

Minutes of the Alcoholic Beverage Control Board November 18, 2020

On the 18th day of November 2020, the ABC Board did convene at Little Rock, Arkansas for its regular monthly meeting and in attendance were Chairperson Freddie Black, Pam Depriest, Jamie Anderson and Alex Blass. Mr. Buckley O'Mell was assigned as an interim Board Member for the absent Steve Smith.

The Board considered the Director's Decisions, Private Club Resume, Violation Resume, Warning Letters and Inactive Status Letters. Board member Pam DePriest made a motion to accept the Director's Decisions, Private Club Resume, Violation Resume, Warning Letters and Inactive Status Letters as presented. Alex Blass seconded the motion and the motion passed with a 5-0 vote.

A.B.C. Division Director Doralee Chandler informed the Board that the change to ABC Rule 1.79(27) Allowing Alcoholic Beverages to be Carried from Any On Premises Alcoholic Beverage Outlet or Private Club, which was considered at the last board meeting in October, is in its 30-day public comment period and would be placed on the agenda for the next Board meeting.

The Board then questioned Director Chandler about the impact the pandemic had on alcohol permit renewals this year and what could be done to assist permit holders that missed the October 28th deadline to renew. Director Chandler stated that she had a suggestion as to how to remedy the situation but asked that the discussion be held after today's agenda had been handled.

Chairperson Black set the next ABC Board Meeting on December 16th, 2020 at 9:00 a.m., which is the third Wednesday of December.

The next item the Board considered was the appeal of a Director's Order against granting a replacement application submitted by Akram Khan on permit no. 03904, Beer off Premises & Small Farm Wine – Retail for Gurdon Truck Stop located at 2066 Highway 53 North, Gurdon, Arkansas. It was determined after an Administrative Hearing held on July 20, 2020 that the applicant, Akram Khan, does not meet residency requirements, because it was determined that he was not living in the same county or within 35 miles of the permitted premises.

Akram Khan appeared via an online link to testify and was not represented by an attorney. ABC Agent Blake Zavadil appeared in person and testified on behalf of the Division. Staff Attorney Michael C. Lewis appeared on behalf of the Director and conducted the hearing. Chairperson Black swore in the witnesses and then a packet of documents was introduced as exhibits on behalf of the applicant.

Staff Attorney Lewis called Agent Zavadil to testify regarding his investigation into Mr. Khan's application. Agent Zavadil discussed how he had discovered that Mr. Khan only lived in Gurdon 4 days a week and how Mr. Khan would return to his home in Cabot on the weekends. Agent Zavadil determined that his residence is 96.17 miles from the Gurdon truck stop and is located outside of Clark County.

Akram Khan then testified he has had a lease on an apartment since the end of May and that he lived in Gurdon four days during the week and would return to his wife and kids in Cabot on the weekends. Mr. Khan stated that his family had originally planned to move to Gurdon but decided to stay in Cabot due to a number of health conditions that his wife and kids had, which could not be addressed as effectively in Gurdon.

Board Member Jamie Anderson made a motion to overturn the Director's Decision and grant Mr. Khan's replacement application for a Retail Beer off Premises & Small Farm Wine - Retail, with the provision that the Applicant must continue to maintain his lease in Gurdon, Arkansas and reside at least four nights a week in Gurdon. Alex Blass seconded the motion and the motion passed by a 5-0 vote.

Next, the Board heard the appeal of a Director's Order against granting a new application for a Private Club Permit submitted by Tannila Parker d/b/a The All New Coconut Lounge located at 219 East Broadway in Forrest City, Arkansas. The Director had received a letter of objection from the local Prosecuting Attorney.

Tannila Parker appeared via online link to testify and appeared without an attorney. ABC Agent LaTherese Ellis appeared via an online link and testified for the agency. Staff Attorney Holden Raines appeared on behalf of the Director and conducted the hearing. Chairperson Black swore in the witnesses.

Staff Attorney Raines called Agent Ellis to testify regarding her investigation into Ms. Parker's application. Agent Ellis discussed that she had a very difficult time contacting the applicant to conduct the investigation and initially dealt with the applicant's uncle, Terry Tyrone Turnage. Through her investigation, Agent Ellis learned that Mr. Turnage actually owed the business. Mr. Turnage informed Agent Ellis that she should direct all inquiries directly to him and that Ms. Parker was only the president of the non-profit. At a site inspection, Agent Ellis testified that she discovered alcohol at the outlet illegally and took video of the alcohol being loaded into a car for removal from the site. Agent Ellis stated the building was in poor condition and took photos of the interior exit doors and exterior of the building that included painted signage on the walls. Staff Attorney Raines entered as exhibits Agent Ellis' video of the applicant removing alcohol from the outlet, photos of the building interior and exterior and pictures of Ms. Parker and Mr. Turnage's driver's license.

The hearing experienced numerous technical difficulties. The link for Ms. Parker and Agent Ellis were noted to be poor and Ms. Parker's link kept dropping. After numerous attempts to secure a good link with the applicant, Staff Attorney Holden Raines requested that the hearing be continued to the next Board Meeting date. Board Member Alex Blass made a motion to stop the hearing and reconvene the hearing at the next scheduled Board Meeting and have all parties appear in person. Pam DePriest seconded the motion and the motion to reconvene the hearing on December 16th passed by a 5-0 vote.

Chairperson Black asked if the Staff Attorneys could give the Board more information regarding the reason for an appeal being made to the Board before each hearing begins. Director Chandler recommended as a solution that each party in a hearing could deliver a short, timed opening statement to the Board about their position, which should help inform the Board before the hearing begins.

The Board then resumed the discussion from earlier in the meeting regarding options that are available to help permit holders that missed this year's renewal deadline. Director Chandler asked for the Board's permission to make a request of the Governor that he temporarily suspend the provision in A.C.A. § 3-4-216(D) that states that no permit shall be renewed by the Division past October 28th and give the permit holders that failed to renew by the deadline until December 31, 2020 to renew. Board Member Jamie Anderson made a motion that the Board support the Director's effort to extend the deadline until December 31st. Alex Blass seconded the motion and the motion passed by a 5-0 vote.

The meeting was then adjourned.

Freddie Black, Chairperson

Doralee Chandler, Director