

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

MINUTES

Tuesday, April 26, 2016

1:30 pm

Chairperson Mary McDaniel, Commissioner Jones, and Commissioner Kaegi were present for the meeting. Interim Director, Ginna Winfree, Staff Attorney, Joshua Stepp, and CLEO Mark Hutches were in attendance.

1. APPROVAL OF THE MARCH COMMISSION MEETING MINUTES Discussion/Action

Taken: Commissioner Jones motioned for approval of the minutes as presented, Commissioner Kaegi seconded the motion and it passed with 3 ayes.

2. RETAIL MATTERS

A. OLD BUSINESS

B. NEW BUSINESS

**1. SONYA'S X-PRESS WINE & LIQUOR (LICENSE NO. 3887)
PIKEVILLE, TENNESSEE (BLEDSOE COUNTY)**

Applicant: Sonya H. Nale (sole proprietor)

Current location: 1378 US 127 By Pass, Pikeville, TN 37367

New location: 931 US 127 By Pass, Pikeville, TN 37367

Retail licensee no. 3887 is requesting Commission approval to transfer locations as specified above. Ms. Nale has a bank loan to use purchase the real property where the business is being transferred to, but cannot close on the purchase until she receives TABC approval. The TABC staff recommends conditional approval of this request, subject to receipt of the following:

- a. Copy of executed note after closing
- b. Certificate of Occupancy
- c. TABC inspection
- d. Acknowledgment of TABC Rules & Regulations

Discussion/Action Taken: Commissioner Kaegi motioned for conditional approval, subject to receipt of missing items and Commissioner Jones seconded the motion; it passed with three ayes.

**2. COLONEL STEVE'S WINE & LIQUOR
JOHNSON CITY, TENNESSEE (WASHINGTON COUNTY)**

Applicant: Appalachian Basin Assets, Inc.

Shareholder(s): Philip D. Scharfstein, 45%¹
 Rena P. Scharfstein, 45%
 Melanie J. Bowman, 10%

Current licensee: Steve Taylor, dba Colonel Steve's Wine & Liquor (license no. 3090)

Proposed licensee: Appalachian Basin Assets, Inc. dba Colonel Steve's Wine & Liquor

Before the Commission is a request for approval of a complete transfer of ownership regarding the retail store located at 800 W. Market St., Johnson City, TN 37604. Mr. Scharfstein is investing personal funds into the business and the applicant is purchasing the business from the seller for \$30k (plus inventory).² Landlord, Steven A. Taylor, is leasing the premises to the applicant for a one year term at a monthly rental rate of \$1500. The TABC staff recommends approval of this request; both outstanding items listed below have been received.

- a. ~~Sales tax number~~ - received
- b. ~~License fee~~ - received

Discussion/Action Taken: Commissioner Jones motioned for approval, Commissioner Kaegi seconded the motion and it passed with three ayes. License 4072 issued 5.2.16

3. M'BORO CITY LIMITS LIQUORS & WINE MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)

Applicant: SUN5353 Inc.
 Shareholder(s): Sanjaykumar Patel

Before the Commission is a request for licensing of a retail business to be located at 5353 NW Broad St., Murfreesboro, Tennessee 37129. Mr. Patel is investing approximately \$75k of personal funds, as verified by TABC staff. The applicant will lease the premises from JCM Inc. for an initial term of five years at a monthly rental rate of \$2500. The TABC staff recommends conditional approval of this request, subject to receipt of the following items:

- a. TABC inspection
- b. Acknowledgment of TABC Rules & Regulations
- c. License fee

¹ Philip Scharfstein, Rena Scharfstein, and Melanie Bowman are shareholders of One Stop Discount Wine & Liquors, Inc. dba One Stop Wine & Spirits (license no. 1011) doing business at 1735 W. State of Franklin Rd., Johnson City, Tennessee 37604.

² In accordance with Tennessee law, Sellers are to transfer title and possession of the liquor inventory to the applicant via TABC licensed wholesalers' involvement.

