

ALCOHOL AND TOBACCO COMMISSION

February 19, 2019

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

February 5, 2019

3. Prosecutor's Recommendations –

PAD Forms

RR49-33455 Brown & Allen Investments, LLC

4. Hearing Judge's Recommendations –

RR62-25097 Minto Restaurant & Convenience Store, LLC – Findings of Fact

RR03-22879 It's a Buffalo, Inc. – Findings of Fact

RR46-82068 Virk Veer, LLC – Findings of Fact

DL13-29571 First Capitol Liquors, Inc. – Findings of Fact

DL31-29572 First Capitol Liquors, Inc. – Findings of Fact

RR10-29060 Jeffersonville Pub, LLC – Findings of Fact

5. Consideration of Applications -

588 renewals

75 new/transfers

3 catering

6 1<sup>st</sup> year escrow

2 2<sup>nd</sup> year escrow

1 3<sup>rd</sup> year escrow

3 new direct wine shippers

24 new/renewal carriers

3 new e-liquids

2 employee permit denials

6. Renewal Letters and Waivers of Fees for Letters of Extension -

7. Applications for Discussion –

RR29-18380 Lawndale Plaza LLC – conversion due to annexation

RR02-35066 DJZ of Las Vegas LLC – transfer with LB voting 3-0 to deny

RR49-34949 Bembars, Inc. transfer with LB voting 4-0 to approve

8. Inactive Files –

2 permits not subject to auction  
1 permit subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Round Table Dates: brewers 2/19; package stores 3/19; convenience stores 4/16; wholesalers  
5/21; vintners 6/18; retailers 7/16; non-package store dealers 8/20; artisan distilleries 9/17

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 19, 2019

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Krauss, Commissioner Maginn and Commissioner Grubb. Executive Secretary Allen, Commission Counsel Hyer, Industry Liaison Stewart and Prosecutor Harrison were also in attendance.

Greg Genrich, Brooke Burtnett, Jenny Drewry, Dyna Martinez, Mark Webb, Carmen Pratts Porter, George Douglas, Davey Neal, Justin Hage and David Rothenberg were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the February 5, 2019 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison submitted 90 Parties' Agreed Dispositions, totaling \$28,200.00 in fines for the Commission's approval.

The Prosecutor highlighted a few of the dispositions: VB1734537 and BR1870248, 2 or more OVWI convictions, revocation of employee permit; RR49-08126, shooting at premises, deferral with stipulations; RR59-16116, 2<sup>nd</sup> furnishing to minor in 2018, \$1,200.00 fine; RR67-32967, over-service to minor, who subsequently died in accident after leaving premises, \$1,500 fine with 4 day suspension.

Vice Chairman Krauss moved to approve the PAD forms submitted by the Prosecutor. Commissioner Maginn seconded. The motion was unanimously approved.

RR49-33455 BROWN & ALLEN INVESTMENTS, LLC – Prosecutor Harrison noted the Commission voted to uphold the revocation order signed by the permittee at the last meeting. Subsequent to that order, the Prosecutor stated he was advised about pending arbitration between the previous owner and current owner that could potentially return the property. Because of this, he recommended the Commission stay the revocation until the arbitration is completed.

Vice Chairman Krauss moved to uphold the recommendation of the Prosecutor to stay the revocation. Commissioner Grubb seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

RR62-25097 MINTO RESTAURANT & CONVENIENCE STORE, LLC – Hearing Judge Allen noted this permittee was cited for numerous violations. The Prosecutor sent Notice of Violation to permittee. The permittee failed to appear for pre-hearing conference. An Order to Show Cause was mailed to permittee. Permittee failed to appear. At the Order to Show Cause hearing, Prosecutor Harrison

requested a default judgment in the amount of \$800 and any evidence confiscated be surrendered and destroyed. The Hearing Judge recommends the Commission approve the default judgment.

Commissioner Maginn moved to uphold the default judgment. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR03-22879 IT'S A BUFFALO, INC. – Executive Secretary Allen noted this permit has been in escrow for more than 5 years. The Commission allowed the permittee until 12/31/2018 to become active. Permittee did not comply. The Commission ordered permittee to appear at a hearing to show cause why the permit should not be revoked. Permittee did not appear. The Executive Secretary recommended the permit be revoked.

Commissioner Grubb moved to uphold the recommendation of the Executive Secretary to revoke the permit. Commissioner Maginn seconded. The motion was unanimously approved.

RR46-82068 VIRK VEER, LLC - Executive Secretary Allen noted this permit has been in escrow for more than 5 years. The Commission allowed the permittee until 12/31/2018 to become active. Permittee did not comply. The Commission ordered permittee to appear at a hearing to show cause why the permit should not be revoked. Permittee did not appear. The Executive Secretary recommended the permit be revoked.

Vice Chairman Krauss moved to uphold the recommendation of the Executive Secretary to revoke the permit. Commissioner Maginn seconded. The motion was unanimously approved.

DL13-29571 FIRST CAPITOL LIQUORS, INC. – Executive Secretary Allen noted this permit has been in escrow for more than 5 years. The Commission allowed the permittee until 12/31/2018 to become active. Permittee did not comply. The Commission ordered permittee to appear at a hearing to show cause why the permit should not be revoked. Permittee appeared, but provided no legal reason as to what authority the Commission has to continue to allow additional escrow. The Executive Secretary recommended the permit be revoked.

