

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
December 17, 2009
1:30 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, December 17, in Nashville, Tennessee at 1:30 p.m. Chairman Jones and Commissioner Cynthia Bond were present. Although Commissioner Harlan Mathews was not present, a quorum was present and the meeting was held. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens and SAC Mike Cawthon were present.

1. The Minutes for November 19, 2009 Commission Meeting were approved.

2. RETAIL

A. MASSA LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)

Licensee: Massa, LLC
Member: Ester Segal
New Member: David Charles Segal

Before the Commission is a request for a transfer of ownership of the retail store located at 791 Third Street, in Memphis, Tennessee. The sole member of the licensee LLC was Ester Segal. In November, 2007, Ms. Segal passed away. The executors/trustees of her estate have agreed to sell her 100% interest in the store to David Segal for \$450,000 and the assumption of the line of credit at First Tennessee Bank. All documentation has been submitted with the exception of the following:

- a. Verification from First Tennessee Bank that Mr. Segal has assumed the line of credit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the verification from First Tennessee Bank that Mr. Segal has assumed the line of credit.

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

**B. HUNT’S RIVERSIDE WINES AND LIQUORS
NEW JOHNSONVILLE, TENNESSEE (HUMPHREYS COUNTY)**

Licensee: Shelia Hunt
Applicant: Jeremiah Lee Carter

Before the Commission is a request for a transfer of ownership of the retail store located at 2128 Broadway in New Johnsonville, Tennessee. Mr. Carter intends to purchase the business for \$60,000. Financing is based upon a promissory note with the current owner, Ms. Hunt. Mr. Carter will be leasing the property from Kenneth Dreaden for a period of one year at \$550/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Completed promissory note.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the following documentation:

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

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

**C. OASIS LIQUORS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller: Gayatri Corporation
Stockholders: Naren Patel, Saurin Patel and Ketan Patel

Before the Commission is a request for a transfer of stock ownership of the retail store located at 7000 Lee Highway, Suite 100 in Chattanooga, Tennessee. The current stockholders are Naren Patel (50%); Saurin Patel (25%) and Ketan Patel (25%). Naren Patel wishes to purchase Saruin Patel’s 25% stock for \$26,750. If approved, Naren would own 75%, and Ketan would continue to own 25%. All documentation has been submitted with the exception of the following:

- a) List of stockholders after transfer.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the list of stockholders after transfer.

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

**D. FUZZY DUCK LIQUORS
COLUMBIA, TENNESSEE (MAURY COUNTY)**

Licensee/Seller: John Totty
Applicant/Buyer: Kalp Enterprises, Inc.
Stockholders: Vitthal Bhai Patel

Before the Commission is a request for a transfer of ownership of the retail store located at 203 West 6th Street in Columbia, Tennessee. Vitthalbhai Patel wishes to purchase the business for \$250,000 plus inventory. Financing is based upon existing personal funds and a \$125,000 loan from Dushyant Patel. The corporate licensee will be leasing the property from John Totty for a period of ten years, with monthly rent beginning at \$1600 and increasing to \$2000 for the term. If approved, Ms. Patel will give one percent each of the ownership to her daughter, Dushyant Patel and her husband, Arti Patel—both of whom will be working at the store. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Questionnaires for Arti and Dushyant Patel;
- d. Bank credit check for Vitthal Bhai Patel;
- e. Financial check for Vitthal Bhai Patel;
- f. Loan agreement with Dushyant Patel.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended the application be continued to the January Commission meeting to allow the staff to review the financial documents when they are submitted to the office.

Commissioner Bond made a motion to defer the matter to the January Commission meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

**E. GATEWAY PACKAGE STORE
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

Licensee: Gateway Package Store, Inc.
Stockholders: Kerry Rader and Ginger Rader Earhart
New Stockholder: Robert Trosper