Discussion/Action Taken: Commissioner Kaegi motioned for conditional approval, subject to receipt of missing items, Commissioner Jones seconded the motion and it passed with three ayes. License #4073 issued 5.3.16

**4. GOODFELLAS WINE & SPIRITS
LOUDON, TENNESSEE (LOUDON COUNTY)**

Applicant: Redskin Café, Inc.
Shareholder(s): Jay Alawadi, President 100%
Shannon Alawadi, Secretary

Current: 72 Wine & Spirits, LLC (Carolyn James, 100%) d/b/a 72 Wine & Spirits (license no. 3688)

Proposed: Redskin Café, Inc. d/b/a Goodfellas Wine & Spirits

Before the Commission is a request for a complete transfer of ownership concerning the retail business located at 12353 Highway 72 North, Loudon, Tennessee 37774. Mr. Alawadi is investing \$350k of personal funds into the business and the applicant is purchasing the business (and inventory) from the seller for a purchase price of \$200k.³ J and L Properties, landlord, is leasing the premises to the applicant for a term of five years at a monthly rental rate of \$3,000.⁴ The TABC staff recommends conditional approval of this request, subject to receipt of the following items:

- a. TABC inspection
- b. License fee

Discussion/Action Taken: Commissioner Kaegi motioned for conditional approval, subject to receipt of any missing items, Commissioner Jones seconded the motion and it passed with three ayes. License #4071 issued 4.29.16

**5. GORDINS WINE & LIQUOR SHOPPE (LICENSE NO. 4066)
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Gordin LLC⁵

Licensee no. 4066 is requesting approval to expand the premises of the retail package store located at 3234 Thomas Street, Memphis, TN 38127. Applicant recently acquired the business and is making renovations to remodel the store. The TABC staff recommends conditional approval of this request, subject to receipt of the following items:

- a. certificate of occupancy (after build-out)
- b. TABC Inspection (after build-out)

³ In accordance with Tennessee law, Sellers are to transfer title and possession of the liquor inventory to the applicant via TABC licensed wholesalers' involvement.

⁴ The applicant will have an option to purchase the real property.

⁵ Michael Gordin, 75% and Toby M. Gordin, 25%

Discussion/Action Taken: Commissioner Kaegi motioned for conditional approval, subject to receipt of any missing items, Commissioner Jones seconded the motion and it passed with three ayes.

3. WINERY MATTERS -

A. OLD BUSINESS - none

B. NEW BUSINESS

1. GOODWATER WINERY AT HARTFORD HARTFORD, TENNESSEE (COCKE COUNTY)

Applicant: Goodwater Vineyard, LLC⁶

Goodwater Vineyard, LLC is a TABC licensed winery (W-88) in Bybee, Tennessee⁷ and is now requesting approval for the issuance of satellite permit to do business at 3112 Big Creek Rd., Hartford, Tennessee 37753. Applicant is leasing the premises for the satellite location from landlords, Gary and Valerie Baxter, for a monthly rental rate of \$1500. All items have been received and completed, including the license fee & TABC inspection, and the TABC staff recommends approval of this request.

Discussion/Action Taken: Commissioner Jones motioned for approval and Commissioner Kaegi seconded the motion; the motion passed with three ayes. Satellite facility permit #5 issued 4.28.2016

2. HILLSIDE WINERY AT OLD MILL PIGEON FORGE, TENNESSEE (SEVIER COUNTY)

Applicant: Hillside Winery, Inc.⁸

Applicant, Hillside Winery Inc., is a TABC licensed winery (W-66) in Sevierville, Tennessee⁹ and is requesting approval for the issuance of a satellite permit to do business at 3331 S. River Rd., Pigeon Forge, Tennessee 37863. Applicant is leasing the premises from Old Mill Winery Inc., for approximately \$8k per month.¹⁰ With the exception of the items listed below the summary all items and requirements have been received, including the license fee, TABC Inspection, and Acknowledgement of TABC Rules. The TABC staff recommends conditional approval, subject to the following:

- a. ~~Certificate of occupaney~~ (received prior to meeting)

⁶ Members: Michael Hood, 50% and Family Trust of Carol Hood, 50%.

⁷ Goodwater Vineyard is licensed as winery at 1869 Goodwater Rd., Bybee, Tennessee 37713.

⁸ Shareholder(s): Phillip Don Collier, 50% and Kay Collier-Pittman, 50%

⁹ Hillside Winery, Inc. dba Hillside Winery (W-66) doing business at 229 Collier Dr., Sevierville, Tennessee 37862.

