

ALCOHOL AND TOBACCO COMMISSION

November 19, 2019

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

November 6, 2019

3. Prosecutor's Recommendations –

PAD Forms

DL45-11752 Anjani Liquors Hammond, Inc. – continued from 11/6

4. Hearing Judge's Recommendations –

RR71-31625 Arabesk Palace – Findings of Fact and Conclusions of Law

RR49-32843 Jimmy's Nail Spa, LLC – Findings of Fact and Conclusions of Law

5. Consideration of Applications -

451 renewals

77 new/transfers

2 catering

9 new/renewal carriers

2 new direct wine shipper

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

7. Applications for Discussion –

RR73-35834 Cadillac Jack's, LLC – new with LB voting 3-0 to approve

DL49-05958 Ekjyot LLC – one year renewal

DL22-31796 Family Dollar Stores of Indiana – issue with orange sign

RR15-30265 Poppy, Inc. – request to activate permit

RR14-35639 Jimmy's Hobby Shop, LLC – transfer with LB voting 4-0 to deny

8. Inactive Files –

1 permit subject to auction

4 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Commission hearing - Monday 11/25 from 9 AM to noon in Hearing Room - to receive testimony relating to sale of distribution rights and whether such practice violates prohibited interest provisions and/or is inimical to the provisions of Title 7.1

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 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. Prosecutor Harrison, Industry Liaison Stewart, Executive Secretary Allen and Commission Counsel Hyer were in attendance.

Jenny Drewry, Elise Shrock, Carmen Batts-Porter, Greg Genrich, Brooke Burtnett, Sarah Quinn and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the November 6, 2019 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison noted there are 33 Parties' Agreed Dispositions, totaling \$13,625.00 in fines, for the Commission's approval.

The Prosecutor highlighted a few dispositions: RR45-02185, high and fine reputation, public nuisance, \$1,500.00 fine and will be set up on the PACE program, separate from agreed settlement; RR82-05772, 2nd sale to minor, \$1,000.00 fine; RR79-20600, 2nd sale to minor, \$1,000.00 fine; RR79-32633, falsification and false ownership – renewal currently pending before the local board, \$2,350.00 fine.

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

DL45-11752 ANJANI LIQUORS HAMMOND, INC. – Prosecutor Harrison noted this was continued from the last meeting.

The Prosecutor stated this was part of an ongoing investigation into multiple establishments in the same area for retail to retail. This particular location was on a "no ship" status with wholesalers, so they were getting inventory from other package stores. Also, there was evidence that boxes containing alcoholic beverages had been altered and shipping labels removed. The other retailers are also being investigated regarding their part in these matters. The permittee agreed to a \$3,000.00 fine. There is a transfer on file, which will have to go before the Lake County Local Board for recommendation to approve or deny by the Commission.

Vice Chairman Krauss moved to uphold the Prosecutor's recommendation. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR71-31625 ARABESK PALACE/BR1776962 BRANDON ARIZPE – Chairman Cook noted Hearing Judge Allen has submitted Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission regarding violations against these permittees. The Hearing Judge found the establishment in violation for allowing a minor to loiter, furnishing alcohol to minor, hindering law enforcement and floor plan alteration (\$4,500) and the employee for hindering law enforcement (revocation of employee permit).

Commissioner Grubb moved to uphold the Findings of the Hearing Judge. Commissioner Maginn seconded. The motion was unanimously approved.

RR49-32843 JIMMY'S NAIL SPA, LLC – Hearing Judge Allen noted this was an appeal of a denial of a renewal. The local board recommended denial for failure to maintain high and fine reputation and public nuisance, due to violations against local ordinances. The Indianapolis Metropolitan Police Department remonstrated. Permittee and remonstrator provided information at the appeal hearing showing the violations have been cleared. The remonstrator stated he had no reason to believe these violations will recur. Hearing Judge Allen now submits Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Grubb moved to uphold the Findings of the Hearing Judge to grant a one-year renewal. Chairman Cook seconded. Vice Chairman Krauss and Commissioner Maginn voted against. Pursuant to IC 7.1-2-1-11, after a tie vote, the final order becomes the vote of the Chairman. Therefore, the Hearing Judge's Findings are upheld.

Commissioner Maginn stated that she feels the permit should not be renewed because of the remonstrator's evidence from the local board hearing showing a public nuisance created by this permittee.

Vice Chairman Krauss stated his opinion of the establishment has not changed from the vote to deny, prior to the appeal.

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 said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, 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 application for changes in location, 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 escrow, if needed, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

By consent, the commission added permit #RR29-36034 to the list of approved transfer applications.

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 the new and renewal carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

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

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

RR73-35834 CADILLAC JACK'S, LLC – Chairman Cook noted this is a new application with the local board voting 3-0 to approve.

Commissioner Maginn stated the applicant has convictions for domestic battery and OWI. There was one remonstrator and multiple people in favor of the permit.

Commissioner Maginn moved to uphold the local board's recommendation to approve the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

DL49-05958 EKJYOT, LLC – Chairman Cook noted last year this permit was approved for one year. This year, it was issued as an automatic renewal, in error. It should have gone before the local board.

Commissioner Maginn moved to stay the renewal and remand the application to the local board for review. Vice Chairman Krauss seconded. The motion was unanimously approved.

DL22-31796 FAMILY DOLLAR STORES OF INDIANA – Commission Counsel Hyer noted this applicant did not properly place the orange sign at the location prior to the local board hearing. The sign was missing the date of the local board hearing.

Vice Chairman Krauss moved to remand this to the local board so it can be properly advertised. Commissioner Maginn seconded. The motion was unanimously approved.

RR15-30265 POPPY, INC. – By consent, the Commission removed this application from the agenda.

RR14-35639 JIMMY'S HOBBY SHOP, LLC – Chairman Cook noted this is a transfer with the local board voting 4-0 to deny.

Commissioner Maginn stated the transferor has multiple felony gambling charges against him. There was some evidence presented that the applicant may also be involved in the gambling issues, as well.

He told the local board that he has no knowledge of the gambling and is not involved. The applicant stated he will rely on the previous owner for assistance in running the bar because he has no experience running a bar.

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

INACTIVE FILES

Vice Chairman Krauss moved to make five (5) permits inactive. Four are not subject to auction and one 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

COMMISSION HEARING – MONDAY, NOVEMBER 25TH AT 9 AM – Chairman Cook stated there will be a hearing to receive testimony relating to the sale of distribution rights and whether such practice violates prohibited interest provisions and/or is inimical to the provisions of Title 7.1.

ADJOURNMENT

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


Approved this 3 day of December, 2019.



DAVID COOK, CHAIRMAN



JOHN KRAUSS, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER