



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
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DOUGLAS A. DUCEY
Governor

CYNDY A. VALDEZ
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
April 7, 2016

Members Present: Cyndy Valdez - Chair, Bill Du Pont - Vice Chair, Vikki Scarafiotti, and Michael Troyan
Members Absent: None
Counsel Present: Michael Raine, Assistant Attorney General
Mona Baskin, Assistant Attorney General
Staff Present: Denise Bale, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on April 7, 2016 at 10:00 a.m. with Ms. Valdez presiding.

Roll Call

All members were present.

B. 10:00 a.m. Agenda: Review, consideration and action

The Board proceeded to agenda item #3.

3. Beer and Wine Store Liquor License No. 10076717 – Original Application

Nancy Ramirez Wong
C. & W. R. M. Inc.
Wong's Mini Mart
2803 E. Broadway Road
Phoenix, AZ 85040

This matter is set for hearing because the City of Phoenix recommended disapproval based on the location is in an active redevelopment area where there are a large number of liquor licenses already established. The Applicant, Nancy Ramirez Wong and C. & W. R. M. Inc., did not appear at the hearing and was not represented by counsel. Assistant City Prosecutor Nathan J. Watts appeared on behalf of the City of Phoenix. Subsequent to this matter being scheduled for hearing, an application withdrawal was filed with the Board. Mr. Watts stated the City of Phoenix does not object to the application withdrawal.

Motion to accept
 application withdrawal - Du Pont
 Seconded - Troyan
 Yay - Du Pont, Troyan, Valdez, Scarafiotti
 Nay - None
 Abstained - None
 Disposition - Application withdrawal accepted

The Board proceeded to agenda item #1.

1. Restaurant Liquor License No. 12074609 - Appeal of Director's Decision & Order

Randon L. Miller, Agent
 Sushi Brokers, Inc.
 Sushi Brokers
 17021 N. Scottsdale Road
 Scottsdale, AZ 85255

This matter is set for review of penalty only in the Board's decision on March 3, 2016. Co-counsel for the Agent, Dennis Wilenchik and Brian Hembd, appeared at the hearing. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control ("Department"). Assistant Attorney General Baskin was present and provided independent legal advice to the Board.

Motion to convene in executive
 session for legal advice - Du Pont
 Seconded - Scarafiotti
 Yay - Du Pont, Scarafiotti, Valdez, Troyan
 Nay - None
 Abstained - None
 Disposition - Convene in executive session

The Board convened in executive session at 10:04 a.m. and reconvened in open session at 10:16 a.m.

Ms. Valdez called for a motion to rescind the Board's prior motion, made at the last meeting on March 3, 2016, as to the penalty piece of the Board's order.

Motion to rescind the Board's
 motion as to the penalty piece - Du Pont
 Seconded - Troyan
 Yay - Du Pont, Troyan, Valdez, Scarafiotti
 Nay - None
 Abstained - None
 Disposition - Board's motion as to penalty rescinded

Mr. Du Pont made a motion regarding Liquor License 12074609, to adopt with modification the Director's Decision and Order, deleting the provision on probation due to inconsistency in statute. Therefore, we would affirm the three thousand dollars (\$3,000.00) civil penalty to be paid within sixty (60) days of the effective date of this order and the requirement that Mr. Miller attend a certified liquor law training course and provide proof of completion within sixty (60 days) of the effective date of this order.

Motion to adopt with modification
 the Director's Decision and Order - Du Pont
 Seconded - Troyan
 Yay - Du Pont, Troyan, Valdez
 Nay - Scarafiotti
 Abstained - None
 Disposition - Director's Decision and Order adopted with modification

2. Spirituous Liquor License No. 02TX3089 - Appeal of Director's Decision

David M. Reaves, Agent and Trustee for
True Blue Imports, LLC, Debtor
602 Nafta Blvd.
Loredo, TX 78045

This matter is set for hearing because the Licensee requests that the Board reverse the Decision of the Director. Counsel for the Agent and Trustee, Nicholas C. Guttilla, appeared at the hearing. David M. Reaves, Agent and Trustee for True Blue Imports, was sworn and testified. Assistant Attorney General Michael Raine appeared on behalf of the Department. Assistant Attorney General Mona Baskin was present and provided independent legal advice to the Board. The Board paused prior to opening statements to read Reply to Department's Response to Notice of Appeal to Liquor Board; Request for Hearing and Memorandum in Support Thereof, which they received today.

Mr. Guttilla noted that two typos in the original brief were corrected in the Reply. The license number in the caption is "02TX3089" (out of state producer) rather than "12TX3089" (restaurant). The second correction is the Licensee filed for Chapter 11 rather than Chapter 13, and later turned it into a Chapter 7 bankruptcy.

Ms. Valdez disclosed that True Blue Imports contacted her employer, Golden Eagle Distributors, Inc., about distributing the tequila. As of March 14, 2016, Golden Eagle no longer distributes alcohol. Ms. Valdez does not believe there is a conflict. She asked if there were objections by counsel. There were no objections.

Mr. Guttilla continued with his opening statement. When True Blue Imports filed bankruptcy, it owned 5,285 bottles of Corrido tequila having an approximate retail value of \$240,000. Mr. Guttilla described the efforts taken to liquidate the product and the subsequent meeting with Director John Cocca. The Director's decision was A.R.S. § 204 applies to True Blue Imports, not A.R.S. § 205. Mr. Guttilla argued, under A.R.S. § 4-205, the Director can issue a temporary permit for True Blue Imports to sell by public auction to retailers. Mr. Guttilla asked the Board to modify the Director's decision.

Mr. Raine stated the Director's position is A.R.S. § 4-205.05 does not apply to a trustee in bankruptcy. For that reason, the Director made a decision that he cannot exercise his discretion and grant the authority True Blue Imports is seeking. Mr. Raine argued the plain meaning of the statutes must apply and there is no reference to bankruptcy or bankruptcy trustees in A.R.S. § 4-205.05 as there is in A.R.S. § 4-204. He also raised the argument of the Board's appellate role under A.R.S. § 4-210.02.

Mr. Guttilla called his witness, David M. Reaves. Mr. Reaves is a Panel Chapter 7 Bankruptcy Trustee. Mr. Reaves explained Chapter 7 bankruptcy procedures and federal judicial oversight. There were Board questions. Mr. Raine questioned Mr. Reaves. Mr. Raine gave a closing statement. Mr. Guttilla gave a closing statement.

Motion to convene in executive session for legal advice -	Valdez
Seconded -	Du Pont
Yay -	Valdez, Du Pont, Scarafiotti, Troyan
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 11:23 a.m. and reconvened in open session at 11:35 a.m.

There was Board discussion. Mr. Du Pont made a motion regarding Liquor License No. 02TX3089 to affirm the Director's decision based upon the record before us and arguments of counsel.

Motion to affirm Director's decision - Du Pont
Seconded - Valdez
Yay - Du Pont, Valdez, Troyan
Nay - Scarafiotti
Abstained - None
Disposition - Director's decision affirmed

C. Minutes

Motion to approve the
March 3, 2016 minutes - Scarafiotti
Seconded - Du Pont
Yay - Scarafiotti, Du Pont, Valdez, Troyan
Nay - None
Abstained - None
Disposition - March 3, 2016 minutes approved

D. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

There are no matters scheduled for hearing in May. The next scheduled meeting is June 2, 2016.

E. Call to the Public

None.

The Board adjourned at 11:45 a.m.


Denise M. Bale
Administrator of the
Arizona State Liquor Board


Date