¹⁰ Old Mill Winery, Inc. agreed for Mountain Valley Vineyards, Inc. (lessee) to assign its lease to the applicant.

Discussion/Action Taken: Commissioner Jones motioned for approval and Commissioner Kaegi seconded the motion; it passed with three ayes. Satellite facility permit #6 issued 5.2.16

**3. SUGARLAND CELLARS
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

Applicant: Sugarland Cellars, Inc.¹¹

Applicant, Sugarland Cellars Inc., is a TABC licensed winery (W-71) at 1333 Parkway, Gatlinburg, TN 37738, and is before the Commission to request approval for the issuance of a satellite permit to do business at 631 Parkway, Gatlinburg, TN 37738. Applicant is leasing the premises from landlord, AJO Enterprise, for a term of five years at a monthly rental rate of approximately \$8,000. The TABC staff recommends conditional approval for this request, subject to receipt of the following:

- a. TABC Inspection and agent report
- b. Acknowledgment of TABC Rules & Regulations

Discussion/Action Taken Commissioner Jones motioned for conditional approval, subject to receipt of missing items, and Commissioner Kaegi seconded the motion; it passed with three ayes. Satellite facility permit #7 issued 5.2.16

4. FARM WINERY MATTERS - none

5. WHOLESALE MATTERS

A. NEW BUSINESS

**1. VINOSLATE IMPORTS AND DISTRIBUTION, LLC
BLOUNTVILLE, TENNESSEE (SULLIVAN COUNTY)**

Applicant: Vinoslate Imports and Distribution, LLC
Member(s): Kristen Fields-Reedy, 100%

Current location: 1709 Midpark Drive, Suite B., Knoxville, TN 37921
Proposed location: 3330 Highway 11W, Blountville, TN 37664

Before the Commission is a request for wholesale licensee no. 85 to transfer locations as specified above. Applicant will lease the premises from Reedy Global Holdings, Family, LLC, for an initial term of two years at a monthly rental rate of \$3,500. The

¹¹ Phillip Don Collier, 40%; Sara Ogle Vallentine, 20%; James D. Ogle, 20%; Nickolas Ogle, 10%; Jacob Ogle, 10%

TABC staff recommends conditional approval of this request, subject to receipt of the following items:

- a. ~~certificate of occupancy or letter from city/county stating that a c/o will not be issued~~
- b. amended basic permit *GW noted at meeting that is condition has been met

Discussion/Action Taken Commissioner Jones motioned for approval and Commissioner Kaegi seconded the motion; it passed with three ayes. Update: Database updated with new address.

6. DISTILLERY/BREWERY

A. NEW BUSINESS

1. BLACKBERRY FARM BREWERY MARYVILLE, TENNESSEE (BLOUNT COUNTY)

Applicant:	Blackberry Farm, LLC	
Member(s):	Blackberry Hotel Co.	75 %
	Tang Tennessee, LLC	25 %
	Sam Beall IV ¹² , President	
	Sam Beall III, Secretary	
	Matthew Alexander, Vice President	

Before the Commission is a request for licensing to manufacture beer at 910 E. Harper Street, Maryville, Tennessee 37804. Financing for the business has been verified by staff and lease is not required as the applicant is the owner of the real property. The TABC staff recommends approval of this request; items (a) listed below is now resolved.

- a. ~~license cannot be issued before SB2396 takes effect~~¹³ SB2396 was signed by Governor Haslam on 4.12.16

Discussion/Action Taken SB2396 was signed into law prior to the date of the meeting. Commissioner Jones motioned for approval and Commissioner Kaegi seconded the motion; it passed with three ayes. License no. 142 issued 5.6.16

7. PRIVATE CLUBS –

1. CENTENNIAL CLUB NASHVILLE, TENNESSEE 37215

¹² Mr. Sam Beall IV passed away in early 2016.

