STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
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Website: www.azliquor.gov/liquor_board.asp

DOUGLAS A. DUCEY	MICHAEL J. TROYAN	JOHN COCCA
Governor	Board Chair	Director

Arizona State Liquor Board Hearing Minutes
November 2, 2017

Members Present:	Michael J. Troyan – Chair, Troy L. Campbell – Vice Chair, Michael N. Widener, and Jeffrey K. Oravits
Members Absent:	None
Counsel Present:	Michael Raine, Assistant Attorney General John R. Tellier, Licensing & Enforcement Section Chief Counsel (available by phone)
Staff Present:	Denise Bale, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on November 2, 2017 at 10:08 a.m. with Mr. Troyan presiding.

Roll Call

All members were present.

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

The Board proceeded to agenda item number 3.

3. Bar Liquor License No. 06100244 – Request for Rehearing

From:	To:
Michael Conrad Kramkowski, Agent	Michael Conrad Kramkowski, Agent
Krism LLC	Krism LLC
Bottoms Up	The Blind Tiger Restaurant & Bar
3710 N. Oracle Road	628 N. 4th Avenue
Tucson, AZ 85705	Tucson, AZ 85705

Motion to convene in executive session for the purpose of receiving legal advice -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan, Oravits
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 10:10 a.m. and reconvened in open session at 10:22 a.m.

This matter is to consider the licensee's motion to dismiss the pending request for rehearing, or whether to deny the motion to dismiss and consider the request for rehearing on its merits at a future meeting. The Applicant, Michael

Conrad Kramkowski and Krism LLC, were represented by its counsel, Thomas R. Aguilera. Public protestor Suzanne Schafer filed a Request for Rehearing on July 20, 2017. Mr. Aguilera received a copy of Ms. Schafer's Request on September 28, 2017, and subsequently filed a Motion to Dismiss Protestor's Motion for Rehearing. Ms. Schafer did not appear at the hearing and was not represented by counsel.

The Board heard motions to dismiss the motion for rehearing, or in the alternative to continue the hearing to allow time for preparing an opposition affidavit. Mr. Widener made a motion to postpone the hearing on dismissal brought by the Applicant for sixty days.

Motion to postpone the hearing on dismissal brought by the Applicant for sixty days -	Widener
Seconded -	Oravits
Yay -	Widener, Oravits, Campbell
Nay -	Troyan
Abstained -	None
Disposition -	Hearing on dismissal continued

The Board proceeded to agenda item number 4.

4. <u>Restaurant License No. 1207A940 – Request for Rehearing</u>

Jeffrey Craig Miller, Agent
PJ Food Services LLC
J's Kaiyo Sushi & Bar
4412 N. Miller Road
Scottsdale, AZ 85251

Motion to convene in executive session for the purpose of receiving legal advice -	Campbell
Seconded -	Troyan
Yay -	Campbell, Troyan, Widener, Oravits
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 10:47 a.m. and reconvened in open session at 11:04 a.m.

This matter is to consider the public protestor's motion for rehearing. The Board voted to grant the Original Application for Restaurant Liquor License No. 1207A940 after a hearing at its Board meeting on August 4, 2017. Public protestor J&M Food Services, LLC, through its counsel, James M. LaGanke, filed a Request for Rehearing. The Applicant, PJ Food Services LLC, through its counsel, Kevin Fallon McCarthy and Jacob W. Hippensteel, filed a Brief Opposing Rehearing.

The Applicant, PJ Food Services LLC and Pajman Malihi, appeared at the hearing and was represented by counsel, Kevin Fallon McCarthy and Jacob W. Hippensteel. Agent Jeffrey Craig Miller appeared in support of the Applicant. James M. LaGanke appeared on behalf of Protestor J&M Food Services, LLC.

After hearing argument from counsel, and after considering the motions submitted by both parties, the Board found that Protestor J&M Food Services, LLC has not come forth with any new evidence or information to indicate that its rights were materially affected during the administrative hearing where Restaurant Liquor License No. 1207A940 was granted. Specifically, the Board did not find that there was any newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing. Accordingly, the Protestor has not satisfied the requirements necessary to grant a rehearing pursuant to A.A.C. R19-1-703(C)(4).

