

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
July 21, 2009
1:30 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Tuesday, July 21, 2009 in Nashville, Tennessee at 1:30 p.m. Chairman Jones, Commissioner Harlan Mathews and Commissioner Cynthia Bond were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens and SAC Mike Cawthon were present.

1. The Minutes for June 23, 2009 Commission Meeting were approved.

2. OLD BUSINESS: ADMINISTRATIVE CITATIONS

A. ASHLEY ANNE STAFFORD

On February 9, 2009, TABC Agent Mike Cawthon observed the Respondent sell an alcoholic beverage to the nineteen year-old confidential operative at establishment doing business as Music City Event Center, in Nashville, Tennessee. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Ashley Anne Stafford was present at the meeting. Assistant Director Carolyn Smith stated that Ms. Stafford was issued an administrative citation on February 9, 2009. Assistant Director Smith requested SAC Cawthon explained the events that led up to the issuance of this administrative citation. SAC Cawthon testified that he accompanied the Metropolitan Nashville Police Department to a club on 8th Avenue South in Nashville known as Nocturnal. SAC Cawthon stated that there was a Vanderbilt fraternity club at the Nocturnal Club. SAC Cawthon testified that when he entered the club, there appeared to be numerous individuals with possession of beer and/or liquor who appeared to be under aged. He testified that he started checking ID's. He testified that they arrested approximately 15 at the club. SAC Cawthon testified that he requested to see Mr. Benjamin Crain's ID. SAC Cawthon testified that Mr. Crain presented him a counterfeit ID from Maine. SAC Cawthon testified that he told Mr. Crain that he wanted to see his real ID. This was just after he had purchased a beer from Ms. Ashley Stafford. SAC Cawthon stated that he then took Ms. Stafford and Mr. Crain outside and issued Ms. Stafford an administrative citation for selling to a minor. SAC Cawthon testified that Ms. Stafford has a server permit. SAC Cawthon asked Ms. Stafford why she did not check the ID of Mr. Crain and she stated that was the business of the security personnel at the front entrance. SAC Cawthon testified that he told Ms. Stafford that that was not their job and it was her responsibility to make sure that the customers she was serving was of age.

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Assistant Director requested that the Commission uphold the administrative citation that was issued to Ms. Stafford.

Chairman Jones stated that he wants the establishments to be responsible for the sales to minors and more of the burden of responsibility to be placed on the establishment. Director Elks stated that there will be administrative action taken against the licensee. Director Elks stated that the charges have not been brought against the licensee as yet, because there are pending additional investigations for other violations of the law.

Chairman Jones asked Ms. Stafford if she was aware that this is an administrative citation and that she can pay the citation and not risk losing her server permit. Chairman Jones stated that if her server permit is taken, that it would be eight years (with a criminal conviction) before she could become a server again.

Director Elks stated that there would be a payment of \$250 to be made. Upon payment of the administrative citation, this matter would be considered closed. Director Elks stated that there would not be criminal action taken against Ms. Stafford if the citation was paid.

Director Elks respectfully disagreed with the Commission that the server not be charged for a sale to a minor and that the TABC Agents be upheld.

Director Elks stated that when there is an administrative citation issued against a server, there is a citation issued to the licensee for a fine of \$1500.

Commissioner Mathews made a motion to defer this matter to the July Commission meeting. Chairman Jones seconded the motion and it passed with 3 ayes.

Discussion/Action Taken:

Ashley Stafford was present at the meeting. During her additional testimony, Ms. Stafford testified she was not an employee of Scoreboard Restaurant but an employee of Nocturnal. Assistant Director Smith recommended to the Commission that a \$250 fine and a suspension for 90 days of the server permit be rendered. Commissioner Bond made a motion to uphold payment of the \$250 fine. Chairman Jones seconded and the motion passed with 2 ayes. Commissioner Mathews opposed the vote.

3. RETAIL

**A. 518 LIQUOR AND WINE
ROCKWOOD, TENNESSEE (ROANE COUNTY)**

Applicant: 518 Liquor & Wine, LLC
Members: Janet Manuel and Mike Hill

Before the Commission is a request for a new retail store to be located at 518 N. Gateway Avenue, in Rockwood, Tennessee. Ms. Manuel and Mr. Hill intend to invest a total of \$175,000 to operate the business, and if approved, will operate as a LLC. Financing for Ms. Manuel is based upon personal financing (\$150,000) and a 51% interest, and Mr. Hill has a loan from First Bank of Tennessee (\$125,000) with a 49% interest. The LLC applicant will be leasing the property from Mike Hill and Curtis Manuel on a yearly basis at \$500/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection.

Discussion/Action Taken:

Janet Manuel was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the TABC Inspection. Chairman Jones made a motion to approve upon submission of the TABC Inspection. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**B. 72 WINE AND SPIRITS, LLC
LOUDON, TENNESSEE (LOUDON COUNTY)**

Applicant: John D. James

Before the Commission is a request for a new retail store to be located at 12353 Highway 72 North, in Loudon, Tennessee. Mr. James intends to initially invest approximately \$250,000 to operate the business, and if approved, will operate the business as a LLC. Financing is based upon personal assets. The LLC applicant is leasing the property from John James and Robert LaRue (J & L Properties) for \$3750/month for a total of 5 years. All documentation has been submitted with the exception of the following:

- a. TABC Inspection
- b. Use and Occupancy Permit.