¹³ SB2396 allows Blackberry Farms to hold a manufacturer's license or nonmanufacturer nonresident seller permit in addition to holding a license for consumption of alcoholic beverages on premise. The bill can be found at <http://www.capitol.tn.gov/>

Applicant: Centennial Club

Officers: Jane B. Corcoran, 0%
 Sarah Ann Ezzell, 0%
 Susan B. Bowen, 0%

Before the Commission is a request for licensing of a not-for-profit private club located at 2805 Abbot Martin Rd., Nashville, Tennessee. The applicant owns the real property where the club is located and is a nonprofit organization organized and existing under the laws of the state of Tennessee. The club - organized and operated exclusively for pleasure, recreation and other non-profit purposes - has 800 members each paying \$575 in annual dues. The TABC staff recommends conditional approval of this request, subject to receipt of the following items:

- a. TABC Inspection
- b. Acknowledgment of TABC Rules & Regulations
- c. bond email
- d. liquor price schedule
- e. license fee

Discussion/Action taken: Commissioner Kaegi seconded the motioned for conditional approval, subject to receipt of missing items and Commissioner Jones seconded the motion; it passed with three ayes. License no. 99487 issued 5.6.16

8. RETAIL FOOD STORES

1. STEPHERSON INCORPORATED 5150 American Way, Memphis, TN 38115

This matter was continued from the March meeting.
 TABC staff is recommending conditional approval for the following six retail food stores:

*Effective date of licenses to be July 1, 2016.

*All retail food store applicants will need certification of a Responsible Wine Vendor Program, a TABC inspection, Acknowledgment of TABC Rules and Regulations, and all designated managers must be permitted. License fees are required for each

- | | | | |
|-------------------------------------|---------------------|---------|-------|
| a. Superlo Foods (Superlo Foods #1) | 4744 Spottswood | Memphis | 38117 |
| b. Superlo Foods (Superlo Foods #2) | 2155 Covington Pike | Memphis | 38128 |
| c. Superlo Foods (Superlo Foods #3) | 3327 N. Watkins | Memphis | 38127 |
| d. Superlo Foods (Superlo #4) | 6532 Winchester | Memphis | 38115 |
| e. Stepherson's (Superlo #5) | 3942 Macon Rd. | Memphis | 38122 |
| f. Superlo Foods (Superlo Foods #6) | 4571 Quince Rd. | Memphis | 38117 |

Before the matter was voted on, Mr. Bard Quillman, inquired as to how the 20 % sales taxable sales are counted for retail food store applicants. Matt Scanlan responded that as it pertains to his client (Stepherson Inc.) – the grocery stores reported all of the sales that took place within those stores and

all the sales taxable sales that took place within those stores, and that staff -as far as he knew - has determined the filings from his client to adequate, accurate, and appropriate.

Joshua Stepp spoke to how the staff has been handling the question. First, an affidavit that is completed under oath by applicant where the applicant specifies the entire sales that the sales tax applies to and then separately, only the part of the sales tax that fits into the food ingredient category that is taxed at the lower 5% rate and then a percentage is then done after that. Secondly, the staff also asks for an applicant's past year of tax returns from the Dept. of Revenue and from that staff is able to determine whether or not an applicant meets the 20% requirement.

Discussion/Action Taken: Commissioner Kaegi motioned for conditional approval of the above stores, and Commissioner Jones seconded the motion; it passed with three eyes.

2. KROGER LIMITED PARTNERSHIP 1¹⁴

Business Address: 1014 Vine St., Cincinnati, Ohio
 Registered Office in TN: 530 Gay St., Knoxville, TN 37902

Officers: Christine S. Wheatley, President & Secretary; Todd A. Foley, V.P and Treasurer

TABC staff recommends conditional approval of the 85 retail food stores listed below, subject to the receipt/resolution of conditions noted below each in addition to the following conditions:

*Effective date of licenses to be July 1, 2016. License fees are required are each.

*All will require certification of a Responsible Wine Vendor Program, TABC inspection, Acknowledgment of TABC Rules and Regulations, and all designated managers must be permitted.

Store#				Additional items/Clarification needed
#288	1977 S. 3RD STREET	MEMPHIS	38109	
#328	1664 EASE STONE DR	KINGSPORT	37660	deed doesn't match landlord
#367	1805 W. STATE OF FRANKLIN	JOHNSON CITY	37604	addendum
#387	240 NEW BYHALIA RD	COLLIERVILLE	38017	certificate of occupancy
#391	1059 MINERAL WELLS	PARIS	38242	certificate of occupancy; addendum
#392	2525 LAKE ROAD	DYERSBURG	38024	
#393	8039 HWY. 51 NORTH	MILLINGTON	38053	addendum; certificate of occupancy
#398	941 N. PARKWAY	JACKSON	38305	
#401	4770 RIVERDALE ROAD	MEMPHIS	38141	addendum
#413	2269 LAMAR AVE.	MEMPHIS	38114	
#415	1366 POPLAR AVE	MEMPHIS	38104	addendum
#419	7735 FAMRMINGTON BLVD	GERMANTOWN	38138	certificate of occupancy
#430	5540 SOUTH MENDENHALL	MEMPHIS	38117	Phong Vu Questionnaire

