be located at 1200 Clinton Street, Suite 100 in Nashville, Tennessee. Ownership of the applicant LLC consists of the following: J&M Concepts, LLC (89.5%, which is owned by Mark Kvamme, Jamey Grosser and Auspicious Systems,

LLC [owned by Sage Bray and James Calhoun, Jr.]; Creative Artists Agency, LLC; and Tee Tot, LLC (which is owned by Hank Williams, Jr.). J & M Concepts, LLC is leasing the property from Barry Walker for a period of 5 years at \$2000/month. All documentation has been submitted with the exception of the following:

- a. Lease between J & M Concepts, LLC to Popcorn Sutton Distilling, LLC;
- b. Identification of those entities investing in the project and the amount;
- c. TABC Inspection;
- d. Questionnaires for Mark Kvamme and Hank Williams, Jr.

Discussion/Action Taken:

Jamey Grosser and Rob Pinson, attorney, were present at the meeting. Director Elks reviewed the matter to the Commission and stated that upon submission of the questionnaire for Mark Kvamme she would recommend approval. Commissioner Jones stated that he wishes the business well but he has a hard time making Popcorn Sutton a folk hero out of a consistent long time law violator as a moonshiner.

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

5. SERVER PERMIT CASES

A. Kimberly Edmiston

Before the Commission is a review of the TABC staff's denial of the server permit application for a replacement permit submitted by Kimberly Edmiston on or about February 2, 2012, and/or the revocation of Ms. Edmiston's server permit. Ms. Edmiston submitted false information on her application regarding a conviction of a felony within 4 years of the date of application. T.C.A. §57-3-704 prohibits the issuance of a permit for any felony within 4 years of the date of application. TABC Rule 0100-08-.03(2) sets forth that "All information submitted pursuant to such written application must be accurate and is submitted under oath. Failure to submit accurate information is grounds for suspension or revocation of such server permit." Ms. Edmiston's renewal application has been denied because of false information submitted on her application. This same set of facts would require the revocation of Ms. Edmiston's current permit, number 363900, issued on March 27, 2008.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and stated that Kimberly Edmiston was randomly picked for a background check. It turned out that Ms. Edmiston had been convicted pursuant to the background check of certain charges. Director Elks stated that the staff did not deny the renewal of the replacement server permit based on the convictions. Director Elks stated there was a TABC Rule 0100-8-.03(2) that sets forth “All information submitted pursuant to such written application must be accurate and is submitted under oath. Failure to submit accurate information is grounds for suspension or revocation of such server permit.” Director Elks stated that it is the contingency of the staff that Ms. Edmiston submitted false information on her most recent application and is grounds for revocation of her current server permit and denial of the replacement application.

Ms. Ediston testified that she believed she was applying for a replacement permit and that the questions pertained to the time of her original application several years ago. She indicated that at the time of her original application she had not been convicted of a felony. The felony conviction occurred after the issuance of her permit. I did not know that when you filled out an application on February 2 that it was going back to when I first came in to get the server permit, and I was not charged with the felony at that time.

Commissioner Jones made a motion to uphold the staff’s revocation of her current permit and the denial of the replacement application based upon providing false information to the agency. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

B. Jessica Jozens

Before the Commission is a review of the TABC staff’s denial of the server permit application submitted by Ms. Jozens on or about February 2, 2012. Ms. Jozens indicated on her application that she had been convicted of felony child neglect in 2008. T.C.A. §57-3-704 prohibits the issuance of a permit for any felony within 4 years of the date of application. Attempts have been made for Ms. Jozens to verify her date of conviction.

Discussion/Action Taken:

Jessica Jozens was present at the meeting. Assistant Director Keith Bell requested that the matter be deferred to the April meeting when her attorney can be present at the meeting.

Commissioner Jones made a motion to defer the matter to the April meeting. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

6. **BUDGET**

7. **CONSENT ORDERS**

8. **PENDING MATTERS LIST**

9. **MISCELLANEOUS**

A. Monthly Summary of TABC Activity

B. Legislative Initiative updates—including, but not limited to, a bill to define/extend premises of an on-premise consumption licensee to allow TABC to take notice and/or disciplinary action on activities occurring adjacent to licensed premises.

Director Elks stated that there is a bill that would require the Responsible Vendor Program to be mandatory.

Director Elks also stated that there is also a bill that has been introduced that would prohibit anyone under 18 years of age to be present in a retail package store unless accompanied by a parent. The issue with that is those between the ages of 18 and 21 are allowed to work at a retail store but would be prohibited under this statute.

Director Elks stated that there is a bill that would allow military personnel when they have been living overseas and want to bring back their private wines that they would be able to obtain a license to import their private collection back to the States. It would also eliminate an affirmation statute that has been in the statute for years but in the mid 1980's the Attorney General's Office deemed that it was unconstitutional. It would eliminate the bond for TABC employees who the Department of Treasury has indicated that it is not necessary that TABC employees are covered by the State bond and it would also eliminate the requirement that samples of new product be provided to the Agency.

Director Elks stated there is a bill that would remove the prohibition of certain public officials being prohibited from having an interest in a retail package store.

Director Elks stated there is a bill that would have a pilot program that would have the city of Chattanooga work with the TABC and would give reciprocity to the TABC and the Chattanooga Beer Board when the Chattanooga Beer Board suspends or revokes a license or beer permit. The Chattanooga Beer Board would send notice to the agency and the TABC would either adopt the case or take other action to suspend or revoke the liquor license.

Lastly, Director Elks requested direction of the Commission regarding incidents occurring adjacent to licensed premises. She indicated that local municipalities are accessing disciplinary actions against beer permits (that also have on-premise consumption licenses) for incidents occurring in parking lots and/or sidewalk areas. She indicated that meetings have occurred between TABC staff and the legislature regarding this issue. Historically, staff has not taken action against a licensee for incidents in adjacent parking lots, etc. because that was outside the licensed premises, and, therefore, not under the TABC jurisdiction—unless the incident could be directly linked to the actions of the licensee or their employees.

10. DATE OF NEXT MEETING – Wednesday, April 25, 2012 at 1:30 p.m.

Mary McDaniel
Chairperson

Shari Danielle Elks
Executive Director