

PENNSYLVANIA LIQUOR CONTROL BOARD

MEETING MINUTES

WEDNESDAY, OCTOBER 5, 2016

NORTHWEST OFFICE BUILDING, CONFERENCE ROOM 117, HARRISBURG, PA

Tim Holden, Chairman
Michael Negra, Board Member
Michael Newsome, Board Member
John Metzger, Executive Director
Charlie Mooney, Chief Operating Officer
John Stark, Board Secretary

[Office of Chief Counsel](#)
[Bureau of Licensing](#)
[Bureau of Human Resources](#)
[Bureau of Accounting & Purchasing](#)

[Office of Retail Operations](#)
[Bureau of Product Selection](#)
[Financial Report](#)
[Other Issues](#)

PUBLIC MEETING – 11:00 A.M

Board Secretary John K. Stark indicated that a quorum of the Board was present and Chairman Holden called the meeting to order.

CALL TO ORDER *Chairman Holden*

Pledge of Allegiance to the Flag

OLD BUSINESS..... *Secretary Stark*

A. Motion to approve the previous Board Meeting Minutes of the September 14, 2016 meeting.

Motion Made: Board Member Negra

Seconded: Board Member Newsome

Board Decision: Unanimously approved (3-0 vote) previous Board Minutes.

PUBLIC COMMENT ON AGENDA ITEMS

Prior to asking if there were any public comments on the printed agenda items, Chairman Holden recognized and welcomed State Representative Adam Harris, the new Chair of the House Liquor Control Committee, who was in attendance. Chairman Holden indicated that he and the other Board members are very much looking forward to working with Chairman Harris. Chairman Holden asked Chairman Harris if he wished to offer any remarks.

Chairman Harris offered his thanks to Chairman Holden for welcoming him, and he indicated that he was present because he wanted to attend a Board meeting for the first time and also wished to introduce himself to everyone. Chairman Harris stated that he, too, looks forward to working with the Board, especially with regard to some of the changes that were made relative to Act 39 of 2016. He noted that he has already participated in several informal meetings with the Board that have gone very well, but that there are still many challenges that lie ahead.

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Chairman Holden also noted that David Wojnar from the Distilled Spirits Counsel of the United States (“DISCUS”) was present and wished to offer some comments, but had agreed to hold his comments until later in the meeting.

There was no other public comment offered on the printed agenda items at this time.

NEW BUSINESS

From the Office of Chief CounselRodrigo Diaz, Chief Counsel

- (1) **BOROUGH OF BELLEFONTE** Municipal Petition for
Case No. 16-NE-18 Exemption from the Statute
Regarding Amplified Sound

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Noise Exemption for a Period
Extending from October 5, 2016 to October 5, 2019.

- (2) **CITY OF HARRISBURG** Municipal Petition for
Case No. 16-NE-14 Exemption from the Statute
Regarding Amplified Sound

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Noise Exemption for a Period
Extending from October 5, 2016 to January 1, 2018.

- (3) **CITY OF JOHNSTOWN** Municipal Petition for
Case No. 16-NE-17 Exemption from the Statute
Regarding Amplified Sound

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Noise Exemption for a Period
Extending from October 5, 2016 to October 5, 2017.

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- (4) **BOROUGH OF WORMLEYSBURG** Municipal Petition for
Case No. 16-NE-15 Exemption from the Statute
Regarding Amplified Sound

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Noise Exemption for a Period
Extending from October 14, 2016 to October 14, 2019.

- (5) **BOROUGH OF WORMLEYSBURG** Municipal Petition for
Case No. 16-NE-16 Exemption from the Statute
Regarding Amplified Sound

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Noise Exemption for a Period
Extending from October 14, 2016 to October 14, 2019.

- (6) **KNIGHT OUT II, INC.** Request to Terminate
3 Bridge Street Conditional Licensing
Towanda, Pennsylvania 18848-1621 Agreement
Restaurant Liquor License No. H-435
LID 56742

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request to Rescind Conditional
Licensing Agreement.

- (7) **D & M SHUMBRIS, INC.** Appeal of Adjudication and
t/a The Swizzle Stick Order of Administrative
434 Main Street Law Judge
Edwardsville, Pennsylvania 18704
Restaurant Liquor License No. R-8145
LID 36742
Citation No. 16-0744

Michelle Fox, Executive Deputy Chief Counsel, was asked to explain the facts and circumstances surrounding this matter.

