

## **Minutes of the Alcoholic Beverage Control Board October 21, 2020**

On the 21<sup>st</sup> day of October, 2020, the ABC Board did convene at Little Rock, Arkansas for its regular monthly meeting and appearing in person were Board Members Jamie Anderson, Pam DePriest, Steve Smith and Alex Blass. Buckley O'Mell appeared as a substitute member for Freddie Black, who was absent.

With the absence of Chairperson Freddie Black, Board Member Steve Smith made a motion to impanel Jamie Anderson as Interim Chairperson for the meeting. Pam Depriest seconded the motion and the motion passed by a 5-0 vote.

Chairperson Jamie Anderson introduced for consideration the Director's Decisions, Private Club Resume, Violation Resume, Warning Letters and Inactive Status Letters. Board Member Steve Smith made a motion to approve the Director's Decisions, Private Club Resume, Violation Resume, Warning Letters and Inactive Status Letters, Pam DePriest seconded the motion and the motion passed with a 5-0 vote.

ABC Director Doralee Chandler introduced a proposed change to ABC Rule Section 1.79(27) to include language that would allow patrons to walk back and forth with alcoholic beverages between an on premises permitted outlet and a contiguous outlet issued a casino license by the Arkansas Racing Commission as long as the casino licensee is in operation. Board Member Pam DePriest made a motion that the proposed change in ABC Rule Section 1.79(27) be accepted as introduced. Alex Blass seconded the motion and the motion passed with a 5-0 vote. Director Chandler stated that this will now be placed for public comment and will possibly be on the Board Agenda for December.

Chairperson Anderson announced that the next ABC Board Meeting will be on November 18, 2020 at 9:00 a.m., which is the third Wednesday of November.

The next item the Board considered was the appeal of the September 17, 2020 Director's Decision against the retail liquor replacement and transfer of location application filed by Don Nicholas d/b/a The Old Country Store located at 16067 Hwy. 63, Sedgwick, Arkansas. The permittee, Don Nicholas, was not present for the hearing, but was represented by his attorney Hayden W. Shurgar, who appeared via online link. In opposition to this application was Bob Hester of the Arkansas Family Coalition. Mr. Hester, along with his attorneys Ronald Hope and Win Wilson, appeared via an online link. Also appearing in opposition and via online links were Craighead County Judge Marvin Day and Chief Deputy Shannon Anthony of the Greene County Sheriff's Department. A.B.C. Staff Attorney Holden Raines appeared in person to represent the Director and conducted the hearing. It was noted that ABC Enforcement Agent Shelby Clark was delayed and was not online at the beginning of the hearing. The witnesses were sworn in by Chairperson Anderson.

The Applicant's attorney, Hayden Shurgar began the hearing by entering into the record petitions in support of Don Nicholas and explained to the Board the benefit that granting the application would have on the area and asked that the Director's Decision be overturned and the application be granted. She informed the Board that she would not be calling any witnesses.

ABC Enforcement Agent Shelby Clark signed onto the hearing via an online link to testify and was sworn in by Chairperson Anderson. Staff Attorney Raines called Agent Clark to testify. Agent Clark discussed the inspection that he performed for the application and testified that the premise would meet the criteria of a retail liquor permit if the Applicant stopped food sales. Attorney Shurgar questioned Agent Clark about issues related to traffic flow, police interactions and human trafficking involving the location, in which Agent Clark responded that he wasn't aware of any. Opposition attorney Ronald Hope questioned Agent Clark about the Applicant's inventory levels and about whether or not the location had listed gas pumps on a prior application filed with ABC Division.

Opposition attorneys Ronald Hope and Win Wilson introduced opposition exhibits that included letters filed in objection to the application, previous testimony given by the applicant, signed petitions in opposition to the application, photographs of the premises made subject of the application, and various other documents.

Opposition attorney Win Wilson called Craighead County Judge Marvin Day to testify. Judge Day testified that he had concerns with the ability of local law enforcement and emergency services to respond to the location. Attorney Shurgar asked Judge Day about public safety concerns and whether he had discussed this application with the Greene County Judge.

Opposition attorney Wilson then called Chief Deputy Shannon Anthony to testify. Deputy Anthony testified about his concerns he had for public safety. He discussed his knowledge of the area and the proximity of local law enforcement and its ability to respond to the location.

Opposition attorney Ronald Hope called Bob Hester to testify. Mr. Hester testified about his opposition to the application. He described his knowledge of the area, the petitions gathered against the application and his concerns for public safety.

