MINUTES OF THE REGULAR MEETING
OPEN SESSION
ILLINOIS LIQUOR CONTROL COMMISSION
MAY 13, 2015
JAMES R. THOMPSON CENTER – ROOM 9-031
12:00 PM
CHICAGO, ILLINOIS

The regular meeting of the Illinois Liquor Control Commission was held at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois 60601 room 9-031 pursuant to notice.

Call the Roll:
Cynthia Cronin Cahill, Commissioner
Bill Morris, Commissioner
Donald O'Connell, Commissioner
Jim Pandolfi, Commissioner
Maria Saldana, Commissioner (joining after initial call)
Amy C. Kurson, Commissioner (joining after initial call)

Also Present:
Ivan Fernandez, Acting Director
Richard Haymaker, Chief Legal Counsel
Tina Tsatsoulis, Legal Counsel
Dusanka Marijan, Licensing Administrator
Laura Murphy, Parental Responsibility/Tobacco Coordinator
Mary McNulty, Commission Secretary

I. Approval of Minutes

Commissioner Pandolfi informed that the minutes from the February 18, 2015 meeting should be edited to reflect his presence. A motion was made by Commissioner Morris to approve and release the minutes of the February 18, 2015 Business Meeting with suggested changes. The motion was seconded by Commissioner Cahill and unanimously approved by the Commission.

II. Docket Review

A. Citation Docket

Tina Tsatsoulis stated that Marly's Pub was cited to appear at the April 23, 2015 Springfield hearing for a fourth sale of alcohol to minor violation. The licensee did not appear and a default revocation was ordered in the matter. The licensee then filed a petition for rehearing claiming that notice for the April 23, 2015 hearing was not received by management. Opposing counsel stated that a scheduling conflict prevented him from appearing on behalf of Marly's Pub for the

hearing in Chicago, and wished to continue the case to the hearing on June 4, 2015 in Springfield. The Commission unanimously agreed that the matter will be heard at the next Springfield hearing on June 4, 2015. Commissioner Morris stated that Ms. Tsatsoulis should advise opposing counsel that there will be no more extensions on this matter.

Ms. Tsatsoulis explained that there are three third sale of alcohol to minor violations on the docket, as well as two child support cases, one of which will likely be dismissed and one that will likely be continued pending compliance with the payment plan.

B. Revenue Docket

Ivan Fernandez stated that there are 30 citations on the revenue docket, 10 of which have been dismissed. Richard Haymaker added that there might be a few cases that had prior significant debts but most have come into complete compliance.

C. Appeals

Richard Haymaker stated that there are no appeals on the docket today, but there are two scheduled for our Chicago hearing on June 24, 2015. Mr. Haymaker added that counsel for the Elgin appeal, which was brought before the Commission at the last Chicago hearing, submitted a petition for rehearing following the order of the Commission. Because there was no new information submitted, the petition for rehearing was denied. The licensee has 35 days to file an appeal with the circuit court.

Mr. Haymaker updated the Commission on the Calla Calli's appeal. The Illinois Appellate Court affirmed the Commission's 21 day suspension for a sale of alcohol to minor but reversed the Commission's $500 fine for a happy hour violation. There will be no further appeal of the Commission's order and the order will be served in late August/early September.

III. General Matters

A. Direct Shipping Update

Richard Haymaker summarized the Commission's prior enforcement action related to direct shipping. Responses to the Commission's prior issued cease and desist letters have varied. For example, some retailers have not responded at all and some have agreed to stop shipping. Additionally, FOIA requests have been filed which have been denied because of a pending enforcement action.

Commissioner O'Connell inquired as to how many cease and desist letters have been sent. Mr. Haymaker said that there have been roughly 160 letters. He added that we have licensed 85 wineries since the cease and desist letters have been sent.

In terms of fulfillment houses, Mr. Haymaker stated that many shipments are going through a third party provider. When a fulfillment center is used, the reports do not indicate wither the source shipper is licensed or unlicensed. Therefore, more work is needed to in this area. This may include working with the common carriers to provide more information on their shipping labels so that the Commission staff can identify the source shipper.