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Ms. Fox explained the matter as follows. The Pennsylvania State Police, Bureau of Liquor Control Enforcement (“BLCE”) issued a citation charging Licensee with selling alcohol to visibly intoxicated patrons. Licensee admitted to the charge and signed a waiver, thus eliminating the need for a hearing. The administrative law judge (“ALJ”) sustained the citation and imposed a \$750.00 fine. Thereafter, Licensee filed an appeal challenging the penalty that was imposed. On appeal, Licensee sought to have the fine changed to a two-day suspension.

Ms. Fox indicated that the Licensee lost the right to appeal by signing the waiver. She also noted that the fine imposed was within the permissible range set forth in the Liquor Code, and, as such, the ALJ acted within his discretion in imposing the same. Accordingly, the Office of Chief Counsel recommended that the ALJ’s decision be affirmed.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Affirm the ALJ.

(8) **KANE COUNTRY CLUB**
6654 Route 6
P.O. Box 387
Kane, Pennsylvania 16735-4246
Restaurant Liquor License No. PGR-347
LID 67360
Citation No. 15-1543

Appeal of Adjudication and
Order of Administrative
Law Judge

Michelle Fox, Executive Deputy Chief Counsel, was again asked to explain the facts and circumstances surrounding this matter.

Ms. Fox explained the matter as follows. Licensee holds a privately-owned public golf course restaurant liquor (“PGR”) license. From April to July of 2015, a woman named Kelly was operating a restaurant called “Kelly’s on the Green” at the licensed premises. She leased the restaurant from Licensee, but was only selling food and nonalcoholic beverages.

BLCE issued a citation to Licensee for violating a section of the Board’s Regulations that prohibits licensees from permitting other persons to operate a business on their licensed premises. Licensee signed a waiver admitting to the charge. However, the ALJ rejected the waiver and dismissed the charge because of a statutory provision in the Liquor Code that allows PGR licensees to designate a concessionaire to provide food, alcoholic beverages and nonalcoholic beverage service at the restaurant facility on their premises.

BLCE appealed the ALJ’s decision, arguing that Licensee’s failure to obtain Board approval of the agreement to lease the restaurant portion of the premises was a violation of the Board’s Regulations. BLCE asserts that the designation of a concessionaire is akin to the appointment of a management company and, thus, requires Board approval.

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Ms. Fox indicated that the ALJ was correct about the statutory provision that allows PGR licensees to designate a concessionaire, and that the statutory provision would take precedence over an inconsistent regulation. As such, the Office of Chief Counsel recommended that the ALJ's decision be affirmed. However, Ms. Fox noted that the Office of Chief Counsel agreed with BLCE that Board approval should be sought for this type of activity, similar to what is required for management companies, and that the opinion should reflect the same. She explained that there are statutory provisions that support this requirement, but BLCE did not include those as a basis for the citation.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Affirm the ALJ.

- (9) **LUANNE'S ROUTE 68 FOOD & SPIRITS, INC.** Request to Rescind
2424 Midland Beaver Road Conditional Licensing
Industry, Pennsylvania 15052-1702 Agreement
Restaurant Liquor License No. R-6320
LID 56641

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request to Rescind Conditional Licensing Agreement.

- (10) **DELEGATION TO EXECUTIVE DIRECTOR AND/OR HIS ASSIGNEES** Delegation of Authority

Board Member Negra asked John Metzger, Executive Director, to explain this proposed action.

Mr. Metzger explained that the Board had recently approved a delegation a month or so ago that allowed him or his assignees to take certain actions relative to the purchasing and pricing of wine and spirits products. However, the previous delegation did not account for certain actions that need to be taken relative to one-time buys because of the time-sensitive nature of acquiring some of those products. As such, what is being presented for consideration involves making a slight change to the existing delegation that would allow him, his successor, or any assignees to take certain additional actions relative to one-time buys, including Chairman's items and Luxury items.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve the Delegation of Authority to the Executive Director or His Assignees to Approve Certain Wine and Spirits Purchasing and Pricing Actions.

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- (11) **RESOLUTION OF APPEAL IN APPLICATION APPEAL** Resolution of Common
201 Main Street, LLC Pleas Court Appeal
King of Prussia Town Center
King of Prussia, Pennsylvania 18406
Economic Development Restaurant Liquor License No. EDR-43
LID73025
Docket No. 2016-21043 (Montgomery County)

Motion Made: Board Member Negra made a Motion to Refuse the Proposed Resolution of the Appeal.

Seconded: (No second was received.)

Board Member Newsome asked Rod Diaz, Chief Counsel, if there was any potential for a legal challenge to the proposed settlement agreement in this matter.

Mr. Diaz indicated that while the proposed settlement agreement could be challenged, such a challenge would be unlikely. He further indicated that even if a challenge were made, it is unlikely to be successful.

New Motion Made: Board Member Newsome made a new Motion to Approve the Proposed Resolution of the Appeal.

Seconded: Chairman Holden

Board Decision: Agreed (2-1 vote) to Approve the Proposed Resolution of the Appeal. Board Member Negra casted a “no” vote.

- (12) **GLOBAL HOST, INC.** Appeal to Commonwealth
2898 Banksville Road Court
Pittsburgh, Pennsylvania 15216-2816
Restaurant Liquor License No. H-5733
LID 40014
Docket No. SA-16-000247 (Allegheny County)

Motion Made: Board Member Negra

Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) – Do Not Appeal to Commonwealth Court.

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From the Bureau of Licensing *Jerry Waters, Director of Regulatory Affairs*
Tisha Albert, Director, Bureau of Licensing

- (1) **Angelucci’s Pizza, Inc.** New – Economic Development
t/a Anthony’s Pizza & Grill Restaurant
EDR-44 (LID No. 73031) Case No. 16-9081
78 West Lancaster Avenue
Downingtown, Chester County

Chairman Holden noted that there have been numerous requests for economic development restaurant (“EDR”) licenses of late, and that he would like the opportunity to further discuss and consider the issue of EDRs generally before voting on this particular action.

Motion Made: Chairman Holden
Seconded:

Board Decision: Hold by Chairman Holden.

- (2) **El Cuscatleco, Inc.** Double Transfer & Notice of
R-18668 (LID No. 71259) Case No. 16-9076 Change in Business Structure –
29 Garrett Road Restaurant
Upper Darby Township
Upper Darby, Delaware County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Chairman Holden asked if there was anyone present for the Applicant, but there was no response.

Board Decision: Unanimously agreed (3-0 vote) to Refuse the Applications for Double Transfer and Notice of Change in Business Structure.

- (3) **Giant Eagle, Inc.** Double Transfer & Requests for
R-5705 (LID No. 81513) Interior Connections with
4924 Baum Boulevard Another Business & to Conduct
Pittsburgh, Allegheny County Another Business on the
Licensed Premises – Restaurant

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Transfer and Requests for Interior Connections with Another Business and to Conduct Another Business on the Licensed Premises.

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- (4) **Giant Food Stores, LLC** “Intermunicipal” Double
R-9583 (LID No. 81365) Transfer & Requests for Interior
5005 Jonestown Road Connections with Other
Lower Paxton Township Businesses & to Conduct Other
Harrisburg, Dauphin County Businesses on the Licensed
Premises – Restaurant

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Transfer and Requests for Interior Connections with Other Businesses and to Conduct Other Businesses on the Licensed Premises.

- (5) **Leo Beer Distribution Corp.** Place-to-Place Transfer –
ID-647 (LID No. 71961) Case No. 16-9079 Importing Distributor
161 Welles Street
Forty Fort, Luzerne County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Transfer.

- (6) **Isabel Nunez** Request for an Interior
R-10242 (LID No. 66079) Connection with Another
110 West Centre Street Business – Restaurant
Shenandoah, Schuylkill County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request for an Interior Connection with Another Business.

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- (7) **Starr Financial Group, Inc.** Limited Winery Additional
t/a Starr Hill Vineyard & Winery Board-Approved Location &
LK-210 (LID No. 55406) Request for an Interior
861 Bailey Road Connection with Another
Pike Township Business – Limited Winery
Curwensville, Clearfield County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Limited Winery Additional Board-Approved Location and Request for Interior Connection with Another Business.

- (8) **Urگو Hotels LP and RLJ III-HGN Pittsburgh Lessee LP** Request to Sell Other Items on the
H-6266 (LID No. 64819) Licensed Premises – Hotel
3454 Forbes Avenue
Pittsburgh, Allegheny County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request to Sell Sundry Items on the Licensed Premises.

- (9) **Weis Markets, Inc.** “Intermunicipal” Double
R-17638 (LID No. 81191) Transfer & Requests for Interior
578 Carbondale Road Connections with Another
Scott Township Business & to Conduct Another
Scott Township, Lackawanna County Business on the Licensed
Premises – Restaurant

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Transfer and Requests for Interior Connections with Another Business and to Conduct Another Business on the Licensed Premises.

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- (10) **21st Amendment, Inc.** Conditional Licensing Agreement
t/a Hykel's Bar & Grille Renewal – District 11
R-17188 (LID No. 56774) Case No. 15-9200
2704-06 East County Line Road **HOLD – 6/15/16 SESSION**
Haverford Township
Ardmore, Delaware County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Renewal with Conditional Licensing Agreement.

- (11) **101 State, LLC** Conditional Licensing Agreement
t/a Black Horse Tavern Renewal – District 11
R-18894 (LID No. 54602) Case No. 15-9197
101 South State Street **HOLD – 8/10/16 SESSION**
Newtown, Bucks County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Renewal with Conditional Licensing Agreement.

- (12) **Katsaros, Inc.** Conditional Licensing Agreement
t/a Yorgo's Renewal – District 2
R-18985 (LID No. 55621) Case No. 16-9024
64-66 North Queen Street **HOLD – 7/20/16 SESSION**
Lancaster, Lancaster County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Renewal with Conditional Licensing Agreement.

- (13) **Rosheema L. Thomas** Renewal – District 2
R-16347 (LID No. 64434) Case No. 16-9029
1412 Swatara Street
Harrisburg, Dauphin County

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Board Member Negra asked Tisha Albert, Director of Licensing, to provide some background regarding this case and questioned whether there has been any communication with the police regarding this establishment.

Ms. Albert indicated that there has not been any communication with the police about this establishment since the hearing that was held in March. She further explained that the Board had previously voted to refuse renewal for this establishment in 2012, but that the matter was settled with a conditional licensing agreement (“CLA”) on appeal. She also explained that the Board had approved a modification to the CLA back in 2015, but that Licensee is still having issues complying with the terms of the CLA. Specifically, she noted the Licensee’s failure to comply with terms that require Responsible Alcohol Management Program compliance, weapons searches, and regular contact with the police.

Board Member Negra expressed his understanding that Licensee is only a part-time operator, and Ms. Albert confirmed that to be the case.

Motion Made: Board Member Negra
Seconded:

Board Decision: Hold for Conditional Licensing Agreement Offer-in-Compromise Terms.

(14) **Joseph W. Troutman, Sr.** Renewal – District 7
t/a Hotel Holley
H-6232 (LID No. 63618) Case No. 16-9050
153 Main Street
Bradford, McKean County

Motion Made: Board Member Negra
Seconded:

Board Decision: Hold by Board Member Negra.

*From the Bureau of Human Resources Jason Lutcavage, Director of Administration
Jennifer Haas, Director, Bureau of Human Resources*

Personnel Actions

- (1) **Ivona Butts – Removal**
- (2) **Stephanie Feuerstein – Removal**
- (3) **Shylisse Heck – Affirm Removal**
- (4) **Joel Horton – Removal**
- (5) **Benjamin Jenkins – Removal**

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- (6) **Andrew Jones – Removal**
- (7) **Edward Keim – Removal**
- (8) **Michael Lacone – Affirm Removal**
- (9) **Elizabeth Noel – Removal**
- (10) **James Paree – Affirm Removal**
- (11) **Ryan Paveletz – Affirm Removal**
- (12) **Michael Price – Affirm Removal**
- (13) **Angela Stith – Affirm Removal**
- (14) **Debra Wade – Rescind Removal**

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Personnel Actions.

*From the Bureau of Accounting & Purchasing John Stiles, Director of Finance
Koppolu Ravindraraj, Director, Bureau of Accounting & Purchasing*

- (1) **Snow Removal Services** – Provide snow plowing and removal for the North West Office building’s eight (8) parking lots.

Procured via Invitation for Bid – VENDOR: C and Z Construction – TERM: Three (3) years – \$180,000.00 estimated cost. Two (2) bids were received: C and Z Construction - \$346,311.00; Snow & Ice Management Company - \$386,314.30.

- (2) **Lot 2, Retail Operations, Oracle ERP Production Support and Enhancements Consulting Services** – Provide assistance to the PLCB Information Technology Services Office for delivery of services to support initiatives associated with Act 39.

Procured via Change Order 2 to Contract 20140325 – VENDOR: Deloitte Consulting LLP – TERM: One (1) year – \$752,500.00 estimated cost.

- (3) **PLCB Regulatory Affairs System (PLCB+) Licensing Software Change Request** – The purpose of this Change Request is to reduce a significant amount of staff work in supporting Off-Premises Catering Permits and Special Wine Permits. Changes will affect permits, administrative instructions and interfaces, and the PLCB+ Public Website.

Procured via Change Request 19 to Contract 20121101 – VENDOR: Computronix USA, Inc. – TERM: Ten (10) weeks – \$58,700.00 estimated cost.