Staff Attorney Holden Raines introduced letters and a petition in opposition of the application as well as the Director's Decision denying the application.

The applicant's attorney and the opposition's attorney made closing statements to the Board.

Board member Alex Blass made a motion to overturn the Director's Decision and grant Don Nicholas's application for a retail liquor permit transfer. Board member Steve Smith asked that Mr. Blass's motion be amended to include that the outlet be required to maintain the ABC required minimum inventory and that food services be

ceased at the permitted location. Pam DePriest seconded the amended motion and the motion passed by a 5-0 vote.

After a five minute break, the Board meeting resumed to hear the appeal of the Revocation Order issued by the Director on August 19, 2020 against the Private Club Class B permit held by Dennis B. Harris d/b/a The Right Spot located at 708 Ouachita 67, Camden, AR. for Failure to be a Good Neighbor (2 counts- shooting), Allowing Marijuana to be Smoked in the Outlet, Allowing Minors into the Club w/o Food Service, Failure to Maintain Health Department Approval, Allowing Alcohol to be Carried from the Permitted Premises, Failure to Cooperate with Law Enforcement, Allowing Guns on a Permitted Premises, Allowing Gambling on Premises, Purchasing Alcohol from Another Retailer and Change of Entertainment Plan w/o Prior Approval.

The Permittee, Dennis B. Harris was present to testify and was represented by his attorney Adam Childers. Appearing and testifying on behalf of the The Right Spot were Camden Mayor Julian Lott and his wife Nancy Lott, Former State Representative Robert White, Angela Snowden of the N.A.A.C.P., Michael Florence and David Harris.

Ta'ki Willis appeared with his attorney Ebony Gulley.

Also appearing and testifying were ABC Enforcement Agent Seletia Powell, Captain David Pennington and Deputy Cody Bright of the Ouachita County Sherriff's and Veronica Collier of the Arkansas Department of Health. The Director was represented by Staff Attorney Michael C. Lewis, who appeared via online link, and conducted the hearing. Staff Attorney Chip Leibovich assisted Mr. Lewis.

All witnesses were sworn in by Chairperson Anderson.

The first issue introduced by Staff Attorney Chip Leibovich was a Motion to Quash Subpoena filed by Ta'ki Willis's attorney Ebony Gulley. It was established that Mr. Willis intended to plead his Fifth Amendment rights under the United States Constitution to not to testify. Ms. Gulley's motion was denied by Interim Chairperson Anderson.

Next, Staff Attorney Michael Lewis introduced a packet of exhibits that included pictures and documents collected by ABC Agent Powell during her investigation, as well as reports and videos collected by the Ouachita County Sheriff's Department during their investigation, the Director's Decision, the Arkansas Governor's COVID Proclamation, documents from The Right Spot's permit application, opposition letters from the Ouachita County Sheriff and from residents of a nearby mobile home park.

Staff Attorney Michael Lewis called ABC Agent Seletia Powell to testify. Agent Powell discussed her role in the investigation of The Right Spot and violations that she discovered. Agent Powell discussed conversations she had with local law enforcement officers, the Permittee, Dennis Harris and with Ta'ki Willis. She also

gave testimony regarding her involvement with an inspection that was conducted with Veronica Collier, an inspector from the Arkansas Health Department.

After a thirty-five minute break for lunch, Adam Childers questioned Agent Powell about her previous testimony and her history dealing with The Right Spot. Mr. Childers also asked about her knowledge of who was the permittee of record and why she believed the outlet had a new permittee.

Staff Attorney Lewis called Inspector Veronica Collier from the Arkansas Health Department to testify. Ms. Collier testified about her involvement with a site investigation conducted with Agent Powell and the violations that she found. Mr. Childers inquired if the Permittee had tried to get a food truck located at The Right Spot permitted to serve food with the Health Department.

Ouachita County Sheriff Captain David Pennington was called next by Staff Attorney Lewis. He testified about his involvement with his agency's investigation of a shooting that occurred at The Right Spot. He discussed conversations he had with the individuals involved in the shooting and also conversations with Ta'ki Willis and Katalyia Willis. He also gave testimony about evidence collected during this investigation, which included witness statements and surveillance videos taken from the right spot. Mr. Childers asked Captain Pennington about the time line for getting the search warrant and about his knowledge of the criminal proceedings resulting from the shooting.

