



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

TROY L. CAMPBELL
Board Chair

COLONEL HESTON SILBERT
Interim Director

Arizona State Liquor Board Hearing Minutes
August 5, 2021

Members Present: Troy L. Campbell – Chair, Lynn Shulman – Vice Chair and Michael N. Widener
Members Absent: None
Counsel Present: Michael Raine, Assistant Attorney General
Staff Present: Denise Bale, Board Administrator
Arlene Moreno, Interim Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on August 5, 2021, at 10:11 a.m. with Mr. Campbell presiding via Google Meet. Other Board members, staff, and all parties participated either by Google Meet or telephonically.

Roll Call

All members were present.

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

1. Craft Distiller Liquor License, Application No. 148175 - Original Application

Carson Robert Clouston, Agent
Colt BBQ & Spirits
2970 N. Park Boulevard
Prescott Valley, AZ 86351

This matter is set for hearing because of Department protest based on violation of A.R.S. § 4-203(A) Capability, Qualifications, Reliability. The Applicant, Colt BBQ & Spirits, and its Agent, Carson Robert Clouston, were represented by Camila Alarcon. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Assistant Attorney General Mary D. Williams was available to provide independent legal advice to the Board.

Ms. Alarcon filed a Motion to Continue the hearing to the next regularly scheduled Board meeting due to personal and professional commitments throughout the month of July that would significantly impact hearing preparation. The Department did not object to the request for continuing the hearing.

Motion to continue the hearing to the next regular agenda of the Board -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Widener
Shulman
Widener, Shulman, Campbell
None
None
Hearing continued to September 9, 2021

2. Bar Liquor License No. 06100174, Application No. 119787 – Owner Transfer Application

H.J. Lewkowitz, Agent
Lucky’s LLC
Love Cabaret
5822 E. Speedway
Tucson, AZ 85712

This matter came before the Board on June 3, 2021. Andrea Lewkowitz appeared on behalf of the Applicant, Lucky’s LLC. Assistant City Attorney Jennifer Stash appeared on behalf of the City of Tucson. The Applicant filed a Motion to Continue the hearing and a Motion to Associate Counsel Pro Hac Vice. Without objection, the hearing was continued to the next regularly scheduled Board meeting.

This matter is scheduled for hearing to consider the Motion to Associate Counsel Pro Hac Vice. Andrea Lewkowitz and J. Michael Murray appeared on behalf of the Applicant. Assistant City Attorney Shilpa Hunter-Patel appeared on behalf of the City of Tucson.

Mr. Widener made a motion that Mr. J. Michael Murray’s application to appear pro hac vice on September 9, 2021 be granted. “He has, indeed Mr. Chairman, done everything he is supposed to do and unfortunately when you appear pro hac vice, you have to do the same thing every time. He has followed all the steps so he is moving in the right direction.”

Motion to grant Mr. Murray’s motion to appear pro hac vice for Lucky’s, LLC, before the Board on September 9, 2021 -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Widener
Shulman
Widener, Shulman, Campbell
None
None
Motion to appear pro hac vice granted

3. A.L.I.C. Enterprises, an Arizona Limited Liability Company dba Arizona Liquor Industry Consultants - Appeal of Interim Director’s Final Decision

In the matter of Interim Director Heston Silbert Decision Requiring That Only Active Police Officers May Conduct Covert Undercover Buyer Programs Pursuant to A.R.S. § 4-241(T)

Peter H. Schelstraete appeared on behalf of the Respondent, A.L.I.C. Enterprises LLC. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Assistant Attorney General Mary D. Williams was available to provide independent legal advice to the Board. Mr. Raine filed a Motion to Dismiss Appeal for Lack of Jurisdiction under A.R.S. § 4-210.02. Mr. Schelstraete filed a Response to the Department’s Motion to Dismiss Appeal. Mr. Raine and Mr. Schelstraete addressed the Board. There was Board discussion.

Mr. Widener made a motion: "In the matter of item number 3, which doesn't have a number because, as Mr. Raine pointed out, there is no licensee here. I move that with all respect A.L.I.C.'s endeavor to appeal be dismissed. It is not a matter as to which this Board has any jurisdiction. This is the Director's decision. If A.L.I.C. wishes to appeal it, their avenue is to Superior Court."

Motion to dismiss appeal -	Widener
Second -	Shulman
Aye -	Widener, Shulman, Campbell
Nay -	None
Abstained -	None
Disposition -	Appeal dismissed
Motion for 5-minute recess from 10:54 a.m. to 10:59 a.m.	Shulman
Second -	Widener
Aye -	Shulman, Widener, Campbell
Nay -	None
Abstained -	None
Disposition -	Board will reconvene at 10:59 a.m.

