

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

ADDENDUM MINUTES

September 21, 2012

1:30 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, September 21, 2012, 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, CLEO Mark Hutchens and Attorney Ginna Winfree were present.

1. WHOLESALE APPLICATIONS

A. WEST TENNESSEE BEVERAGE MEMPHIS, TENNESSEE (SHELBY COUNTY)

Seller: West Tennessee Beverage, LLC
Members: John and Eugene Barzizza
Buyer: Hand Family Wine & Spirits of Memphis, LLC
Stockholders: Charles W. Hand, Sr.; Charles W. Hand, Jr.; Raymond Hand

Before the Commission is a request for purchase the assets of the wholesale business currently located at 7625 Appling Center Drive in Memphis, Tennessee. As the Commission is aware, West Tennessee Beverage was conditionally approved for a wholesale license at the August, 2012 Commission meeting—subject to the receipt of certain documentation (deed to Crown Logistics; Updated Use and Occupancy Permit; TTB permit; TABC Inspection with acknowledgment of the rules and regulations). This license has yet to be issued primarily because the TTB permit has not been submitted by the applicant.

Hand Family Wine & Spirits, LLC now wishes to purchase West Tennessee Beverage for its high gravity beer distribution lines. If approved, the applicant wishes to transfer location to 45 EH Crump Boulevard in Memphis, Tennessee. At the proposed new location, the applicant will be leasing the property from Hand Family Realty, LLC for a period of ten years at \$2500/month. All documentation has been submitted with the exception of the following:

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

Discussion/Action Taken:

Rob Pinson, attorney, was present. Director Elks stated that West Tennessee Beverage applied for a new wholesale license from John & Eugene Barzizza. Director Elks stated they sold their interest in Southwest to TCD at the August Commission meeting and was approved. Director Elks stated that the lines of product that remained

were the high alcoholic content beer products that Southwest did not want to market. Director stated that John & Eugene Barzizza made application for a new wholesale license (West Tennessee Beverage) to take these high gravity beer lines. Director Elks stated the license has not been issued. She stated the Commission approved the issuance of the license subject to the receipt of certain documentations which was listed on the agenda. Thus, the license has not been issued. Director Elks stated in the meantime, John & Eugene Barzizza have the opportunity to sell these high gravity beer lines to the Hand Family Wine & Spirits of Memphis, LLC. Director Elks stated that everything associated with the issuance of the West Tennessee Beverage license as well as the transfer of these product lines to Hand Family Wine & Spirits of Memphis, LLC is the issuance of the TTB permit. Director Elks stated that in the past, unless there is a rationale why, we have not issued licenses without the TTB permit.

Mr. Pinson stated there are two pending Federal Basic Permits, one on behalf of West Tennessee Beverage and one on behalf of Hand Family Wine & Spirits of Memphis, LLC. Mr. Pinson said that West Tennessee's license was filed about six weeks prior to the Hand Family Wine & Spirits of Memphis and is beyond the 60 days period.

Henry Hildebrand, attorney representing West Tennessee Beverage, LLC, stated that West Tennessee Beverage submitted the application to the Trade and Taxation Bureau, Department of Treasury for a Federal Basic Permit as a new licensee in July, 2012. Mr. Hildebrand stated it was right after they made application with TABC. Mr. Hildebrand stated that at the time they made application, the wait period with the TTB was 60 days. Mr. Hildebrand stated that the TTB is now saying the wait period is 100 days from the date of making application to the issuance of the permit. Mr. Hildebrand stated that he has gotten approval of the Commission for the issuance of a permit to West Tennessee Beverage. Mr. Hildebrand stated West Tennessee Beverage was there because at the time this transaction was originally done in July, 2012, the deal between Barzizzas and the Hand Family did not exist so there had to be some place to put these products until they could either be sold or they could be operated as a separate entity. Mr. Hildebrand stated that since that time, the Hands have expressed an interest in acquiring the high gravity beer, but they need to have a license to do that. Mr. Hildebrand stated that Rob Pinson has made application with the TABC and the TTB permit just as he had done in July. Mr. Hildebrand stated that if Mr. Pinson had his permit in hand now, then we would be doing a different transaction and would like to move the heavy beer from Southwestern to the Hand Family and West Tennessee Beverage would be withdrawing their application. Mr. Hildebrand stated that if West Tennessee Beverage could get their permit first, then we have already been approved and we could close on the deal. Mr. Hildebrand stated that Mr. Pinson could proceed because what he would be asking for is a change in ownership of West Tennessee Beverage. Mr. Hildebrand stated that does not require a TTB permit prior approval. Mr. Hildebrand stated that you would not have to notify the TTB until after the approval. Mr. Hildebrand stated we are not sure who will obtain the TTB permit first. Mr. Hildebrand stated if the Commission approves the application for the Hand Family, then it cannot

take effect until West Tennessee Beverage obtains its TTB permit and then the Hand Family will not need their TTB permit because it is a change in ownership. Mr. Hildebrand stated that if the Commission could approve both applications and if the Hand Family obtains their TTB permit first, then the West Tennessee Beverage Company will not go forth on the application. Mr. Hildebrand stated if West Tennessee Beverage obtains their TTB first, then the Hand Family still needs their State permit, but then the TTB permit requirements is no longer a condition so then both could close at the same time.

Director Elks recommended not going forth on this transaction, but she did say that she would put it on the agenda in case some entity was able to obtain a TTB permit.

Chairperson McDaniel stated that she did not feel that the wholesale applications could come before the Commission before they obtain their TTB permit.

Director Elks recommended to defer this matter to the October Commission meeting or upon the issuance of a TTB permit.

Commissioner Jones made a motion to defer until the parties are ready to move forward. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

2. CONTESTED CASES

A. SERVER PERMIT DENIAL

1. Ramona Wiggins

Ms. Wiggins plead guilty to and was convicted of two (2) counts of TennCare Fraud in violation of T.C.A. §71-5-2601 and one (1) count of Obtaining a Controlled Substance by Fraud in violation of T.C.A. §53-11-402. TennCare Fraud is an E Felony and Obtaining a Controlled Substance by Fraud is a D felony. The date of these convictions is January 6, 2010. She was denied the server permit based on T.C.A. § 57-3-704(1): "...An applicant...must meet... the following requirements: "...An applicant...must meet... the following requirements :...(1) The applicant has not been convicted of any felony within the previous four (4) years;.

Discussion/Action Taken:

Assistant Director Bell reviewed the matter to the Commission and recommended the staff's denial of the server permit card be upheld.

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.

Mary McDaniel
Chairperson

Shari Danielle Elks
Executive Director