

# TENNESSEE ALCOHOLIC BEVERAGE COMMISSION



## MINUTES November 22, 2011 1:30 pm

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The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Tuesday, November 22, 2011, in Nashville, Tennessee at 1:30 p.m. Although Commissioner Bryan Kaegi was not present, a quorum was present with Chairperson Mary McDaniel and Commissioner John Jones and therefore the meeting was conducted. Executive Director Danielle Elks, Assistant Director Keith Bell, and CLEO Mark Hutchens were present.

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1. **The Minutes for October 26, 2011 Commission Meeting were approved.**

2. **RETAIL MATTERS**

A. **SAWYER BOYS SPIRITS  
NORRIS, TENNESSEE (ANDERSON COUNTY)**

**Applicant/Buyer: Sawyer Boys, LLC**  
**Member: Vivian S. Sawyer and Jeffery Watson**

Before the Commission is a request for a new retail store to be located at 3354 Andersonville Highway in Norris, Tennessee. Mr. Watson will provide all financing for this venture; however, Mr. Watson and Ms. Sawyer will each own 50% of the business. Mr. Watson intends to invest \$50,000 and is based upon existing savings and sell of personal property. The applicant LLC will be leasing the property from Curt and Leah Sawyer for a period of five years at \$1000/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection
- b. Surrender of Ms. Sawyer's server permit with written acknowledgment that she may no longer bartend on a contracted basis.

**Discussion/Action Taken:**

Jeff Watson was present at the meeting. Director Elks reviewed the matter to the Commission and stated all documentation has been submitted and, therefore, recommended approval.

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

**B. AMCO LIQUORS  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Applicant: Amro Shawa**

Before the Commission is a request for a new retail store to be located at 2141 Sycamore View in Memphis, Tennessee. Mr. Shawa intends to initially invest \$60,000 to operate the business. Financing is based upon a monetary gift from his brother in Greece. Mr. Shawa has been assigned the lease between Sycamore View Partnership (landlord) and Memphis Goodwill (tenant). Three years remain on the lease and monthly rent will be \$1806. All documentation has been submitted with the exception of the following:

- a. Questionnaire for Ramzi Shawa;
- b. Financial background check on Ramzi Sawa.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and stated all documentation has been received and, therefore, recommended approval.

Commissioner Jones made a motion to approve subject to the receipt of the requested items. Chairman McDaniel seconded the motion and it passed with 2 ayes.

**C. STAR WINE AND SPIRITS  
SPRINGFIELD, TENNESSEE (ROBERTSON COUNTY)**

**Applicant: Samu & Isu, Inc.**  
**Stockholder: Sujata Patel**

Before the Commission is a request for a new retail store to be located at 2550 Memorial Boulevard in Springfield, Tennessee. Ms. Patel intends to initially invest \$200,000. Financing is based upon existing personal funds (\$140,000) and a loan from Volunteer State Bank (\$60,000). Applicant has not yet submitted a lease agreement. The following documentation must be submitted to complete the application:

- a. Copy of newspaper notice;
- b. TABC Inspection;

- c. Use and Occupancy permit;
- d. Lease agreement and deed;
- e. Loan agreement with Volunteer State Bank;
- f. Bank statements indicating \$140,000 in personal funds.

**Discussion/Action Taken:**

Sujata Patel and William Cheek, III, attorney, were present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the TABC Inspection and the Use and Occupancy permit.

Commissioner Jones made a motion to approve subject to the receipt of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**D. RIDGE PACKAGE STORE  
OAK RIDGE, TENNESSEE (ANDERSON COUNTY)**

**Licensee:** Ridge Liquors, Inc.  
**Stockholder:** Reba Monday  
**Proposed New Stockholder:** Donald Knight

Before the Commission is a request for a transfer of stock ownership of the retail store located at 858 Oak Ridge Turnpike in Oak Ridge, Tennessee. Due to her age and her health condition, Ms. Monday intends to transfer 100% of her stock ownership to her son, Donald Knight, as a gift. Brenda Roach will become Vice President, and Michael Knight will be the Secretary of the corporation. All documentation has been submitted with the exception of the following:

- a. Certificate of Compliance for Donald Knight.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and stated all documentation has been received and, therefore, recommended approval.

