

MINUTES OF THE ALCOHOLIC BEVERAGE CONTROL BOARD
FEBRUARY 26, 2020

On the 26th day of February 2020, the A.B.C. Board did convene at Little Rock, Arkansas for its regular monthly meeting and in attendance were Freddie Black, Chairperson, Steve Smith, Pam DePriest, Jamie Anderson and new Board member Alex Blass.

The Board accepted the Director's Decisions on the Private Club Resume, Violation Resume, Warning Letters and the Director's recommendations for extension on Inactive Status Letters. Board member Pam DePriest made a motion that the Board approve the Director's Decisions on the Private Club Resume, Violation Resume, Warning Letters and the Director's recommendations for extension on Inactive Status Letters, Steve Smith seconded the motion and the motion passed with a 5-0 vote.

Chairperson Freddie Black announced that the next A.B.C. Board meeting will be held on March 18th, 2020 at 9:00 a.m.

It was noticed that applicant Steven B. Mays, Jr., d/b/a/ Saracen Cinema 8, had not arrived yet for the appeal hearing that he had requested so, Chairperson Black adjourned the meeting for a 15-minute break to allow time for Mr. Mays to arrive.

After the break, the Board reconvened the appeal on the application for a On Premises Wine & Beer permit by Steven B. Mays, Jr. d/b/a Saracen Cinema 8 located at 2901 Pines Mall Drive, #500, Pine Bluff, Jefferson County. On November 15, 2019, the ABC Director issued an order denying the application of Mr. Mays, on grounds that permitting the business to sell controlled beverages would not meet public convenience and advantage. Mr. Mays appealed that decision to the ABC Board, and a hearing was set for the Board's regular meeting on January 22ND, 2020. On January 22nd, 2020, the Board took testimony from the applicant and voted to table consideration of the application pending the receipt of additional information from the applicant. The matter was then placed on February 26th, 2020, A.B.C. Board meeting agenda.

Staff Attorney Monty Baugh called A.B.C. Enforcement Agent Kenny Heroman to testify on behalf of the Director. Agent Heroman testified that he delivered the notice of hearing on Mr. Mays and visually noted that there was no change in the concession area with respect to separating the regular concessions from the alcohol concession area. Staff Attorney Baugh introduced a letter that A.B.C. Division had received from Saracen Cinema 8, signed by Mr. Mays, advising that he authorized A.B.C. Division to change the initial filing from Rain Investments LLC to Individual, Steven B. Mays, Jr. d/b/a Saracen Cinema 8. The Board received this letter into evidence without further inquiry. Mr. Mays then offered into evidence for the Board's consideration a packet of documents that included a cutsheet for an AgeVisor Touch age verification system, two pages of theater promotional materials, and sixteen (16) photographs of Saracen Cinema 8's lobby and concession area. The Board asked Mr. Mays if he had taken any steps to acquire and implement the AgeVisor Touch age verification system. Mr. Mays stated that he had not. The Board questioned Mr. Mays on whether he regularly employed security guards at his movie theater facility. Mr. Mays responded that he hired security guards at his discretion based on his determination of need. The Board questioned Mr. Mays on how he proposed to avoid the possibility that persons would make straw purchases of multiple alcoholic beverages for minors or intoxicated persons. Mr. Mays responded that he

intended to distribute refill coupons for controlled beverages like those he uses for popcorn and soft drink refills. He was unable to explain how this plan would preclude patrons from making multiple purchases. Mr. Mays presented no further floor plan documentation or other written plans for controlling alcoholic beverages in his facility as the Board, in its January 22 meeting, requested and pronounced as necessary before making a final decision on Mr. Mays's application for permit. Board member Steve Smith made a motion to overturn the Director's decision and grant the permit, Alex Blass seconded, the Board then voted two (2) in favor and three (3) against granting the permit, and affirmed the Director's denial of Mr. Mays's application for A.B.C. permit for Saracen Cinema 8.

The next item on the agenda was the appeal requested by Permittee Kurt K. Nilsson d/b/a/ Olde Crow Chili Parlor and Mercantile located at 120 Ouachita, Hot Springs, Garland County; of the Violation Order of November 13, 2019 in which a fine of \$1,000 dollars was imposed along with 90 days of probation. Staff Attorney Chip Leibovich explained to the Board that A.B.C. Division could not produce proof that the applicant had received notice of the hearing and he noted that Mr. Nilsson was not present. The Chairperson asked that this matter be rescheduled until the March 18th Board meeting date and that notice be served on Mr. Nilsson.

The next item on the agenda was the appeal requested by Dragan Vicentic d/b/a/ Green Springs Medical, L.L.C. located at 309 Seneca Street, Hot Springs, Garland County a Medical Marijuana Dispensary; of the Violation Order of January 17, 2020 for failure to properly label medical marijuana in storage, failure to maintain video surveillance systems, failure to maintain biometric locks, failure to restrict access to limited access areas where marijuana was stored and posting banners outside the dispensary. A Director's hearing was held on or about January 8, 2020. The Director's decision dismissed count two (failure to maintain video surveillance) and count four (failure to restrict limited access areas). The remaining charges were founded and a fine was assessed of seven thousand twenty-five dollars (\$7,025.00) and placing the outlet on probation for a period of one hundred and twenty (120) days. Dragan Vicentic, who was present and testified, was represented by Q. Byrum Hurst. Staff Attorney Chip Leibovich appeared on behalf of A.B.C. and he called A.B.C. Enforcement Agents Trent Vollmer and Blake Zavadil to testify on behalf of the Director. Staff Attorney Leibovich introduced a packet of photos of an exterior door and lock, photos of mislabeled marijuana products and photos of exterior of signage. Attorney Hurst introduced as exhibits a facility employee access log and diagram, a copy of an A.B.C. Enforcement Medical Marijuana Cultivation Facility & Dispensary Inspection Form and a Motion to Dismiss.

The Board considered the failure to maintain biometric locks violation first. S.A.C. Vollmer testified the exterior locks of the dispensary were equipped with biometric locks. However, he also testified those biometric locks could also be opened with a numeric code that could be entered instead. Mr. Vicentic testified he installed a dead-bolt in addition to the biometric lock. Mr. Hurst argued Rule 7.2 requires the exterior doors be equipped with biometric locks; but do not prohibit other supplemental locks and that his client complied with the rule by equipping the exterior doors with biometric locks. Mr. Vicentic also testified a security guard is located inside of the dispensary at all times as additional security measure. Board member Jamie Anderson made a motion that the violation failure to maintain biometric locks be dismissed, Pam DePriest seconded, and the Board voted 5-0 to dismiss the violation.

The Board next considered the violation for improperly labeled medical cannabis in storage. Agent Zavadil conducted an inventory inside the storage area of the dispensary. Pictures of the bags and jars of cannabis, both labeled and unlabeled, were entered in evidence. Agent Zavadil explained the improper labeling was the lack of Unique Identification Number (U.I.N.) on product in storage. Chip Leibovich argued the U.I.N. is an essential link in the chain of seed-to-sale tracking. Mr. Vicentic testified the bags that were received without U.I.N.'s were not labeled by the cultivation facility. He further testified that since the inspection, cultivators have provided additional labeling for bags, and that they have included that information on all bags and jars of cannabis in storage. Agent Zavadil confirmed that he returned to the dispensary after the July 17th inspection and that all product was properly labeled at that time. Board member Steve Smith made a motion that the Director's Decision on failure to properly label medical marijuana be upheld, Jamie Anderson seconded, and the motion passed by a 5-0 vote.

Finally, the Board considered the violation for banners posted outside of the dispensary. Agent Zavadil testified he was sent to the dispensary on a complaint. The dispensary had banners posted outside of their dispensary near the roadway. He requested and the dispensary agreed to remove the banners immediately. Board member Pam DePriest made a motion that the Director's decision on improper signage be upheld, Jamie Anderson seconded the motion and the motion passed by a 5-0 vote.

The Board, by unanimous vote, imposed a fine of \$1,000.00 for these violations, to be paid on or before April 1, 2020.

There being no further business the meeting was adjourned.

Freddie Black, Chairperson

Doralee Chandler, Director