¹⁴ KRGP INC. an Ohio Corporation, -the General Partner of Kroger Limited Partnership 1. KRGP Inc. operates as a subsidiary of The Kroger Co.

#433	11630 HIGHWAY 51 S.	ATOKA	38004	certificate of occupancy
#438	3860 AUSTIN PEAY HIGHWAY	MEMPHIS	38128	
#439	4264 SUMMER AVE.	MEMPHIS	38122	
#440	9025 U S HIGHWAY 64	LAKELAND	38002	
#448	41 STONEBROOK PLACE	JACKSON	38305	
#456	7615 HIGHWAY 70	BARTLETT	38133	certificate of occupancy
#463	11635 HIGHWAY 70	ARLINGTON	38002	
#468	35 W. UNIVERSITY PKWY	JACKSON	38305	
#481	3685 HOUSTON LEVEE ROAD	COLLIERVILLE	38017	
#484	775 PICKWICK ROAD	SAVANNAH	38372	
#486	1212 EAST SHELBY DRIVE	MEMPHIS	38116	
#488	3444 PLAZA AVENUE	MEMPHIS	38111	
#489	2942 KIRBY WHITTEN ROAD	BARTLETT	38134	
#491	799 TRUSE PARKWAY	MEMPHIS	38117	
#502	800 MONROE STREET	NASHVILLE	37208	
#503	1840 DECHERD BLVD.	DECHERD	37324	
#506	2217 N. BROADWAY STREET	KNOXVILLE	37917	
#514	200 GALLATIN PIKE SOUTH	NASHVILLE	37115	
#519	170 E. MAIN STREET	HENDERSONVILLE	37075	
#521	1622 MIDDLE TENNESSEE BLVD	MURFREESBORO	37130	site plan
#523	143 HENSLEE DRIVE	DICKSON	37055	deed
#525	9501 NORTSHORE DR	KNOXVILLE	37922	
#526	2020 MALLORY LANE	FRANKLIN	37067	addendum; certificate of occupancy
#529	1776 W. NORTHFIELD BLVD	MURFREESBORO	37129	addendum
#533	3930 CLARKSVILLE PIKE	NASHVILLE	37218	certificate of occupancy
#534	301 S. ELLINGTON PKWY.	LEWISBURG	37091	
#537	5713 EDMONDSON PIKE	NASHVILLE	37211	
#539	2325 MEMORIAL BLVD	MURFREESBORO	37129	
#540	2100 LOWES DRIVE	CLARKSVILLE	37040	
#541	123 NORTHCREEK BLVD.	GOODLETTSVILLE	37072	Discrepancy-owner of prop. listed on app diff. than deed
#542	61 EAST THOMPSON LANE	NASHVILLE	37211	
#543	2946 S. CHURCH STREET	MURFREESBORO	37127	
#544	1489 MADISON STREET	CLARKSVILLE	37042	
#545	510 HWY 76	WHITE HOUSE	37188	
#547	5705 CHARLOTTE PIKE	NASHVILLE	37209	certificate of occupancy
#549	6702 CLINTON HIGHWAY	KNOXVILLE	37912	addendum
#550	8141 STATE HIGHWAY	NASHVILLE	37230	Discrepancy-deed says Trace Crk., app says comp. owned
#553	463 SAM RIDLEY PKWY WEST	SMYRNA	37167	
#558	4414 ASHEVILLE HIGHWAY	KNOXVILLE	37914	
#559	1010 NORTH MAIN STREET	SHELBYVILLE	37160	
#562	702 WINFIELD DUNN PARKWAY	SEVIERVILLE	37876	
#564	2050 LASCASSAS PIKE	MURFREESBORO	37130	deed says owned by city-need clarification
#567	2201 21ST AVE SOUTH	NASHVILLE	37212	addendum; certificate of occupancy
#569	2011 NASHVILLE PIKE	GALLATIN	37066	certificate of occupancy