Vice Chairman Krauss moved to uphold the recommendation of the Executive Secretary to revoke the permit. Commissioner Maginn seconded. The motion was unanimously approved.

DL31-29572 FIRST CAPITOL LIQUORS, INC. - – Executive Secretary Allen noted this permit has been in escrow for more than 5 years. The Commission allowed the permittee until 12/31/2018 to become active. Permittee did not comply. The Commission ordered permittee to appear at a hearing to show cause why the permit should not be revoked. Permittee appeared, but provided no legal reason as to what authority the Commission has to continue to allow additional escrow. The Executive Secretary recommended the permit be revoked.

Commissioner Maginn moved to uphold the recommendation of the Executive Secretary to revoke the permit. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR10-29060 JEFFERSONVILLE PUB, LLC - Executive Secretary Allen noted this permit has been in escrow for more than 5 years. The Commission allowed the permittee until 12/31/2018 to become active. Permittee did not comply. The Commission ordered permittee to appear at a hearing to show

cause why the permit should not be revoked. Permittee did not appear. The Executive Secretary recommended the permit be revoked.

Commissioner Grubb moved to uphold the recommendation of the Executive Secretary to revoke the permit. Commissioner Maginn seconded. The motion was unanimously approved.

### **CONSIDERATION OF APPLICATIONS**

Commissioner Grubb moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission and hereby move for approval of same and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of permit applications for a new permit or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two commissioners and hereby move for approval of same, pending final floor plan approval by the Indiana State Excise Police, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of applications for catering. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a commissioner as appropriate for escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new direct wine shipper permits. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new e-liquid permit. Commissioner Maginn seconded. The motion was unanimously approved.

Prosecutor Harrison recommended the Commission deny two employee permit applications that were submitted, pursuant to IC 7.1-3-18-9. Commissioner Maginn moved to uphold the recommendation of the Prosecutor. Commissioner Grubb seconded. The motion was unanimously approved.

Five hundred eighty-eight (588) renewals approved, seventy-five (75) new and/or transfer applications approved, three (3) permits approved for catering, six (6) permits approved for first year escrow; two (2) permits approved for second year escrow, one (1) permit approved for third year escrow, twenty-four (24) new and renewal carrier permits approved, three (3) new direct wine shipper permits approved, three (3) new e-liquid permits approved and two (2) employee permits denied.

## **RENEWAL LETTERS AND WAIVERS OF FEES**

Vice Chairman Krauss moved to approve the renewal and fee waived letters of extension that were issued for the preceding weeks. Commissioner Maginn seconded. The motion was unanimously approved.

## **APPLICATIONS FOR DISCUSSION**

RR29-18380 LAWDALE PLAZA LLC – Executive Secretary Allen noted the Commission received a request to convert this permit from a type 209 permit to a type 210 permit, due to the location being annexed into the city limits. The permit was issued in 2000 and the notice of annexation was issued in 2004. The Executive Secretary recommended the Commission approve the conversion.

Vice Chairman Krauss moved to approve the conversion. Commissioner Maginn seconded. The motion was unanimously approved.

RR02-35066 DJZ OF LAS VEGAS, LLC – Chairman Cook noted this is a transfer with the local board voting 3-0 to deny.

Commissioner Maginn stated that the owner of the permit withdrew the Consent to Transfer prior to any action taken by the Commission.

Commissioner Maginn moved to uphold the local board's recommendation to deny the transfer of the permit. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-34949 BEMBARS, INC. – Chairman Cook noted this is a transfer with the local board voting 4-0 to approve.

Commissioner Maginn stated there was one remonstrator present at the local board meeting. His concern was whether the owner who signed the Consent to Transfer was eligible to sign. The Commissioner noted that the owner signing the Consent is a 70% owner and, therefore, eligible.

Commissioner Maginn moved to uphold the local board's recommendation to approve the transfer. Vice Chairman Krauss seconded. The motion was unanimously approved.

## **INACTIVE FILES**

Vice Chairman Krauss moved to make three (3) permits inactive. Two permits are not subject to auction and one permit is subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

## **OLD BUSINESS**

No Old Business

## **NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

No Policy Determinations

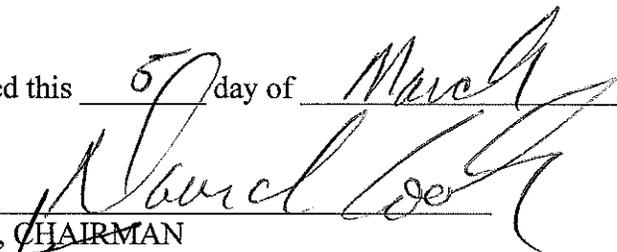
**ANNOUNCEMENTS**

PROPOSED ROUNDTABLE MEETINGS 2019 – Chairman Cook stated the proposed schedule of roundtable meetings is as follows: brewers 2/19; package stores 3/19; convenience stores 4/16; wholesalers 5/21; vintners 6/18; retailers 7/16; non-package store dealers 8/20; artisan distilleries 9/17

**ADJOURNMENT**

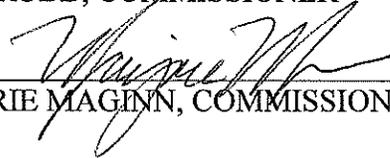
Vice Chairman Krauss moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 5<sup>th</sup> day of March, 2019.

  
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DAVID COOK, CHAIRMAN

  
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JOHN KRAUSS, VICE CHAIRMAN

  
\_\_\_\_\_  
DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER