

APPROVED MINUTES

Record of Meeting of the Liquor Control Board held June 17, 2015 at the Department of Liquor Control, 13 Green Mountain Drive, Montpelier, Vermont

LCB Members Present: Stephanie O'Brien, Chair and Melissa Mazza-Paquette, Member, John Cassarino, Member and Julian Sbardella, Member

Others Present: Wesley Lawrence, Board Counsel, Interim Commissioner Jim Giffin, Director Bill Goggins, Jacob Humber, Assistant Attorney General and Laurie Pecor, Executive Office Manager

9:29 a.m. meeting begins.

- Board action on draft minutes May 6, 2015 – Approved
- Board action on draft minutes May 29, 2015 – Approved
- Licenses issued April 29, 2015 through June 9, 2015 – Approved

Public Comment: Raymond Bouffard presents his reasons why the Board should consider his location for an agency in Georgia.

9:50 a.m. Board enters executive session to discuss Agency 48 with which the Board has a contract with.

10:12 a.m. Board reconvenes. A motion is made to authorize Commissioner Giffin to notify Agency 48 in writing that they must become current in all funds due to the Vermont Department of Liquor Control within thirty (30) days and to be kept current. Further if Commissioner Giffin determines that the funds are not available he is authorized to terminate the agreement during the remaining terms of the contract under Article 3 section (1) which is known as the sixty (60) days clause. Commissioner Giffin is authorized to proceed with the closure under Article 3 section (2) if there are further failures to transfer funds during the sixty (60) day period and to advertise for a replacement agent if deemed necessary. Member Mazza-Paquette makes the motion, Member Sbardella seconds it. Motion carries.

10:15 a.m. Enforcement actions:

- Lucci LLC has been taken off the agenda
- Brews Brothers LLC – Reached a settlement with the Department which is a four (4) day suspension.
- 3 D's Café, 86 Strongs Avenue, Rutland VT. Re: violation of general regulation number 17(a). Licensee's representative General Manager Lisa Charbonneau disputes the violation and presents the licensee's case. Licensee and State waive

Findings of Fact and Conclusions of Law. Board will take the case into consideration.

11:46 a.m. Board enters Executive Session.

11:47 a.m. Board reconvenes.

- Oak No 45, 45 Main Street, Winooski. Re: violation of general regulation number 10 (taxes). Tax Compliance Unit Supervisor Linda Ainsworth testifies that the licensee is not in good standing. Office Manager Laurie Pecor testifies that all reasonable efforts have been made to contact the licensee.

11:58 a.m. Board enters executive session.

12:37 p.m. Board reconvenes.

- State's Exhibit 1 – Tax Department Letter sent to Licensee
- State's Exhibit 2 – Notice of Hearing and Certified Receipt
- State's Exhibit 3 – USPS Tracking of Certified Notice of Hearing sent to Licensee.

Board decision – License will be suspended immediately and until the Department receives notice from the Tax Department that they are in good standing.

12:45 p.m.

Board decision – 165 Church Street LLC, dba Zen Lounge, 165 Church Street, Burlington. Violation of general regulation number 7(a) \$250.00 administrative penalty, violation of general regulation number 7 is dismissed and accept the warning imposed for violation of general regulation number 33 and will all become part of the licensee's enforcement record.

Board decision – Fayville F & G, 218 Old Mill Road, Arlington, VT. Violation of general regulation number 16, 17, 36 & 45. Board orders the licensee to:

- 1. Pay all employees any and all wages due to them.**
- 2. Pay the Department of Liquor Control an administrative penalty of \$1000.00 for each of the 4 violations for a total of \$4,000.00.**
- 3. Pay any and all Taxes due to the Tax Department.**
- 4. Mr. Kirchoff may not reapply for any liquor licenses unless or until he complies with all requirements of this order. This order shall permanently follow Mr. Kirchoff in any additional proceedings before this Board.**
- 5. The Board notes that had there been a valid license in effect on the day of the hearing this license would have been revoked.**

12:51 p.m. Agency contracts – Commissioner Giffin recommends updates to agency contracts. Surety bond provisions need updating. Board has been working on the contract. A motion is made to approve the contracts with changes to bring it up to compliance with the Agency of Administration’s attachment C. Motion carries.

Motion is made to renew the agency contracts that are set to expire up to July 31st 2015 for one year using the new contract format. Motion carries.

1:16 p.m. Settlement agreement between State and Saints of Pub 42, 12 Wales Street, Rutland for violation of general regulation 17 and 17(a). Licensee Jeffrey Dayton is here on behalf of Saints of Pub 42. Agreement is as follows:

1. Licensee will be suspended for three (3) days to start at close of business on July 2 and until opening of business July 6, 2015.
2. Motion has been made to suspend the rules. Motion carries. Board accepts the settlement agreement.

1:26 p.m. B. R. Cohn Winery, 15000 Sonoma Highway, Glen Ellen, California. Re: requirement of direct shipping reporting form. Licensee has not sent in report for July 1 through December 31, 2015.

1. State’s exhibit 1 – Department letter sent to licensee reminding them to send in Direct Shipping report as well as the Notice of Hearing.
2. State’s exhibit 2 – Copy of Certified receipt showing acceptance of service.
3. Copy of letter, Notice of Hearing and original certified receipt showing acceptance of service.

Board decision – License is revoked. If licensee reapplies they will have to come before the Board and explain why they were not in compliance.

May product listings – In the past the Board has done these by internet and it has been brought to their attention because these need to be brought out during a public meeting. Purchasing Coordinator Tonia Pryce will send the listings in advance by email and then they will discuss in open meeting. A motion is made to accept the May product listing as recommended with the exception of Pinnacle Gin, the Board gives David Jackson and Tonia Pryce the authority to make that decision. Motion carries

Contracts are a priority. David and Jim are tasked with getting these updated.

State Position Update – Commissioner Giffin states that in the FY16 Budget Bill the administration supported funding 5 positions for this Department. The Legislature allowed the creation of 4 positions. We have to give up 2 positions. At the extended cabinet meeting they advised that they are willing to work with the Commissioners on how to do this.

The Department has potentially 3 people retiring by the fall. The Board has asked David and Jim to look at the organizational chart of the Department. They will give

recommendations on how to restructure. Maybe looking at job descriptions is an option. Possibly a Deputy Commissioner is needed.

2:10 p.m. Board enters Executive Session to discuss contract issues involving a particular agency.

2:35 p.m. Board reconvenes. Commissioner Giffin will let Raymond Bouffard know that the Board will not be in a position to offer any new agencies until the new POS system is rolled out. They will re visit this in the first quarter of 2016.

Marketing meeting – The Board feels this has been very successful in the past. The Board needs to insure they are following the public meeting laws. Marcia will email possible dates to the Board.

POS Project update – Linda Vincent gives an update on the project. It is now scheduled to be rolled out after the holidays in January 2016. The administrator conference for NABCA is the beginning of October. The administrators will give the Chair names of their replacements for this conference because the conference coincides with the testing of the roll out of the new POS system.

Volume Discount – Law is silent about this issue. The Board will meet in two weeks. Jacob will have recommendations at that time on various options for the Board. He will work with Bill on this.

Other – David Jackson gives an overview of his accomplishments so far. He states that the warehouse is an issue. They plan to ship back to wholesalers the de-listed inventory. They have started looking at the minimum and maximum inventory. They are also looking at the profitability.

Board thanks the Department for everyone who has been working so hard during this time and will support them in any way they can.

3:46 p.m. Board adjourns