PENNSYLVANIA LIQUOR CONTROL BOARD

MEETING MINUTES

WEDNESDAY, FEBRUARY 28, 2018 NORTHWEST OFFICE BUILDING, CONFERENCE ROOM 117, HARRISBURG, PA

Tim Holden, Chairman Mike Negra, Board Member Michael Newsome, Board Member Charlie Mooney, Executive Director John Stark, Board Secretary Office of Chief Counsel

Bureau of Licensing

Bureau of Human Resources

Bureau of Accounting & Purchasing

Office of Retail Operations
Bureau of Product Selection
Financial Report
Other Issues

PUBLIC MEETING - 11:00 A.M

Chairman Holden participated by telephone and Board Member Newsome led the meeting since Chairman Holden was not physically present.

A. Motion to approve the previous Board Meeting Minutes of the February 14, 2018 meeting.

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to approve previous Board Minutes.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment on the printed agenda items.

NEW BUSINESS

The Office of Budget requests a transfer of \$85,100,000 from the State Stores Fund to the General Fund. This transfer totals \$185,100,000 from the PLCB to the General Fund for Fiscal Year 2017-2018.

The transfer of this prescribed amount of \$85,100,000 will be processed, as authorized in Expenditure Symbol Notification Number 17-021.

Motion Made: Board Member Negra Seconded: Board Member Newsome

Member Negra asked for clarification that the transfer of this money fulfilled the Agency obligation. Oren Bachman confirmed it did.

Board Decision: Unanimously agreed (3-0 vote) to the Transfer of \$85,100,000.

(1) SMBW, Inc.

5642-44 Boyer Street Philadelphia, Pennsylvania 19138-1733 Restaurant Liquor License No. R-1162 LID 59764 Appeal of Adjudication

and Order of

Administrative Law

Judge

Citation No. 17-1100

Executive Deputy Chief Counsel Michelle Fox stated this matter originated with a citation in August 2016 for operating without a valid health permit. Licensee did not appear at the citation hearing where the ALJ imposed a fine which was not paid within the time required. A Supplemental Order was issued imposing a 1-day suspension and a 2nd Supplemental Order was issued revoking the license. This untimely appeal does not allege any errors by the ALJ; Licensee simply wants more time to pay the fine. Licensee did not meet the burden under <u>Cook</u> to show that it is entitled to *nunc pro tunc* relief and the Board lacks the legal authority to vacate a revocation order to allow Licensee more time to pay the overdue fine. The recommendation is that the Board dismiss the petition for *nunc pro tunc* appeal.

Member Negra commented the common pleas court has more discretion than us.

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Affirm ALJ.

From the Bureau of Licensing Tisha Albert, Director of Regulatory Affairs

Barbara Peifer, Director, Bureau of Licensing

(1) 214 East Butler, LLC Conditional Licensing

t/a Chal Brit Beverage Agreement

D-3704 (LID No. 71931) Case No. 17-9067 Appointment of Manager –

214 East Butler Avenue Distributor

Chalfont, Bucks County

HOLD – 1/17/18 SESSION

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Appointment of Manager with Conditional

Licensing Agreement.

Atelier De Fer, LLCDouble Transfer & Requests forR-3348 (LID No. 90196)an Interior Connection with2000 Smallman StreetAnother Business & to Conduct

Pittsburgh, Allegheny County

Another Business on the

Licensed

Premises – Restaurant

New – Brewery

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve the Transfer Subject to the

Acceptance and Approval of the Stipulation.

(3) DS & EK, Inc. Stipulation - Restaurant

R-3348 (LID No. 71184) 133 South 23rd Street Pittsburgh, Allegheny County Citation No. 17-0948

(2)

Motion Made: Board Member Negra

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Accept and Approve the Stipulation.

(4) Gift Horse Brewing Company, LLC t/a Gift Horse Brewing Company

(LID No. 86168) Case No. 17-9081

117 North George Street York, York County

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve New Brewery License.