Discussion/Action Taken:

John James was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the TABC Inspection and Use and Occupancy Permit. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**C. FAIRVIEW LIQUOR
FAIRVIEW, TENNESSEE (WILLIAMSON COUNTY)**

Licensee/Seller: Ken Karger
Applicant/Buyer: Fairview Liquor and Fine Wines, LLC
Members: Ken Karger and Ann McConnell

Before the Commission is a request two actions: (1) Request for a partial transfer of ownership; and (2) Request for a transfer of location. Mr. Karger wishes to sell 49% of his interest to Ms. McConnell for \$100,000. Financing for this is based upon existing personal funds. If approved, they will operate the business as a LLC. The LLC is leasing the property from Capitalcorp Financial, LLC for a period of five years at \$3700/month. If the transfer of ownership is approved, then the new licensee wishes to transfer location from 1707 Fairview Boulevard to 2382 Fairview Boulevard in Fairview. All documentation has been submitted with the exception of the following:

- a. Final Use and Occupancy permit;
- b. Bill of Sale;
- c. TABC Inspection;
- d. Acknowledgement of the rules/regulations.

Discussion/Action Taken:

Ken Karger and Ann McConnell were present at the meeting. Director Elks reviewed the application to the Commissioners and stated that there were two items for this application. Director Elks stated that Fairview Liquor was transferring from sole proprietorship to Fairview Liquor and Fine Wine, LLC and requesting to transfer locations. Director Elks recommended approval of the transactions upon submission of the following documents:

- a. Final Use and Occupancy permit;
- b. Bill of Sale;
- c. TABC Inspection;
- d. Acknowledgement of the rules/regulations.

Commissioner Mathews made a motion to approve the transfer of ownership upon submission of the Bill of Sale. Commission Bond seconded the motion and it passed with 3 ayes.

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

4. WHOLESALE MATTERS

**A. AJAX TUNER BEVERAGES
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Ajax Turner Beverages, LLC
Members: Ajax Tuner Co., Inc. (Jack Tuner; Scott Turner; Jill Crow and Todd Williams)

Before the Commission is a request for a new wholesale license to be located at 1045 Visco Drive in Nashville, Tennessee. Ajax Turner wishes to sell high alcoholic content beer (which by definition is an alcoholic beverage subject to the TABC's jurisdiction). The applicant LLC is leasing the property from Ajax Turner Co, Inc. for \$1000/month. All documentation has been submitted.

Discussion/Action Taken:

Scott Turner and William Cheek, III were present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

5. HEARINGS

Licensee: BJH, INC. d/b/a SCOREBOARD BAR AND GRILL (CATERING)
Stockholder: Barrett Hobbs

At the May, 2009, Commission meeting, the Commission requested that BJH, Inc. d/b/a Scoreboard Bar and Grill (Catering) be bought before the Commission at its July meeting to answer the charge of the sale of alcoholic beverages to a minor by one of their employees. (See, Old Business at the first of the agenda.) It is the position of the staff that the licensee allowed and condoned through its business practices the sale of alcoholic beverages to minors. As such, the catering license should either be suspended or have a fine assessed against it.

Discussion/Action Taken:

Barrett Hobbs was present at the meeting. Assistant Director Carolyn Smith asked Mr. Hobbs what was the protocol of meeting with the staff at one of these similar catering events at a catering hall. Mr. Hobbs testified that he informed his staff that minors will be at these events and the staff will have to identify the minors. Mr. Hobbs testified that he told his staff that the patrons under 18 would have arm bands and will be checked by the security firm. Mr.

Hobbs testified that The Scoreboard Bar & Grill supplied the alcoholic beverages to this event. Mr. Hobbs testified that Patrick Willbanks was in charge of the sale of alcoholic beverages, but that Nocturnal employees were in charge of the premises and security.

Chairman Jones and Commissioner Mathews reiterated their position from the May, 2009 meeting, that establishments place an undue burden on their employees to insure that minors are not sold alcoholic beverages—that establishments should be more pro-active in preventing that sales to minors are prohibited.

Commissioner Mathews made a motion to issue a fine for \$1,500.00 to Scoreboard Bar & Grill. Commissioner Bond seconded the motion and it passed with 3 ayes.

6. BUDGET

7. CONSENT ORDERS

- 8. MISCELLANEOUS** – Director Elks stated a group of restaurant/bar owners filed a law suit in Davidson County Chancery Court against the State of Tennessee seeking an injunction against a law that was passed in the last Legislative session which allows individuals with gun permits to carry their weapons onto a licensed premises where alcohol is sold. Director Elks stated as a result of this law suit, she has received phone calls from Representatives and Senators about the TABC’s definition of a restaurant. Specifically, there should not be bars in the State of Tennessee because they are licensed as restaurants where the principal business should be the serving of food. Director Elks stated that could be an issue in the upcoming hearings that is scheduled within the next 90 days.

Director Elks stated that Direct Shipment was passed in the last Legislative session. The Commission gave TABC staff to review and approve applications for Direct Shipment Shipper’s permits.

- 9. DATE OF NEXT MEETING** – Thursday, August 20 and Thursday, September 17, 2009 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director