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

**3. WINERY MATTERS**

**A. LACH AMORE WINERY  
DANDRIDGE, TENNESSEE (JEFFERSON COUNTY)**

**Applicant: Karrin Olivia Thorfinnson**

Before the Commission is a request for a new winery to be located at 1968 Chestnut Hill Road in Dandridge, Tennessee. Ms. Thorfinnson intends to initially invest \$75,000 to operate the business. Financing is based upon existing personal funds and investments. Lawrence Becco, Sr. and Ms. Thorfinnson (1/3 interest) own the property where the winery will be located. All documentation has been submitted with the exception of the following:

- a. Documentation of Mr. Becco's specific interest in the winery;
- b. Lease between Becco/Thorfinnson and Ms. Thorfinnson;
- c. Questionnaire for Mr. Becco;
- d. Explanation of residential Use and Occupancy permit.
- e.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and stated all documentation has been received and, therefore, recommended approval.

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

**4. WHOLESALER MATTERS**

**A. VICTOR ROBILIO COMPANY  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Licensee: Victor Robilio Company**  
**Stockholders: Victor Robilio, Jr. and John Robilio**  
**Proposed New Stockholders: Glazer's Distributors of Tennessee, Inc.**

Before the Commission is a request for a transfer of stock ownership of the wholesaler doing business as Victor Robilio Company located at 3680 Air Park Street, in Memphis, Tennessee. Currently, Victor Robilio and John Robilio each own 50% of the stock. They wish to sell 100% of their stock interest to Glazer's Distributors of Tennessee, Inc.; Victor Robilio Company, Inc. will remain the licensee, and John Robilio will be Vice President of Finance and Victor Robilio will be Vice President of Sales. Glazer's Distributors of Tennessee, Inc... is a Texas corporation, whose primary officers are Bennett Glazer, President; Michael Glazer, Executive Vice President and Secretary; Barkley Stuart, Executive Vice President and Asst. Secretary; and Betty Glazer Silverman (Vice President and 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....” Victor Robilio Company, Inc. meets these requirements.

Glazers, Inc. is purchasing the property from Neptune, LLC for \$835,000. The current lease for the licensee expires on December 31, 2011. All documentation has been provided with the exception of the following:

- a. Deed to Glazers, Inc.;
- b. Lease to Victor Robilio Company, Inc. from Glazers, Inc.

**Discussion/Action Taken:**

Victor Robilio, John Robilio, members of the Glazer’s Distributors of Tennessee, Inc., and Henry Hildebrand, III, attorney, were present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks stated that the staff received the Deed to the Victor Robilio Company because the licensee will have purchased the property in conjunction with the transaction. Further, because the Victor Robilio Company, Inc. will remain the licensee, the majority of the assets will continue to be located in Tennessee, and Victor and John Robilio will continue to be active officers who are Tennessee residents, this transaction meets the requirements of T.C.A. §57-3-203(g). Director Elks stated that all documentation has been submitted.

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

**5. SERVER PERMIT HEARINGS**

**A. BETHANY HUNT**

Ms. Hunt is appealing the decision of the TABC staff to deny her application for a server permit. TABC staff denied Ms. Hunt’s application based on a March, 2007, conviction for the sale of methadone—a Schedule II controlled substance. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any crime related to the sale of Scheduled I or II controlled substances within eight years of the date of the application (September 28, 2011).

**Discussion/Action Taken:**

Bethany Hunt was present at the meeting. Director Elks stated to the Commission that, for the purposes of this hearing, she would be acting as a hearing officer. As such she would rule on motions and questions of evidence, but would be unable to directly answer questions that the Commission may have—all such questions should be directed to Assistant Director Bell. Assistant Director Bell stated Ms. Bethany Hunt's denial was based upon the prior conviction in March, 2007 of the sale of methadone, which is a Schedule II narcotic drug. He stated that the statute requires that if Ms. Hunt is convicted of a misdemeanor or a felony related to the selling of alcoholic beverages, beers, or Schedule I or II controlled substances within eight years that she is disqualified from holding a server permit. Assistant Director Bell stated that Ms. Hunt does admit to the sale of methadone—a Schedule II controlled substance.

Bethany Hunt stated that she has not taken any narcotics or had any alcoholic beverages in over four years. Ms. Hunt stated that she has been doing women's ministry for the past two years and realizes that her past is going to come up, but is willing to take the consequences for this. Ms. Hunt stated that she would need a server permit card to work in management at her present position with Chuey's Restaurant in Nashville.

Commissioner Jones stated that there is nothing in the law that gives the Commission any discretion to do anything other than what the law states. Commissioner Jones stated that it is his opinion that an eight year period is too harsh and he would like to see the Legislature to review this matter and reduce the time period to a six year period. Chairperson McDaniel stated that Ms. Hunt could come back before the Commission after the eight year period and have the staff to review your application for a server permit card.

Director Elks requested Ms. Hunt to give the exact date of the conviction. Ms. Hunt stated the date was March, 2007.

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

Director Elks stated to Ms. Hunt that this will be a Final Order from the Commission and that Ms. Hunt may the appeal the Final Order to Chancery Court. Director Elks stated that the Final Order will not go into effect until after the Commission signs the Final Order at the December, 2011 Commission meeting. She further stated that Ms. Hunt will have ninety days to appeal the Decision to Chancery Court beginning on the date the Commission signs the Final Order. Director Elks stated that the Final Order will be sent to her after the December, 2011 Commission meeting.

6. **BUDGET**
7. **CONSENT ORDERS**
8. **PENDING MATTERS LIST**
9. **MISCELLANEOUS -**

Director Elks stated that there is a statutory prohibition of TABC employees accepting any gifts. She stated that, due to the passing of her husband, licensees have sent flowers, plants, and memorials in honor of her husband. Director Elks stated that she did not know if that was an ethics violation, but wanted to put this on record before the Commission.

Chairman Jones stated that he sees a distinction between a gift--which is something in hand as value that stays there and is touchable—and flowers, plants and/or a memorial as an expression of legitimate sympathy. Commissioner Jones stated that if someone is moved to express their sympathy, that that is totally appropriate. Commissioner Jones stated that he does not see it as a gift or a violation of any rule.

Chairperson McDaniel stated that a gift is something that someone would give to you personally that is tangible. Chairperson McDaniel said the Commission does not see acts of kindness in the way of bereavement to be in any way misconstrued as someone acting outside of the rules and outside of order--that a gift as an expression of sympathy is in good order. Chairperson McDaniel stated that she did not see this as breaking any rules or ethic issues. Chairperson McDaniel stated that Director Elks was not the direct recipient, but that her husband was the direct recipient. Chairperson McDaniel stated that she appreciated Director Elks bringing this matter before the Commission.

Joyce McDaniel, lobbyist and representative of the Tennessee Retailer's Association, stated that as a lobbyist, she often deals with these matters. As such, that the gifts of sympathy are considered a memorial and not an ethics violation.

Henry Hildebrand stated that under Tennessee law, flowers, plants, etc. given in sympathy for the death of a family member was not a gift. Mr. Hildebrand stated that it is defined as being under the Ethics Commission rules and regulations which is where the General Assembly defines gifts from public to state officials and employees.

Director Elks stated that the reason she brought this matter to the attention of the Commission is because under T.C.A. §57-1-109 it states that no member of the Commission or any person employed by the Commission, shall accept any gift, favor, merchandise or donation, contribution or any article or thing of value from any person, firm or corporation licensed under the provisions of this chapter. The

Commission indicated that they did not believe this to be a violation of the statute or an ethic violation.

- A. Monthly Summary of TABC Activity**
- B. Pending Issues: Growlers**

**Discussion/Action Taken:**

Joyce McDaniel stated that at the November, 2011 Commission meeting, concerns were made regarding possible issues for the Department of Health in relation to growlers. However, she indicated that she had contacted that department and was told that they do not regulate this matter. The Department of Health stated that the Department of Agriculture would regulate this issue. Ms. McDaniel stated that the retailers want to know where in the statute or the TABC Rules and Regulations that they would be denied the ability to sell the “Growlers”.

Henry Hildebrand, III, attorney, stated that the idea was whether or not the TABC should embark on an administrative hearing for the rules and regulations governing “Growlers” and whether other agencies should be involved.

Director Elks stated that the rule exists that the retailers must sell in the original containers and also that this is an element of the manufacturers license which would exceed the authority of the Commission to conduct a rulemaking hearing and that it would require a statutory change as opposed to a rulemaking hearing.

Chairperson McDaniel stated that three Commissioners should be present to hear this matter before hearing any further discussion or making any decisions.

Director Elks stated that based on what was heard today that they are waiting on a letter from her and she will issue the letter.

Ms. McDaniel requested this matter to be heard at the January, 2012 Commission meeting.

- 10. DATE OF NEXT MEETING – Wednesday, December 14, 2011 and Wednesday, January 25, 2012 at 1:30 p.m.**

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Mary McDaniel  
Chairperson

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Shari Danielle Elks  
Executive Director