(5) T. Falbo's, LLC Conditional Licensing

t/a Falbo's Restaurant Agreement

R-18372 (LID No. 86272) Case No. 17-9070 Person-to-Person Transfer –

603 Unity Drive Restaurant

Unity Township

Latrobe, Westmoreland County HOLD – 1/17/18 SESSION

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve the Transfer with Conditional

Extension of License - Restaurant

Licensing Agreement.

t/a Al's Nut House

Wilkes Brothers, LLC

(6)

R-4486 (LID No. 87710) Case No. 17-9078

407 East Noble Street Nanticoke, Luzerne County

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Application for Extension of

License.

(7) 1313 Bar, LLC Renewal – District 5

R-19643 (LID No. 67104) Case No. 2017-67104 1313 Kennedy Avenue

Duquesne, Allegheny County

Motion Made: Board Member Negra

Seconded:

Board Decision: Hold by Member Negra for a Conditional Licensing Agreement.

(8) BCLT, Inc. Renewal – District 5

t/a Ace's & Deuce's

R-10019 (LID No. 49876) Case No. 2017-49876

1400 Fifth Avenue

Pittsburgh, Allegheny County

Motion Made: Board Member Negra

Seconded:

Board Decision: Hold by Member Negra for a Conditional Licensing Agreement.

(9) Magyar Otthon Hungarian Club

Renewal – District 10

C-1415 (LID No. 939) Case No. 2016-939 4210 Whitaker Avenue Philadelphia, Philadelphia County

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Refuse Renewal.

Member Newsome asked if anyone from Licensee was present. No response.

(10) Shooters Grill & Bar, LLC

Renewal – District 7

R-7202 (LID No. 65854) Case No. 2017-65854 14 North Main Street Port Allegany, McKean County

Motion Made: Board Member Negra

Seconded:

Board Decision: Hold by Member Negra for a Conditional Licensing Agreement.

Personnel Actions

There are 18 personnel actions presented for consideration.

- (1) Cierra Cottom Removal
- (2) Jacob DeFrain Removal
- (3) Melissa Estep Affirm Removal
- (4) Dwayne Grogan Rescind Removal
- (5) Lavar Hunter Removal
- (6) John Huth Removal
- (7) Britnee Klinger Affirm Removal

- (8) Tayvon Martin-Allen Removal
- (9) Brionstar Minyard Affirm Removal
- (10) Benjamin Perkins Removal
- (11) Christopher Pierre Five Day Suspension
- (12) Jazzlyn Rawlinson-Jones Affirm Removal
- (13) Apollo-Jade Riley Affirm Removal
- (14) Rosalind Simpson Removal
- (15) Erling Stokes Removal
- (16) Kristina Stone Removal
- (17) Shyna Valentin Affirm Removal
- (18) Jessica Warfel Removal

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all 18 Actions Presented for

Consideration.

Procurement Actions:

(1) **Hearing Examiner Services** – Represent the Board in the capacity of a Hearing Examiner for administrative hearings conducted in the Commonwealth of Pennsylvania regarding matters which the Board shall adjudicate as required by law.

Procured via Sole Source – VENDOR: **Thomas R. Miller, Esquire** – TERM: One (1) year – **\$200,000.00 estimated cost.**

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Procurement Actions.

Inter-Agency Charges:

None

- 1. #1521 1239 Horseshoe Pike, Route 322, Downingtown **Amendment**
- 2. #5158 6824 Rising Sun Avenue, Philadelphia **Amendment**
- 3. #3801 102 North 8th Avenue, Lebanon Rebrand
- 4. #67XX One West, 1 West Market Street, York Relocation (to replace #6701)

Motion Made: Board Member Negra Seconded: **Board Member Newsome**

Board Decision: Unanimously agreed (3-0 vote) to Approve all Retail Operations Actions.

Tom Bowman, Director, Bureau of Product Selection

1. Regular PA Spirits New Items

REASON BRAND NAME AND SIZE Reading Distilling Guild Reading Rum 750 ML 8 Reading Spiced Rum 750 ML 8

RECOMMENDED ACTION: We recommend the Board approve this action

New Items - Recommended Listings

Reason Codes

- 1. Strong marketing support
- 2. High brand recognition
- 3. Line/Size extension of successful brand
- 4. Trade up opportunity5. Growing category
- 6. Growing segment7. National rollout
- Niche item / Limited distribution

- 9. High dollar profit potential
- 10. Trade out
- 11. High quality for the value
- 12. Innovative product/flavor
- 13. High sales through other PLCB channels (Luxury, Online, SLO)
- 14. Underrepresented category/segment
- 15. Hole in selection consumer/store requests

2. Regular Recommended Delist

BRAND NAME AND SIZE CODE

Constellation Brands

Serpent's Bite Apple Cider Flavored Whiskey 750 ML

9411

Stoli Group USA LLC

Stolichnaya Premium Vodka 80 Proof 200 ML

1071

EFFECTIVE DATE: The transference to closeout will become effective April 2, 2018

3. Regular Recommended Delist Revision

BRAND NAME AND SIZE CODE

RESCIND

Stoli Group USA LLC

Stolichnaya 100 Proof Vodka 750 ML

7430

Note: Sent to the board as recommended delist 1-31-18

RECOMMENDED ACTION: We recommend the Board approve this action

Motion Made: Board Member Negra Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Bureau of Product Selection /

Marketing Actions.

FINANCIAL REPORT Michael J. Burns, Comptroller Operations, Office of Budget

The Financial Report was presented by Paul Jones of the Office of Budget.

Commonwealth of Pennsylvania Pennsylvania Liquor Control Board State Stores Fund Comparative Statement of Net Position (Unaudited)

(Unaudit	ed)			
ACCETO	<u>.</u>	January 31, 2018		January 31, 2017
<u>ASSETS</u>				
Current assets:				
Cash	\$	49,512,020	\$	27,126,929
Investments - short term		235,472,863		259,142,242
Accounts and claims receivable, net		1,710,905		1,543,238
Due from other funds - Note 8		-		-
Merchandise inventories, net		258,001,926		263,444,527
Operating supplies Prepaid expenses		130,234 2,252,730		272,397 2,744,419
Flepaid expenses		2,232,730	-	2,744,419
Total current assets		547,080,678		554,273,752
Non-current assets:				
Non-depreciable capital assets:				
Land		322,973		322,973
Depreciable capital assets:				
Building		19,816,479		19,557,620
Leasehold improvements		612,301		864,825
Machinery and equipment		48,425,495		47,173,960
Intangibles - internally generated software		29,600,100		28,329,441
Less: accumulated depreciation		66,912,503		57,744,660
Net depreciable capital assets		31,541,872		38,181,186
Total non-current capital assets	-	31,864,845	-	38,504,159
·	<u> </u>			
Total assets	\$	578,945,523	\$	592,777,911
Total deferred outflows of resources - Note 4	\$	107,891,773	\$	101,801,449
<u>LIABILITIES</u>				
Current liabilities:				
Trade accounts payable	\$	284,996,902	\$	239,959,107
Other accounts payable		33,959,407		24,813,770
Accrued expenses		20,534,106		18,681,788
Self-insurance, workers' compensation - Note 6		10,239,857		11,271,965
Due to other funds - Note 8		5,053,929		4,655,833
Due to fiduciary funds - Note 8		2,822,181		2,057,536
Due to other governments - Note 8		755,342		614,777
Total current liabilities		358,361,724		302,054,776
Non-current liabilities:				
OPEB - Note 5		858,849,000		99,978,113
Self-insurance, workers' compensation - Note 6		42,256,546		39,287,287
Net pension liability - Note 4		494,943,490		472,415,699
Compensated absences - Note 1		18,904,788		19,506,861
Total non-current liabilities		1,414,953,824		631,187,960
Total liabilities	\$	1,773,315,548	\$	933,242,736
Total deferred inflows of resources - Note 4	\$	20,657,976	\$	6,966,121
NET POSITION				
Net investment in capital assets	\$	31,864,845	\$	38,504,159
Deficit***		(1,139,001,073)		(284,133,656)
Total net position	\$	(1,107,136,228)	\$	(245,629,497)