Mr. Haymaker stated Commission staff will continue to identify retailers who continue to ship illegally after receiving a Cease and Desist order. Commissioner Kurson suggested a policy adjustment legislatively which would allow out-of-state retailers to obtain a license and also pay appropriate taxes.

WSDI attorney Sam Vinson commended the Commission for their hard work surrounding the direct shipping issue. He added that there are outstanding tax issues associated with illegal shipments. For example, an order placed with Blackbird Vintage yielded no evidence that taxes were paid to Chicago or Illinois. Mr. Vinson explained that the largest policy issue with respect to licensing out-of-state retailers is that it would require many additional staff members to monitor incoming shipments.

B. Legislative Update

SB 1516 - Richard Haymaker informed the Commission about Senate Bill 1516 which was initially submitted to give the Commission authority to issue advisory opinions. The bill has since been amended to remove the tied-house exception which would have permitted Restoration Hardware to hold cross-tier interests in wineries and a Chicago retailer.

WSDI attorney Jim Webster explained that with this bill, the retailer would theoretically make 50% of sales, and an of-value violation would occur. Mr. Webster went on to advise that the trade buyer for Restoration Hardware, Michael Polenske, owns Blackbird Vineyards. There was some question as to whether or not Mr. Polenske would be completely divested from Restoration Hardware.

At 1:16pm, a recess was taken.

At 1:27pm, the business meeting reconvened.

Commissioner Kurson advised staff that the Commission would like a report on the trade practice policies for the June 4th meeting in Springfield..

Richard Haymaker explained that the "Palcohol" bill passed the Senate on second reading in the House. Richard Haymaker summarized other Liquor Control Act bills without further discussion by the Commission.

C. BASSET Training

Ivan Fernandez stated that there are 30 free BASSET classes to get people trained before the new law takes effect on July 1, 2015. Staff is creating a more automated and modernized version of the card issuing system using Gentax.

Dusanka Marijan explained that she was in Springfield the past week to learn about and test the new system. In the future, the trainers will be required to complete a spreadsheet which then be sent to staff to check for errors. If there is an issue with the information given, the spreadsheet will not be transmitted into Gentax until everything is correct. There will also be an option to reprint a card if it is lost using MyTax as well as a BASSET card lookup on the ILCC website.

D. Licensing Update

Dusanka Marijan reviewed the licensing report with the Commission and stated that we are having an issue with online renewals. If a licensee completes a renewal on a Friday, we are not able to see it until the following Monday or Tuesday. Ideally, we would like to see these renewals in real time. Ms. Marijan also stated that it takes longer to renew applications that are mailed in with the new Gentax system.

E. Tobacco Compliance Update

Laura Murphy stated that 224 grants were awarded which ensure that tobacco laws are being properly enforced.

Commissioner Kurson stated that the remaining agenda items will be discussed after the hearing.

At 1:50pm, a recess was taken.

At 3:55pm, the business meeting reconvened.

F. Barkulis Group, Inc. – Product Registration

Richard Haymaker informed the Commission about a new product. Barkulis Group, Inc. has introduced an ice cream bar with a low percentage of alcohol by volume. The supplier and distributor are aware that the local municipality will need to be informed for each location where the product will be sold. There may be ordinances that explicitly prohibit the sale of alcoholic ice cream.

Commissioner Morris stated that staff should advise the Governor's Office about this product.

G. Berwyn Liquor License Investigation

Richard Haymaker explained the facts of the Berwyn investigation, which revealed the existence a two-way mirror in the female bathroom of a Berwyn retailer. Investigation found that there was no general access to the viewing area on the opposite side of the two-way mirror. Because of this, the ILCC investigation did not find any violations of the Liquor Control Act. Commissioners generally agreed that upon reviewing the results of the investigation, no further action against the license holder is required. .

IV. Adjournment

Commissioner O'Connell made a motion to adjourn the meeting. Motion was seconded by Commissioner Saldana. Motion unanimously approved. Meeting adjourned at 4:08 pm.

ATTEST:

Mary McNulty, Commission Secretary