Staff Attorney Lewis then called Deputy Cody Bright from the Ouachita County Sheriff Department. Deputy Bright testified about his participation in the execution of the search warrant and his interaction with Katalyia Willis. Mr. Childers passed on asking questions of Deputy Bright.

Staff Attorney Lewis then called Ta'ki Willis to testify. Mr. Willis was sworn in by the Chairperson. Mr. Willis refused to answer any questions when asked by both attorneys.

Attorney Adam Childers called Mayor Julian Lott to testify. Mayor Lott discussed the importance of having The Right Spot in his community. He said it was important to have the business as an entertainment outlet for his citizens.

Attorney Childers then called Nancy Lott to testify. Mrs. Lott discussed her experience as a real estate agent in the area. She also discussed how The Right Spot was important to the community and that it could adversely hurt the community if it were to close.

Attorney Childers then called former State Representative Robert White to testify. Mr. White talked about the history of the business in the community and the importance of retaining historically African-American owned businesses in the State. He stated that the loss of the business would adversely affect the community and would force patrons to go to other communities for entertainment.

Attorney Childers then called Angela Snowden for the N.A.A.C.P. to testify. Ms. Snowden echoed the same concerns shared by the other witnesses, in that the impact of losing The Right Spot would hurt the community.

Attorney Childers then called Michael Florence to testify. Mr. Florence is a resident of the neighboring mobile home park. He discussed his experience of living next to the business and didn't feel it was a nuisance. He testified that the noise from The Right Spot was not an issue for him and that he never felt unsafe living close by the business.

Attorney Childers then called the Permittee Dennis B. Harris to testify. Mr. Harris talked about his family's history of being business leaders in the community. He also testified that Mr. Willis was brought in to help bring new ideas for marketing the business to its customers. Mr. Harris stated that Mr. Willis will no longer have a role with The Right Spot and discussed his effort to submit a change of manager application to ABC. Staff Attorney Lewis asked Mr. Harris about Ta'ki Willis' continued involvement with the business. Mr. Lewis also asked Mr. Harris about his premise allowing activities that were not part of his permit's approved entertainment plan with ABC.

Attorney Childers then called David Harris to testify. David Harris discussed his family's history in the community and acknowledged that there needs to be a change in how The Right Spot is managed. He expressed concerns about his brother, Dennis, being able to continue as the permittee. He also asked that the business be allowed to address these issues and avoid a complete revocation. Staff Attorney Lewis pressed Mr. Harris about the Non-Profit for The Right Spot and when the decision was made to remove Dennis Harris as Permittee.

Staff Attorney Michael Lewis asked to call ABC Agent Seletia Powell again. She discussed COVID violations that she discovered while investigating The Right Spot. She was also asked to talk about other options for nightlife in the area of Camden.

Board member Steve Smith made a motion to overturn the Director's Revocation Order and to find the Permit guilty of the following violations:

- Failure to be a Good Neighbor-loud music
- Failure to be a Good Neighbor-COVID Directives
- Failure to be a Good Neighbor-Shooting
- Allowing Minors in a Private Club with no food service, 3 counts
- Violation of Arkansas Department of Health Food Code, 5 counts
- Failure to Maintain Health, Safety and Sanitary Standard-COVID Directives
- Allowing Guns on the Permitted Premises
- Failure to Cooperate with Law Enforcement, 2 counts
- Materially Altering your Business/Entertainment Plan
- Failure to Maintain Financial Records
- Failure to Maintain a Membership Book
- Failure to File a Timely Change of Manager/Replacement Application
- Allowing Gambling on the Permitted Premises

- Allowing Minors who were Non-Members/Non-Guest to Enter a Private Club and Served Them Alcohol
- Unauthorized Advertising by a Private Club

Board member Smith stated a \$12,200.00 fine should be assessed and the permit be placed on probation for a period of a year. He further stated, with input from various Board Members, that the permit be suspended for period of 90 days with a return hearing before the ABC Board at the conclusion of the 90-day suspension. In addition, prior to reopening, the permittee shall submit for ABC approval a business plan detailing how they will be managed/operated moving forward, how they will ensure that adequate financial records are kept, and how they will ensure security and safety and they must also be in compliance with all Arkansas Health Department rules prior to reopening. Mr. Smith also stipulated that an apology shall be issued to ABC Agent Seletia Powell. Pam DePriest seconded the motion and the Board voted 5-0 to approve.

The meeting was then adjourned.

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Jamie Anderson, Interim Chairperson

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Doralee Chandler, Director