^{***}Effective July 1, 2017, the PLCB implemented the Governmental Accounting Standards Board (GASB) Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions (OPEB). This standard established new standards for measuring and recognizing liabilities, deferred outflows of resources, deferred inflows of resources, and expense related to OPEB. The State Stores Fund Net Position changed by a total of \$(751,632,988) as a result of implementing GASB 75.

Commonwealth of Pennsylvania Pennsylvania Liquor Control Board State Stores Fund

Comparative Statements of Revenues, Expenses, and Changes in Net Position For The Month Ending January 31, 2018 and January 31, 2017 (Unaudited)

		anuary 2017-18		January 2016-17		
Sales net of taxes		\$	142,510,279		\$ 134,80	05,868
Cost of goods sold			(98,287,754)			74,950)
Gross profit from sales			44,222,525			30,918
Operating (expenses):						
Retail operations	(34,632,138)			(32,554,905)		
Marketing & merchandising	(1,919,255)			(1,188,989)		
Supply chain	(58,697)			(838,937)		
Wholesale operations	(150,998)			(83,073)		
Information technology services	(2,478,411)			(2,172,336)		
Regulatory affairs	(1,684,385)			(1,895,008)		
Administration	(1,252,522)			(1,207,454)		
Finance	(349,724)			(317,632)		
Board & secretary	(511,921)			(542,589)		
Legal Commonwealth provided services - Note 2	(301,977) (1,267,723)			(266,797) (1,107,479)		
Total	(1,207,723)	-	(44,607,751)	(1,107,479)	(42.17	75,199
Operating profit			(385,226)	<u>-</u>		44,281
Other operating revenues (expenses):						
Enforcement fines	131,568			97,708		
License fees	4,298,947			2,344,848		
Miscellaneous income	94,994			92,250		
Administrative law judge	(251,095)			(223,101)		
Total			4,274,414	_	2,3	11,705
Total operating income			3,889,188	·		67,424
Non-operating revenues (expenses):						
Interest income	184,804			235,702		
Other _	15,741	_		-		
Total			200,545	_	23	35,702
Income before operating transfers			4,089,733		1,10	03,126
Operating transfers out: PSP enforcement - Note 3	(2,398,212)		(2,398,212)	(2,138,216)	(2,13	38,216
Income after enforcement/before other transfers	, , ,		1,691,521	\		35,090
Other operating transfers out: General fund - Note 3	-			(73,300,000)		
Drug and alcohol programs - Note 3 Total	-		-	-	(73,30	00,000
Change in net position			1,691,521		(74,33	35,090)
Total net position, beginning 2017-18 restated - Note 9			(1,108,827,749)		(171,29	94,407
Total net position - ending		\$	(1,107,136,228)	=	\$ (245,62	
Liquor tax	25,357,240			24,944,567		
State Sales Tax Local Tax	9,975,138 703,763			9,620,513 651,063		
Taxes remitted to Dept.of Revenue PTD	103,103	\$	36,036,141	_	\$ 35,2	16,143

Commonwealth of Pennsylvania Pennsylvania Liquor Control Board State Stores Fund

Comparative Statements of Revenues, Expenses, and Changes in Net Position For The Seven Months Ending January 31, 2018 and January 31, 2017 (Unaudited)