Motion to deny request for rehearing -	Campbell
Seconded -	Oravits
Yay -	Campbell, Oravits, Troyan, Widener
Nay -	None
Abstained -	None
Disposition -	Request for rehearing denied

The Board recessed from 11:46 a.m. to 11:55 a.m.

Chair Troyan announced that agenda item letter D, Board training on changes to Title 4, will be postponed. The Board proceeded to agenda item number 1.

1. Bar Liquor License No. 06110069 - Person Transfer Application

From:
Patricia Rose Pfeiffer
Kokopelli Moon Saloon
255 N. Main Street
Florence, AZ 85132

To:
Matthew Arnold Ritter, Agent
Florence Ironhorse Rodeo Consortium L.L.C.
Kokopelli Moon Saloon
255 N. Main Street
Florence, AZ 85132

This matter is set for hearing because of a Department protest. Subsequent to this matter being scheduled for hearing, an application withdrawal and a motion to continue was filed with the Board. The Applicant, Florence Ironhorse Rodeo Consortium L.L.C. and Matthew Arnold Ritter, did not appear at the hearing and was not represented by counsel. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Licensing & Enforcement Section Chief Counsel John R. Tellier was available to provide independent legal advice to the Board.

Mr. Raine stated the Department did not object to the application withdrawal because the Applicant had resolved the disciplinary matter.

Motion to accept application withdrawal -	Campbell
Seconded -	Widener
Yay -	Campbell, Widener, Troyan, Oravits
Nay -	None
Abstained -	None
Disposition -	Application withdrawal accepted

2. Wholesaler Liquor License No. 04033013– Original Application

Collin James Heath
Heath's Custom Wine LLC
Heath's Custom Wine
3381 N. Estates Street
Flagstaff, AZ 86001

This matter is set for hearing because the City of Flagstaff recommended disapproval and because of public protests. The Applicant, Heath's Custom Wine LLC and Collin James Heath, appeared at the hearing and was represented by counsel, Peter H. Schelstraete. Mr. Heath was sworn and testified. Jeffrey Craig Miller testified in support of the Applicant. Christina A. Parry appeared on behalf of the City of Flagstaff. Public protestors Joseph Shannon and Emma Benenati did not appear and were not represented by counsel at the hearing.

Mr. Schelstraete and Ms. Parry made opening statements. Mr. Heath described his employment with Blendz and how he came up with the idea for his wholesaler business. His current storage facility is a two-foot by two-foot marked off area in the garage of his residence. Mr. Heath intends to move his business to a storage facility as the business grows. Mr. Heath described his outreach efforts with neighbors in his neighborhood.

Ms. Parry cross-examined Mr. Heath. There were questions from the Board. Mr. Schelstraete called Jeffrey Craig Miller. Ms. Parry cross-examined Mr. Miller. Mr. Schelstraete made a closing statement. Ms. Parry made a closing statement. Mr. Raine cited A.R.S. § 4-203(A) and clarified that the public convenience and best interest of the community is not an issue for a wholesaler license.

Mr. Oravits made a motion to grant the license based on the Applicant has obtained approval from the City Planning and Zoning Commission and has obtained approval from the City Police Department. Mr. Campbell offered an amendment to include the Applicant has completed Title 4 Basic and Management liquor law training. Mr. Oravits accepted the amendment.

Motion to grant license -	Oravits
Seconded -	Campbell
Yay -	Oravits, Campbell, Widener, Troyan
Nay -	None
Abstained -	None
Disposition -	License granted

C. Minutes: Review, Consideration and Action

Motion to approve the minutes of September 7, 2017, and October 3, 2017 -	Widener
Seconded -	Troyan
Yay -	Widener, Troyan, Campbell
Nay -	None
Abstained -	Oravits
Disposition -	September 7, 2017, and October 3, 2017, minutes approved

D. Board training from Assistant Attorney General Michael Raine regarding changes to Title 4

The Board will receive training at a later meeting.

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

The next meeting is December 7, 2017. Future Agenda Item: Title 4 training for laws that are effective August 9, 2017.

F. Call to the Public

None.

The Board adjourned at 12:53 p.m.

Denise M. Bale
Administrator of the
Arizona State Liquor Board

1/19/18
Date