Before the Commission is a request for a transfer of ownership of the retail store located at 1125 Parkway in Gatlinburg, Tennessee. When the license was first issued to Gateway Package Store, Inc, the stockholder was John Rader. Mr. Rader passed away in May, 2004. At that time, his three children (Holly, Ginger and Kerry) inherited the business with each having one-third interest. This transfer was approved by the Commission in January, 2006. In 2007, the corporation removed Holly Rader—leaving Kerry Rader and Ginger Rader Earhart with 50% each of the stock. Upon investigation earlier this year, it was determined that Ginger Rader failed to continue to meet the ownership requirements of a retail package store: specifically, in or about 2004, Ms. Earhart was a resident of Pennsylvania and was not eligible to receive any ownership interest in 2006. It should be noted that all documentation submitted by Mr. Earhart in 2006 indicated that she was a resident of Knoxville, Tennessee. It was further determined based upon the investigation that her husband, David Earhart, had been managing the store and making operational decisions. In an effort to correct this activity, Ms. Earhart wishes to sell all of her interest in the corporation for \$150,000 to Robert Trosper. Financing is based upon a ten-year promissory note with Ginger Earhart. All documentation has been submitted with the exception of the following:

- a. Payment of citation for failure to meet residency requirements and providing false information to the TABC.

Discussion/Action Taken:

Rob Pinson, attorney, was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon payment of the citation. Mr. Pinson indicated that the fine had been paid in Knoxville.

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

4. WHOLESALE MATTERS

**A. ATHENS DISTRIBUTING COMPANY OF NASHVILLE
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee/Seller: Athens Distributing Company
Current Stockholders: John P. Donnelly, Sr.; John Donnelly, Jr;
JPD Investment; Scott Moore; Richard
Speed, Jr; Judith White Speed (marital
trust); John Aaron; Don White

Before the Commission is a request to a stock transfer of the wholesale business located at 3001 Owen Drive in Nashville, Tennessee. Unknown to the TABC, several transfers of stock ownership occurred upon the deaths of John L. Donnelly, Jr. in 2002 and Richard Speed in 2008. John P. Donnelly, Sr. inherited John L. Donnelly, Jr.'s interest, and then transferred part of this interest to John Donnelly, Jr. and PD Investment.

Part of Richard Speed's interest transferred to his son, Richard L. Speed, Jr. and to Judith Speed (in a marital trust). The remaining interest transferred to a second testamentary trust and then was assigned to Richard L. Speed, Jr. and Pamela Moore. In an effort to insure that the proper stockholders have been disclosed to the TABC, Athens Distributing is seeking approval of the current stockholders listed above.

Discussion/Action Taken:

Henry Hildebrand, III, attorney, was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval.

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

5. SERVER PERMITS

A. SHARITA OFFICER

On November 17, 2009, staff of this agency denied the server permit application submitted by Sharita Officer because of a felony conviction (forgery) in March, 2007. T.C.A. §57-3-704 sets forth that the "applicant has not been convicted of any felony within the previous four (4) years." Ms. Officer has requested a hearing for the denial of her server permit.

Discussion/Action Taken:

Sharita Officer was not present when this matter was called, therefore, Assistant Director Smith requested the Commission to have default judgment to uphold denial of server permit.

Commissioner Bond made a motion for default judgment. Chairman Jones seconded the motion and it passed with 2 ayes.

Assistant Direct Smith requested the Commission to uphold the denial of the server permit application.

Commissioner Bond made a motion to uphold the denial of the server permit application. Chairman Jones seconded the motion and it passed with 2 ayes.

6. HEARINGS

A. TABC v. ODELL TIDWELL AND MARY GRACE TIDWELL

License Number: 13,720

The purpose of this hearing is to determine whether the renewal application for License Number 13,720 should be denied for the following reason(s): T.C.A. §57-4-201(b)(2) sets forth that “No license may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership interest in the establishment has been convicted within ten (10) years prior to the application for a license hereunder for a violation of the laws governing the sale or manufacture of alcoholic beverages or any felony. It is the position of the TABC staff that the renewal application should be denied because the Odell and Mary Grace Tidwell were convicted of felonies on May 28, 2009 for tax evasion and fraud.

Discussion/Action Taken:

Assistant Director Smith stated that she received a phone call from Coleman Garret, attorney, and requested the matter be continued to the January, 2010 Commission meeting.

Commissioner Bond made a motion to defer the matter to the January, 2010 Commission meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

5. **BUDGET**

6. **CONSENT ORDERS**

7. **PENDING MATTERS LIST**

8. **MISCELLANEOUS**

A. Monthly Summary of TABC Activity

9. **DATE OF NEXT MEETING** – Thursday, January 21 and Thursday, February 18, 2010 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director