	201	17-1	8	201	6-1	7
Oales and of tower		Φ.	4 007 000 704		Φ.	4 040 004 000
Sales net of taxes Cost of goods sold		\$	1,237,906,701		Ъ	1,210,801,006
Gross profit from sales	=		(844,865,938) 393,040,763			(835,031,972) 375,769,034
Gross prontinoni sales			030,040,700			070,700,004
Operating (expenses):						
Retail operations	(234,997,658)			(236,120,318)		
Marketing & merchandising	(9,558,676)			(8,861,132)		
Supply chain	(5,863,107)			(5,671,620)		
Wholesale operations	(1,006,207)			(744,969)		
Information technology services	(18,772,454)			(20,548,497)		
Regulatory affairs	(12,308,259)			(13,452,855)		
Administration	(8,729,919)			(8,318,794)		
Finance	(2,291,185)			(2,185,305)		
Board & secretary	(4,328,757) (2,056,878)			(3,676,485) (1,742,472)		
Legal Commonwealth provided services - Note 2	(8,312,381)			(7,804,188)		
Total	(0,312,301)		(308,225,481)	(7,004,100)	-	(309,126,635)
Operating profit	-		84,815,282			66,642,399
operating prom			0 1,0 10,202			00,0 :=,000
Other operating revenues (expenses):						
Enforcement fines	939,503			742,120		
License fees	27,109,484			14,457,140		
Miscellaneous income	1,521,043			822,400		
Administrative law judge	(1,600,867)		07.000.400	(1,546,443)	-	4.4.75.047
Total Total operating income	-		27,969,163 112,784,445			14,475,217 81,117,616
Non-operating revenues (expenses):						
Interest income	1,485,031			1,272,838		
Other	30,031			(45,023)	_	
Total	-		1,515,062			1,227,815
Income before operating transfers			114,299,507			82,345,431
Operating transfers out:	(47,000,040)		(47,000,040)	(10, 107, 007)		(40, 407, 007)
PSP enforcement - Note 3	(17,323,848)_		(17,323,848) 96,975,659	(16,487,627)		(16,487,627) 65,857,804
Income after enforcement/before other transfers			96,975,059			65,657,604
Other operating transfers out: General fund - Note 3	(100,000,000)			(73,308,937)		
Drug and alcohol programs - Note 3 Total	_		(100,000,000)	_		(73,308,937)
Change in net position	_		(3,024,341)			(7,451,133)
Total net position, beginning 2017-18						
restated - Note 9	_		(1,104,111,887)			(238,178,364)
Total net position - ending	=	\$	(1,107,136,228)		\$	(245,629,497)
Liquor tax	222,543,533			218,259,372		
State Sales Tax	87,483,831			85,447,419		
Local Tax	5,555,597	_		5,361,899	_	
Taxes remitted to Dept.of Revenue YTD		\$	315,582,961		\$	309,068,690

OTHER ISSUES

Pennsylvania Malt and Brewed Beverages Industry Promotion Board......Elizabeth Brassell, Director of Policy and Communications

Act 39 of 2016 created the Pennsylvania Malt and Brewed Beverages Industry Promotion Board and authorized the PLCB to approve up to \$1 million annually for development and marketing of the Pennsylvania beer industry. The Pennsylvania Malt and Brewed Beverages Industry Promotion Board has recommended 13 grants totaling \$704,985 for PLCB approval. The grant projects are intended to increase the production of Pennsylvania-made malt and brewed beverages and enhance the Pennsylvania beer industry through promotion, marketing, and research-based programs and projects.

Member Newsome asked if there were any comments on the grants.

Elizabeth Brassell stated the 13 grants are intended to increase the production of Pennsylvania-made and brewed beverages and enhance the growth of the craft beer industry in Pennsylvania through promotion, marketing, and research-based programs and projects.