#570	3054 COLUMBIA AVE	FRANKLIN	37064	
#571	1010 GLENBROOK WAY	HENDERSONVILLE	37075	
#578	401 S. MT. JULIET RD, STE 200	MOUNT JULIET	37122	
#582	110 DOVER CROSSING RD	CLARKSVILLE	37042	addendum-shopping center; lease
#588	4726 TRADERS WAY	THOMPSON STATION	37179	
#589	6690 NOLENSVILLE RD	BRENTWOOD	37027	certificate of occupancy
#596	210 FRANKLIN ROAD, STE 100	BRENTWOOD	37027	addendum; certificate of occupancy
#599	265 HIGHLAND SQUARE	CROSSVILLE	38555	addendum-shopping center; deed
#628	1820 ROAN STATE HIGHWAY	HARRIMAN	37748	
#683	507 N. FOOTHILLS PLAZA	MARYVILLE	37801	
#684	9225 KINGSTON PIKE	KNOXVILLE	37922	
#690	1550 OAK RIDGE TURNPIKE	OAK RIDGE	37830	
#698	5201 NORTH BROADWAY	KNOXVILLE	37918	
#843	4560 HARDING RD	NASHVILLE	37205	deed
#862	244 S. HALLS ROAD	ALCOA	37701	addendum-shopping center; lease
#866	4400 LEBANON RD.	HERMITAGE	37076	addendum-shopping center
#870	4440 WESTERN AVE	KNOXVILLE	37921	
#880	711 GALLATIN AVE	NASHVILLE	37206	cert. of occupancy; deed
#884	3410 GALLATIN PIKE	NASHVILLE	37216	
#893	445 SOUTH JEFFERSON AVE	COOKEVILLE	38501	cert. of occ.
#897	845 NASHVILLE PIKE	GALLATIN	37066	
#518	5544 OLD HICKORY BLVD	HERMITAGE	37076	landlord affidavit
#530	9161 MIDDLEBROOK PIKE	KNOXVILLE	37923	addendum
#532	2449 OLD FORT PARKWAY	MURFREESBORO	37128	
#561	1905 N. JACKSON ST., STE. 500	TULLAHOA	37388	
#451	2835 KIRBY PARKWAY	MEMPHIS	38119	
#557	1418 W. MAIN ST., SUITE A	LEBANON	37087	
#536	220 WEARS VALLEY RD.	PIGEON FORGE	37863	

Discussion/Action Taken: Commissioner Kaegi motioned for conditional approval of the above stores, and Commissioner Jones seconded the motion; it passed with three ayes.

3. FOOD LION, LLC¹⁵

Address: 2110 Executive Dr., Salisbury, NC 28145
Registered Tennessee office: 500 Tallan Building, Two Union Square, Chattanooga, TN 37402

Officers: Margaret Miller Ham, President; Gerald Linn Evans, SVP/Secretary; Greg Amoroso, SVP Treasurer; Gregory Finchum, VP Retail Operations

*Effective date of licenses to be July 1, 2016.

¹⁵ Delhaize America, LLC – 100%

*All retail food store applicants will need certification of a Responsible Wine Vendor Program, a TABC inspection, Acknowledgment of TABC Rules and Regulations, and all designated managers must be permitted. License fees are required for each

TABC staff is recommending conditional approval for the following three retail food stores:

- | | | | |
|-------------------|---------------------|--------------|-------|
| a. Food Lion #218 | 3120 Bristol Hwy | Johnson City | 37601 |
| b. Food Lion #886 | 329 Colloredo Blvd. | Shelbyville | 37160 |
| c. Food Lion #874 | 2304 Madison St. | Clarksville | 37401 |

Discussion/Action Taken: Commissioner Jones motioned for conditional approval of the above three stores, and Commissioner Kaegi seconded the motion; it passed with three ayes.