The Board recessed at 10:54 a.m. and reconvened at 11:00 a.m.

4. Liquor Store Liquor License No. 09070322, Application No. 125643 – Owner Transfer Application

Jared Michael Repinski, Agent
Shiv One LLC
Lucky Market
16401 N. Cave Creek Road
Phoenix, AZ 85032

This matter is set for hearing because the Phoenix City Council unanimously recommended disapproval based on the Police Department recommendation and concerns with violations at another local liquor store that is owned by the Applicant. The Applicant, Shiv One LLC, and its Agent, Jared Michael Repinski, appeared at the hearing and were represented by Peter H. Schelstraete. Jared Repinski and Geeta Kumari Bhatt testified on behalf of the Applicant. Assistant City Prosecutor Mark Borzych appeared on behalf of the City of Phoenix. Detective David Hurt testified in support of the City of Phoenix.

Mr. Schelstraete called his first witness, Geeta Bhatt. Ms. Bhatt came to the United States in 1986 and has been in the liquor business since 2000. Ms. Bhatt and her husband purchased Sun Devil Liquor in 2015 and operated a series 7 and a series 9 at that location. There were no violations for either license at the location. The Bhatt's purchased Jerry's Liquor, a series 9, in 2015. There were two incidents that resulted in four violations and two fines totaling \$1,500. Last year, they sold Sun Devil Liquor and purchased Lucky Market in October 2020. They have been operating Lucky Market with an interim permit. There have been no violations. They have made improvements to Lucky Market including lighting, security cameras, an ID scanner, and signage.

Mr. Borzych questioned Ms. Bhatt about violations at Jerry's Liquor. There were four violations over a two-year period: selling to an underage person, failure to check ID, employee consuming on duty, and an open off-sale container on the premises. The underage sale and failure to check ID occurred when Ms. Bhatt was not working at the store. Ms. Bhatt described her training in recognizing fake ID's and underage customers. Employee training was conducted in January 2021. Employee training occurs every two years. Ms. Bhatt described the operation of the ID scanner. There were questions from the Board regarding the violations. Ms. Bhatt does not agree with the detective's observation.

Mr. Schelstraete called Jared Repinski, the agent for Lucky Market. Mr. Repinski has been an Arizona resident since 1998. He became an Arizona Department of Liquor certified trainer in 2002. He presently owns his own business and provides training for 100 clients. Mr. Schelstraete asked Mr. Repinski to describe the incident involving not checking ID. Mr. Repinski confirmed Ms. Bhatt's testimony. Mr. Borzych questioned Mr. Repinski about the pictures submitted as Applicant's Exhibit 4 and Detective Hurt's visit to Lucky Market. Mr. Borzych asked Mr. Repinski to describe the training that he provides to the Applicant and her employees relating to checking ID. There were questions from the Board.

Mr. Borzych called his witness, Detective David Hurt. Detective Hurt has been a police officer for 25 years; three years of which were with Maricopa County Sheriff's Office and the past 22 years with Phoenix Police Department. He worked as a detective more than 10 years in the Organized Crime Bureau specializing in long-term complex investigations. He is currently serving as the Abatement Detective and Liquor Liaison for the Black Mountain Precinct in North Phoenix. Detective Hurt described his 15-20 minute meeting with Mr. Repinski and Ms. Bhatt on the premises after the City's recommendation for denial of the license. Mr. Schelstraete questioned Detective Hurt about the pictures submitted as Applicant's Exhibit 4 and the incident that occurred during his meeting with Ms. Bhatt and Mr. Repinski at Lucky Market. There were questions from the Board.

Mr. Schelstraete and Mr. Borzych presented closing statements. Mr. Widener commented on the hearing:

First of all, I want to observe that I thought that the attorneys and their witnesses did a pretty good job. I thought that the presentation was well done. I think this is a case where too much, however, is being made of too little. And I would observe because this is my last rodeo here with the Department, that once again it is disappointing that city councils don't do a better job in making a record of the basis for their denial. If you look at the verbatim transcript of the hearing, Vice Mayor Williams moved to recommend disapproval of the license based on the Police Department's recommendation. Okay, that's a justification but she did not indicate which portions of it moved her to make that motion. And that's unhelpful. It is a fact, whether we think it is appropriate or not, that when the affected councilperson's district is involved that most of the council moves very rapidly in the direction of the party who makes the motion. That is the councilperson in whose district the establishment is. There was no further conversation. There was simply a roll call, nine to zero against Ms. Bhatt. I don't think Ms. Bhatt is the perfect licensee. Obviously, a person doesn't have four violations if they are a perfect, flawless licensee. But I also don't believe that of the four violations there was a whole lot that Ms. Bhatt could have done as a manager to prevent a couple of them, at least. Somebody who is an experienced employee, who engages in a knucklehead act, is having a knucklehead moment. And, I don't know how you fix that. But I don't think this case is a slam dunk by any stretch of the imagination. And, I don't doubt that Detective Hurt's perception was his perception at the moment. But the appearance of things is that he was way off in his perception that the person might be underage. Just because somebody is short in stature doesn't mean they're an adolescent. It doesn't mean anything. It simply means that they don't have great verticality. So, my inclination is to vote in favor of approving this license on the basis, primarily on the fact that this applicant's representative, Ms. Bhatt, has been in a number of establishments. And to have four violations over a course of more than a decade doesn't seem to me to be a seriously bad track record rendering her not capable, qualified, and especially not reliable. Thank you, Mr. Chairman. That's all.

Chair Campbell agreed with Mr. Widener.

Thank you, Mr. Widener for kicking us off. I agree and as Ms. Bhatt mentioned in her testimony, she has owned a number of liquor licenses in the state of Arizona since 2002. And, she started with a series 10 in Mesa. And in that period of almost twenty years, two

decades, having four violations total, two incidents, doesn't scream to me that the applicant is terribly unqualified or reliable, for that matter. Actually, it proves to me that she is capable. I know that incidents are not ideal. It's not the best thing to have an applicant with incidents, but the fact that it is over such a long period of time, I feel that is something to take into consideration but not to make or break the applicant. Also, knowing that Mr. Repinski is the agent on this license, I have good faith that Mr. Repinski will continue to be a strong agent for Ms. Bhatt, and has good experience to continue to help Ms. Bhatt improving her business at Lucky Market. And so I think, having the unfortunate situation of having a detective in your store could probably be a little overwhelming, even if you do request it. Sounds like Mr. Repinski requested that the detective show up and be present. That shows to me that the agent and the applicant is willing to do what needs to be done to be the best applicant, be the best licensee they can. And so I really appreciate their efforts there. And I appreciate the efforts they've made to getting the appropriate trainings. I appreciate the appropriateness of getting the ID scanner that isn't the basic model, but understandably isn't the most advanced model, but it does screen the magnetic strip and it does screen the front and back of the ID, picture wise, so it's not just relying on one method. It has both methods. So, I'm with you, Mr. Widener.

Vice Chair Shulman concurred.

Mr. Chairman, this is Vice Chair Shulman. I am in agreement with both you and Mr. Widener in regards to the way the applicant has handled her business over the past several years. It's impossible to determine that an employee is going to do something or not do something. But since that has occurred, she has been very proactive with her license. And, I also agree that Mr. Repinski is an asset to her and to her businesses. For those reasons, I am in complete agreement with both of you.

Mr. Widener made a motion:

In the matter of Shiv One LLC doing business as Lucky Market, application number 125643, I recommend that we approve the license for the reasons that I stated before. But because I meant what I said about people making a record, let me just summarize very quickly. I believe that the applicant has shown that she is capable, qualified, or that Shiv One LLC, is capable, qualified and reliable. They've had a track record of no violations in a couple of locations. I find that the matters that the City alluded to are relatively minor with the exception of the sale to an underage person, which will never be minor. But for there being only one episode over a long period of time of being a licensee, it seems to me to fall within the ambit of reliability. And, as Mr. Schelstraete correctly noted, since this isn't a location transfer, we don't need to get into any of that. In short, I recommend approval. Thank you.

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

5. Restaurant Liquor License, Application No. 125380 – Original Application

Philip Ryan Ladiser, Agent
TG Anthem LLC
Tennessee Grill
4220 W. Summit Walk Court #1202
Anthem, AZ 85086

This matter is set for hearing because the Phoenix City Council unanimously recommended disapproval based on the Police Department recommendation that the Applicant lacks the capability, qualifications and reliability to operate a liquor-licensed restaurant, and concerns with a lack of experience running a liquor-licensed business. The Applicant, TG Anthem LLC, and its Agent, Philip Ryan Ladiser, appeared at the hearing and were represented by Peter H. Schelstraete. Philip Ryan Ladiser, Kevin Kudlo and Jeffrey Craig Miller testified on behalf of the Applicant. Assistant City Prosecutor Esteban Gomez appeared on behalf of the City of Phoenix. Detective David Hurt testified in support of the City of Phoenix.