Grant Project	Grantee	Grant Amount
Pennsylvania Pursue Your Hoppiness: Identification of 12 beer trails geographically linking breweries based on the state's existing tourism regions, and creation, development, and employment of a single, identifiable brand identity for Pennsylvania's malt and brewed beverage industry.	PA Department of Community and Economic Development, Pennsylvania Tourism Office	\$127,500
Distributors Training and Development: Three regional marketing workshops across Pennsylvania for beer distributors that (D licensees) that will allow industry experts to provide distributors with information and tools to take advantage of recent changes in Pennsylvania law to remain an integral part of the Pennsylvania beer industry.	Malt Beverage Distribution Association	\$95,000
Design and Development of Improved Drying Technologies for Pennsylvania Hop Growers: Development of research-based recommendations for dehydrating fresh hops with a focus on preserving hop aroma compounds currently in demand by Pennsylvania breweries.	The Pennsylvania State University	\$70,559
Effect of Fungicides on Pennsylvania Hop Aroma Quality: Evaluation of the effects that fungicides have on the final quality of hops and beer brewed with those hops.	The Pennsylvania State University	\$65,595
"Poured in Pennsylvania": A feature-length documentary film that will explore the state's craft beer industry, including its impact in agriculture, tourism, and the economy in order to both educate viewers and spur beer tourism throughout Pennsylvania.	GK Visual LLC	\$65,000

Beer Tourism: The Digital Ale Trail: Development of a new app – a comprehensive, immersive mobile experience for residents and tourists to experience the best of the commonwealth's beer industry at the touch of their fingers – to raise the profile of Pennsylvania breweries	Brewers of Pennsylvania	60,000
"What's Brewing": A television series promoting all aspects of Pennsylvania's evolving brewing scene to raise the visibility of Pennsylvania's growing craft brewing industry and increase tourism.	CCI Communications	\$50,000
Pennsylvania Craft Malt Production and Promotion for Commonwealth Brewed Beverages: A project to increase production, promotion, and research and development of Pennsylvania craft malt while increasing the quality, profitability, and sale of commonwealth brewed beverages.	Deer Creek Malthouse	\$49,214
PABrewReview.com: Improvement and expansion of a brewery review website using user-submitted ratings to provide consumers with a consolidated source of information for each brewery in the commonwealth, searchable by location and other categories.	PA Brew Review	\$39,970
Professional Development and Education Program: Direct education of individual brewers in western Pennsylvania increasing their knowledge and improving the quality of beer produced through the offering of professional speakers, technical seminars and other professional development opportunities.	Master Brewer's Association of Pennsylvania, District Pittsburgh	\$35,000
Pittsburgh Brewery Guide: An innovative and interactive online and print guide to breweries across Allegheny County focused on increased knowledge of unique local brewing traditions, tourism and economic impact.	Pittsburgh Brewers Guild	\$30,000
The Hops on Lots Pittsburgh Project: Development, in conjunction with a local community, of an urban hop farm to supply a local brewer for creation of a truly local beer for the community.	Hops on Lots Pittsburgh	\$10,000
Bringing Brewers and Farmers Together: Two "matchmaking events" in 2018 to connect interested farmers with local brewers in order to strengthen Montgomery County's role in the local brewing economy.	Montgomery County Planning Commission	\$7,147

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve the 13 Grants Totaling \$704,985.00.

CITIZEN COMMENT/BUSINESS FROM THE FLOOR

None

NEXT BOARD MEETING

Secretary

The next meeting of the PLCB will be a formal meeting on Wednesday, March 14, 2018 beginning at 11:00 A.M. Prior to the public meeting, there will be an Executive Session to discuss matters of personnel and to engage in non-deliberative informational discussions, some of which are regarding actions and matters which have been approved at previous public meetings.

ADJOURNMENT	
On a motion by Member Negra, seconded by Member No	ewsome, the meeting was adjourned.
The foregoing actions are hereby officially approved.	
	Chairman
	Chairman
	Member
	Member
ATTEST:	