9. INITIAL ORDERS TO BE REVIEWED BY THE COMMISSION – none

10. SERVER APPEALS - none

Chairperson McDaniel then addressed an Order signed by all three Commissioners on April 26 2016, ordering the delegation of authority to the Executive Director pursuant to TCA 57-3-803. The delegation authorized pursuant to the order is valid from April 27, 2016 –July 1, 2016. [See the order signed by Commissioners attached to end of the Minutes.](#)

[*emails will be sent to wholesalers as to what licenses were conditionally approved by the Director, and a list will be included on upcoming agendas noting what retail food store licenses were conditionally approved by the Director.](#)

11. MISC – 1. REQUEST ON BEHALF OF GROCERS – submitted by Matthew J. Scanlan of GSRM Law

Matt Scanlan withdrew the request in light of the announcement re: the order noted above.

Before the Commission is a request for the Commission to delegate its authority to approve retail food store licenses to the Executive Director and direct the Executive Director to issue pre-approval letters to those who have complete and approved applications.

Mr. Scanlan “proposes that the Executive Director of the TABC be given authority to issue all complete, uncontested, and undisputed license applications received by the Commission [and] would request that the Executive Director exercise his or her discretion on whether an application should be referred to the Commission for further inspection.” Per the request, “we are very concerned that some completed applications will not make it onto the agenda for the May and June meeting [and] further, waiting until the June meeting for regular approval by the board would not allow those applicants to benefit from the pre-stocking legislation as they would not get their approval until late June.” The requestor submits that allowing the Director

to approve the applications would allow the Commission to focus on the applications needing further review.

4. IN RE: DIAGEO AMERICAS SUPPLY, INC. DBA GEORGE A. DICKEL, & CO. PETITION FOR DECLARATORY ORDER

***Correction: Diageo was spelled incorrectly in the published agenda.**

On December 15, 2015 a Petition for Declaratory Order was submitted to the TABC to request that the TABC “provide a declaratory order as to the interpretation, applicability, and validity of Tenn. Code Ann § 57-2-104 (the “Storage Statue”)” On February 23, 2016 the TABC staff filed a Notice of Hearing Regarding the Petition for Declaratory Order with the Secretary of State’s Office to be posted to the Administrative Register. The Notice (with Petition included) is published at the following web address: <http://tnsos.org/rules/Announcements.php>, and a copy is attached to this agenda.

Discussion/Action Taken: Joshua Stepp, TABC Staff Attorney, announced that the parties had come to an agreement pursuant to the attached agreed order. Mr. Stepp noted that the parties had been working with Administrative Law Judge Stovall, and that the ALJ was comfortable not being present at the Commission meeting but would be present at a later date if needed. Mr. Stepp read aloud the agreement to the Commission. Attorney Will Cheek was present on behalf of Diageo. Commissioner Kaegi motioned to approve the order, Commissioner Jones seconded the motion, and it passed with three ayes. See the agreed order attached to the minutes.

12. NEXT MEETING – Tuesday, May 24, 2016 at 1:30 p.m.

12. UPCOMING MEETINGS


- Tuesday, May 24, 2016 at 1:30 p.m.
- Tuesday, June 28, 2016 at 1:30 p.m.
- **Tuesday, July 26, 2016 at 1:30 pm. (the July date was set at the April meeting)**

Attachment(s) to Follow

*See order signed by Commissioners re: delegation of authority to Executive Director

*See agreed order re Petition for Declaratory order

APPROVED FOR ENTRY UPON THE MINUTE BOOKS OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION THIS THE 24th DAY OF MAY, 2016.



 Mary McDaniel
 Chairperson



 Ginna Winfree
 Interim Director



ALCOHOLIC BEVERAGE COMMISSION

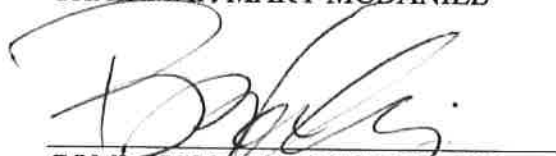
**ORDER OF DELEGATION OF AUTHORITY TO EXECUTIVE
DIRECTOR PURSUANT TO T.C.A § 57-3-803**

Pursuant to T.C.A. § 57-3-803, the Tennessee Alcoholic Beverage Commission hereby delegates to the Executive Director of the Tennessee Alcoholic Beverage Commission the authority to (1) conditionally approve retail food store applicants for licensure pursuant to T.C.A. § 57-3-801, et seq.; (2) to issue the corresponding letters of approval pursuant to T.C.A. § 57-3-803, and (3) to issue licenses to such retail food stores on, or effective, July 1, 2016, subject to the following conditions:

1. Such authority shall be valid solely between April 27, 2016, and July 1, 2016. After July 1, 2016, the authority to approve and/or issue retail food store wine licenses shall be solely the authority of the Tennessee Alcoholic Beverage Commission, and not of the Executive Director, unless otherwise ordered by the Tennessee Alcoholic Beverage Commission.
2. In addition, the Executive Director of the Tennessee Alcoholic Beverage Commission shall also be given the authority to determine if cause exists to contest the issuance of the license to a store issued a letter of approval pursuant to T.C.A. § 57-3-803 and to take all necessary measures accordingly pursuant to law.

It is so **ORDERED**, effective this 26th day of April, 2016,


CHAIRMAN MARY MCDANIEL


COMMISSIONER BRYAN KAEGI


COMMISSIONER JOHN JONES

BEFORE THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

IN RE:)
)
DIAGEO AMERICAS SUPPLY, INC.)
d/b/a GEORGE A. DICKEL & CO.,) **Docket # 33.03-135867A**
)
Petitioner.)

APR 21 2016

AGREED ORDER

This cause came before the Commission upon Diageo Americas Supply, Inc. d/b/a George A. Dickel & Co.'s ("Diageo") Petition for a Declaratory Opinion pursuant to Tenn. Code Ann. § 4-5-223 and Tenn. Comp. R. & Regs. 0100-04-.04 regarding the storage of certain alcoholic beverages outside the State of Tennessee by Diageo. The parties agree that the facts of this matter are those facts specified in paragraphs 1 – 2 and 4 – 7 in Diageo's Petition for a Declaratory Opinion (Diageo's Petition), except that a license issued pursuant to Tenn. Code Ann. § 57-2-102 was issued retroactively for the years 2012-2016 to Petitioner.

Based on the agreement between Petitioner and the Commission as evidenced by the signatures of counsel below, the Commission hereby enters the following declaration: "Tenn. Code Ann. § 57-2-104 has no application to the storage of alcoholic beverages by Diageo or any successor-in-interest in the manner described in paragraphs 1 – 2 and 4 – 7 of Diageo's Petition, regardless of the quantity stored or the place of storage. Pursuant to Tenn. Code Ann. § 4-5-223, this order shall be binding solely between the agency and Diageo or any successor-in-interest on the facts specified in paragraphs 1 – 2 and 4 – 7 of Diageo's Petition, provided that the quantity of alcoholic beverages stored outside the state of Tennessee and the location where such alcoholic beverages are stored outside the state of Tennessee shall not affect the validity of this order. Under no circumstances shall this order be construed to have any effect with regards to

any statute other than Tenn. Code Ann. § 57-2-104, as that statute exists at the time of the entering of this order.”

It is so ORDERED.

Entered and effective this 26th day of April, 2016.

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

By: Mary McDaniel
MARY MCDANIEL, CHAIRPERSON
TBB
BRYAN KAEGI, COMMISSIONER
John A. Jones
JOHN JONES, COMMISSIONER

Submitted for approval:

MCDERMOTT WILL & EMERY

By: Marc E. Sorini by WTC
Marc E. Sorini
500 North Capitol Street NW
Washington, DC 20001
(202) 756-8000
(202) 756-8087 fax

BONE MCALLESTER NORTON PLLC

By: William T. Cheek
William T. Cheek (TN Bar #14787)
Susan Neal Dickerson (TN Bar #30408)
511 Union Street, Suite 1600
Nashville, TN 37219
(615) 238-6391
(615) 687-5792 fax

Admitted Pro Hac Vice

Attorneys for Petitioner, Diageo Americas Supply, Inc. d/b/a George A. Dickel & Co.

By: Joshua Stepp
Joshua Stepp (TN Bar # 26615)
Staff Attorney, TABC
Davy Crockett Tower
500 James Robertson Parkway, 3rd Floor
Nashville, TN 37243
(615) 741-1602

CERTIFICATE OF SERVICE

I certify that on April 21, 2016, a true and correct copy of this document has been served upon:

Joshua Stepp
Tennessee Alcoholic Beverage Commission
Davy Crockett Tower
500 James Robertson Parkway, 3rd Floor
Nashville, TN 37243


William T. Cheek, III