



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

TROY L. CAMPBELL
Board Chair

TRACY UFFELMAN
Director

Arizona State Liquor Board Hearing Minutes
November 3, 2022

Members Present: Lynn Shulman – Vice Chair acting as Chair, Jill Pernice, Matthew Roemer, Victoria Yarbrough and Paul David

Members Absent: Troy Campbell, Chair

Counsel Present: Mark Brachtl, Assistant Attorney General
Roberto Pulver, Independent Advisor for agenda item 2.

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 November 3, 2022 at 9:00 a.m. with Ms. Shulman presiding. Google Meet was utilized for facilitating the meeting. Board members, staff, and all parties participated either online or telephonically.

Board members were asked if they have, or a relative who has, a substantial interest or a remote interest with any of the matters on the agenda. Each member declared that he/she did not have a conflict of interest with any matters on the agenda.

Roll Call

Chair Campbell was absent. All other members were present.

B. 9:00 a.m. Agenda: Review, consideration and action

1. 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 was continued from the September 8, 2022 hearings to allow sufficient time for the parties to meet and explore the possibility of a settlement. Prior to the hearing, the City of Tucson notified

the Board that the Tucson City Council approved a Settlement Agreement between the City and Lucky's LLC. On October 25, 2022, the City filed a Notice of Withdrawal of Objection and Request to Vacate Hearing. J. Michael Murray and Thomas R. Aguilera appeared on behalf of the Applicant, Lucky's LLC. Principal Assistant City Attorney Shilpa Hunter-Patel appeared on behalf of the City of Tucson. There were no objections to the City's request. Ms. Yarbrough made a motion:

I move that the Board accept the Notice of Withdrawal and approve the Request to Vacate Hearing in Bar Liquor License No. 06100174, Application No. 119787, Lucky's LLC doing business as Love Cabaret, located at 5822 East Speedway, Tucson, Arizona.

Motion to accept notice of withdrawal and vacate hearing -	Yarbrough
Seconded -	David
Yay -	Yarbrough, David, Shulman, Roemer, Pernice
Nay -	None
Abstained -	None
Disposition -	Application withdrawn and hearing vacated

2. Restaurant Liquor License, Application No. 188024 - Original Application

Scot William Shuman, Agent
Bumsted's LLC
Bumsted's
1003 N. Stone Avenue
Tucson, AZ 85705

This matter is set for hearing because of Department protest based on violation of A.R.S. § 4-203(A) Capability, qualification, reliability. The Applicant, Bumsted's LLC, and its Agent, Scot William Shuman, appeared at the hearing and were represented by Jake D. Curtis. Mr. Shuman, Madison Shuman, Barbara Shuman, Mark Wilimann, Jim Bracy, and William Swecker appeared in support of the Applicant. Assistant Attorney General Mark Brachtl appeared on behalf of the Department of Liquor Licenses and Control. Detective Arturo Zacarias and Tucson Police Detective Steve Wilson appeared and testified in support of the Department. Assistant Attorney General Roberto Pulver provided independent legal advice to the Board.

Mr. Brachtl provided some preliminary information regarding the investigation of the Applicant. Research was conducted by the police officers who will be testifying concerning criminal history information of the Applicant. Mr. Brachtl noted that there are confidentiality statutes for criminal history information. In order to present that information at hearing, the hearing has to be closed to the public. Everyone else that is in the case can hear it, but it is closed, criminal history information. Mr. Brachtl wanted to bring this to the Board's attention. There is a closed session Google Meet that is available if the Board adopts Mr. Brachtl's position. Research was done on the Applicant and there is information from the criminal history that has to be borne out in testimony. Mr. Shuman has the right to not have the public hear the information. Mr. Pulver agreed with Mr. Brachtl's interpretation, and he cited A.R.S. § 41-1750(Q)(3) for the Board's reference. Mr. Shuman through his counsel Mr. Curtis, stipulated to having the criminal information, which is already part of the record, to be borne in the public hearing.

Mr. Curtis presented an opening statement. Bumsted's is a bar and restaurant on Stone Avenue in Tucson. Mr. Shuman was a part owner in the business until January 2022 when he bought out his partner. This is a new series 12 restaurant application because of the change of ownership and the use of a single asset entity, Bumsted's LLC. Mr. Shuman and his family have been affiliated with Bumsted's since 2007. The restaurant is very popular, with an interesting menu and large following. Bumsted's has survived and ultimately thrived through numerous hardships. They began operations on the day that the first COVID lockdown started, and they survived these last two years. The Department elected to protest this application.

There were no public protestors from the neighborhood and no one spoke against this license at the Tucson City Council meeting. Scott Shuman is capable, qualified and reliable. He has worked in hospitality in Tucson for 36 years. During that time, he has had a notable record of no violations pertaining to his licensed premises. Mr. Curtis mentioned the events of November 25, 2020, which were included in Mr. Shuman's liquor license application. Mr. Shuman wanted to be cooperative. He agreed to interviews with both the Tucson Police Department and the Department of Liquor. Mr. Shuman is not denying what occurred or claiming that it was not a big deal. The bottom line is Mr. Shuman is an upstanding member of his community. He knows how to run a business that serves liquor and has a distinguished record of doing so.

Mr. Brachtl presented an opening statement. Two separate law enforcement agencies will testify about Mr. Shuman's qualifications, capabilities, and responsibilities to hold a liquor license. The first witness will be Detective Steve Wilson of the Tucson Police Department. Mr. Wilson authored a report, and makes conclusions after conducting an investigation, that Mr. Shuman became intoxicated at his liquor establishment and placed the community, a Tucson police officer and his own life at danger by driving intoxicated, causing an accident, and leaving the scene of the accident. Detective Wilson will also testify as to his conclusion that Mr. Shuman has failed to follow up in the obligations required to reinstate his driving privileges, and also regarding failing to take care of or address an arrest warrant that is related to the November 25th car accident. The Board will hear testimony from a second witness offered by the State. Detective Art Zacarias is a detective with the Department of Liquor. Detective Zacarias will testify about the basis of a formal protest against Mr. Shuman's request for an application for a liquor license.

Mr. Curtis called his first witness, Scot Shuman. Mr. Shuman moved to Tucson in 1977 and began working in restaurants as a busboy. He moved into a bartender position, and then purchased his first restaurant in 1986. Mr. Shuman purchased another restaurant in 1993, and subsequently opened other restaurants in the Tucson area. He also sold liquor for four years. In the time that he has owned and operated restaurants (since 1993), Mr. Shuman has had "no significant liquor violations" at any of his businesses. Mr. Shuman testified about the events that occurred on November 24-25, 2020. There were questions from the Board about an active warrant for Mr. Shuman's arrest due to those events. Mr. Shuman described the legal advice he received related to the warrant and why the warrant is still active.

Mr. Brachtl called his first witness, Detective Steven Wilson. Detective Wilson has served 23 years with the Tucson Police Department. He testified about the warrant for Mr. Shuman's arrest. The warrant is also addressed to "any authorized law enforcement officer to arrest and bring the defendant before this court." The warrant includes several charges and Mr. Shuman's home address. The warrant was stamped on May 11, 2021 and it was stamped and signed by a judge on May 12, 2021. As of today, the statewide warrant is still active. There were questions from the Board. Detective Wilson read the details of five attempts to serve a warrant on Mr. Shuman.

The Board recessed at 10:50 a.m. and reconvened in open session at 11:00 a.m.

Mr. Schuman's wife, Barbara Shuman, testified about their experiences of working with a business partner, the accident on November 25th, the professionals who were hired to assist the Shumans in getting their affairs in order, and the necessity of reinstating their driver licenses. Mrs. Shuman explained that keeping this business open has taken all of the Shumans' time. They work 16-hour days, seven days a week, and although it seems very simple and easy to go get a driver's license, it takes several hours of time outside of the business, and they are operating with a short staff. Mrs. Schuman explained that their customers, employees, and business have always come first.

Madison Shuman testified about her father's character and his commitment to his family and work.

Mr. Curtis called his final witness, Mark Wilimann. Mr. Wilimann is a defense attorney for the past 23 years, and prior to that, he was a prosecutor in Yavapai County. Mr. Curtis asked Mr. Wilimann to explain his advice to the Schumans regarding the events of November 25 and the subsequent arrest warrant.

Mr. Brachtl called his second witness, Special Agent Arturo Zacarias. Special Agent Zacarias has served with the Department of Liquor Licenses and Control since January 2012. He authored an investigation report that is part of the record in this matter. Special Agent Zacarias interviewed Mr. Shuman on May 4, 2022. He noted that the Applicant has no violations pertaining to his licensed premises. He also noted that on May 4, 2022, the Applicant admitted to having a suspended driver license and the circumstances surrounding the car accident. In his report, Special Agent Zacarias concluded that a formal protest against Mr. Shuman is due to his failure to maintain capability, qualification, and reliability.

Mr. Curtis and Mr. Brachtl gave closing statements. Mr. David asked Mr. Pulver for assistance with procedural options. There was Board discussion.

Ms. Yarbrough made a motion:

I move that we find the applicant is not capable, qualified and reliable as required by A.R.S. Section 4-203(A) based upon the following facts. Mr. Shuman was arrested on November 25, 2020 on various charges relating to extreme DUI: striking a police vehicle, hit and run, and injuring a police officer. Mr. Shuman has an active warrant for his arrest related to these charges, which he has failed to address upon the advice of his attorney. Based on criteria for determining capability, reliability and qualifications to hold a liquor license, whether the applicant has violations of law, other than liquor violations, is a valid factor in making that determination. And that the board deny application number one, eight, eight, zero, two, four and also withdraw the interim permit.

The board does not contest the location of the application.

Motion to deny application -	Yarbrough
Seconded -	Pernice
Yay -	Yarbrough, Pernice, Shulman, David
Nay -	Roemer
Abstained -	None
Disposition -	License denied

C. 2023 Hearing Schedule: Review, consideration and action

Ms. Pernice has a conflict on February 2 and May 4.

Motion to approve 2023 Hearing Schedule -	David
Seconded -	Yarbrough
Yay -	David, Yarbrough, Shulman, Pernice, Roemer
Nay -	None
Abstained -	None
Disposition -	2023 Hearing Schedule approved

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

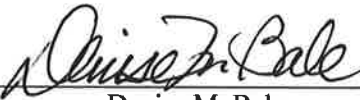
The next meeting is scheduled for December 8th. One matter is set for hearing. Training on changes to Title 4 that were enacted during the last legislative session will be presented by Assistant Attorney General Deanie Reh.

E. Call to the Public

None.

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

Pernice
Yarbrough
Pernice, Yarbrough, Roemer, Shulman, David
None
None
Meeting adjourned at 12:37 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date