Mr. Schelstraete called his first witness, Ryan Ladiser. Mr. Ladiser served in the U.S. Marine Corps after graduating from high school. In 1999, he entered Scottsdale Community College and was employed by Shamrock Foods Company (Shamrock). In 2008, he transferred to Shamrock sales for restaurants and hotel chains. Tennessee Grill was one of his customers for the last two years. During the pandemic, Mr. Ladiser arranged to purchase the assets of Tennessee Grill from the owner of the restaurant. Mr. Schelstraete questioned Mr. Ladiser about the exhibits submitted to the Board. Over the past year, food sales average 80% of all sales. Mr. Ladiser described his meeting with Detective Hurt. He testified that there was a misunderstanding about a building permit that was issued two years ago to the previous owner. Mr. Ladiser has completed Title 4 training. He has designated a general manager and a bar manager, both of whom have completed Title 4 training. Mr. Ladiser has been operating on an interim permit for eleven months. During that time, there have been no liquor violations. Mr. Gomez asked Mr. Ladiser about building and use permits and funding. There were Board questions about occupancy and certificate of occupancy, use permits, expiration date of his interim permit, live entertainment, and hours of operation.

Mr. Schelstraete called his next witness, Kevin Kudlo. Mr. Kudlo is the managing member in the limited liability company that owns Centerpoint Plaza, where the Tennessee Grill is located. He is responsible for the management and the leasing. Mr. Kudlo discussed his working relationship with Mr. Ladiser. He described Mr. Ladiser as one of his best tenants because of his integrity, work ethic and property improvements. Mr. Gomez questioned Mr. Kudlo. There were Board questions about the floor plan and whether Mr. Kudlo knew of any intention to increase alcohol sales.

Mr. Schelstraete called his next witness, Craig Miller. Mr. Miller is a partner in Arizona Liquor Industry Consultants (A.L.I.C.). He retired from the Department of Liquor Licenses and Control as a sergeant in the Investigation Division. Mr. Miller described working with Mr. Ladiser. There were no Board questions.

Mr. Gomez called his witness, Detective David Hurt. Detective Hurt described the inconsistencies in Mr. Ladiser's application including business financials, having another job, no prior experience, no liquor law training and no planned construction. Detective Hurt discussed his meeting with Mr. Ladiser to inspect the premises and discuss the application issues. During the walk through, Detective Hurt observed areas of the premises that were under construction. Mr. Schelstraete questioned Detective Hurt. There were Board questions.

Mr. Schelstraete and Mr. Gomez made closing statements. There was Board discussion about the Applicant's capability and reliability. Mr. Widener made a motion.

Mr. Chairman, I am going to move the approval of this license because I think in the end this guy's desire to do this right is going to overcome his inexperience and his prior failings. I can't say that I am proud of the way the interview went. That just seems like a mess. But again, did he really know a lot about how to respond to these things correctly or was he just exuding enthusiasm in talking about what he's going to do. But he's been in business going on a year and this thing isn't any more of a bar now than it was before. And he did testify earlier this afternoon that he was talking about his long-term plans, not his immediate goals. I just don't see any strong evidence of deception in the Applicant. And in fact, to the contrary. Some of the other people who testified agreed that he is a good fellow. So what does it mean to say that you're capable? Does it mean you never make a mistake? Does it mean you don't let your enthusiasm get the better of you sometimes? No, I don't think that's what it means. I think it means that you have to have a sufficient amount of intelligence and a sufficient amount of drive to make your operation work. And I'm convinced after hearing all the testimony that Mr. Ladiser has both. And so, I'm going to move approval notwithstanding the Council's recommendation for denial.

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

C. Minutes: Review, Consideration and Action

Motion to approve General Session and Executive Session minutes of June 3, 2021 -	Shulman
Seconded -	Campbell
Yay -	Shulman, Campbell, Widener
Nay -	None
Abstained -	None
Disposition -	Minutes of June 3, 2021 approved

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

Chairman Campbell thanked Mr. Widener for his four-and-a-half years of service on the Board. Mr. Widener has shared his wisdom and expertise in Board meetings, and he will be missed. Mr. Widener expressed his appreciation. The next Board meeting is scheduled for September 9, 2021. Three matters are set for hearing.

E. Call to the Public

None.

Motion to adjourn meeting -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Campbell
Widener
Campbell, Widener, Shulman
None
None
Meeting adjourned at 2:38 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date