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Motion Made: Board Member Negra
Seconded: Board Member Newsome

Chairman Holden asked if there were any questions regarding these proposed actions, but no questions were raised.

Board Decision: Unanimously agreed (3-0 vote) to Approve all Purchasing and Contracting Actions.

From the Office of Retail Operations Carl Jolly, Director of Retail Operations

1. #0902 – 19 West Court Street, Doylestown
Amendment
2. #4637 – 2860 Audubon Village Drive, Audubon
Amendment
3. #4629 – 1825-A Limekiln Pike, Dresher
Amendment w/ Added Space
4. #0275 – 826 Hazelwood Avenue, Pittsburgh
Closing

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Retail Operations Actions.

*From the Bureau of Product Selection Dale Horst, Director of Marketing & Merchandising
Joseph Puhalla, Director, Bureau of Product Selection*

1. Regular New Items Accepted

BRAND NAME AND SIZE

REASON

Jim Beam Brands Co
Cruzan 151 Rum 750 ML

15

RECOMMENDED ACTION: We recommend the Board approve this action

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New Items – Recommended Listings

Reason Codes

1. Strong marketing support
2. High brand recognition
3. Line/Size extension of successful brand
4. Trade up opportunity
5. Growing category
6. Growing segment
7. National rollout
8. Niche item / Limited distribution
9. High dollar profit potential
10. Trade out
11. High quality for the value
12. Innovative product/flavor
13. High sales through other PLCB channels (Luxury, Online, SLO)
14. Underrepresented category/segment
15. Hole in selection – consumer/store requests

2. Regular One Time Buy

BRAND NAME AND SIZE

Premier Innovations Group

Cosmopolitan Diva 750 ML

RECOMMENDED ACTION: We recommend the Board approve this action

3. Luxury One Time Buy

BRAND NAME AND SIZE

Beaux Freres

Beaux Freres Pinot Noir Ribbon Ridge 2014 1.5 L

Beaux Freres Pinot Noir Ribbon Ridge 2014 750 ML

Beaux Freres The Upper Terrace Vineyard Pinot Noir 2014 750 ML

Beaux Freres Willamette Valley Pinot Noir 2014 750 ML

Beaux Freres Zena Crown Pinot Noir 2014 750 ML

Boutique Wine Collection

Six Hats Rose 2016 750 ML

Capital Wine and Spirits

Attems Pinot Grigio 2015 750 ML

Centine Rosso 2014 750 ML

Domaine de la Tonnellerie Sancerre Blanc 2015 750 ML

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Georges Duboeuf Chateau de Saint Amour Gamay 2015 750 ML
Georges Duboeuf Clos de Quatre Vents Fleurie Gamay 2015 750 ML
Georges Duboeuf Domaine des Javernieres Morgon Cote du Py 2015 750 ML
Georges Duboeuf Domaine du Riaz Cote du Brouilly 2015 750 ML
J Vineyards Russian River Pinot Noir 2014 750 ML
Piper Heidsieck Rare Millesime 2002 750 ML
Tenshen White Blend 2015 750 ML
Terra d'Oro Zinfandel Port NV 750 ML

CBL Wine Company

Poggio Bonelli Poggiassai Toscana IGT 2012 750 ML

Diageo Imports

Rhetoric 21 Year Old Whiskey 90.2 Proof 750 ML

Hermann Wiemer Vineyards

Hermann Wiemer Riesling Semi Dry Finger Lakes 2015 750 ML

Kobrand

Louis Jadot Echezeaux Pinot Noir 2014 750 ML
Louis Jadot Santenay Clos de Malte Blanc 2014 750 ML

Majestic Wine and Spirits

Avery's Trail Tennessee Premium Gin 90 Proof 750 ML
Garrison Brothers Texas Straight Bourbon Whiskey 94 Proof 750 ML
Hahn Pinot Noir SLH 2013 750 ML
Saxon Brown Pinot Noir Glass House Vineyards 2012 750 ML
Westland Garryana American Single Malt Whiskey 112.4 Proof 750 ML

Shiffrin Selections

Dr. Konstantin Frank Gewurztraminer Finger Lakes 2015 750 ML
Dr. Konstantin Frank Semi-Dry Riesling Finger Lakes 2015 750 ML

Skurnik Wines

Mocali Brunello di Montalcino 2010 750 ML
Mount Riley Pinot Noir Marlborough 2014 750 ML

Southern Wine and Spirits of PA

Chapoutier Estate Ermitage Rouge Le Greffieux 2009 750 ML
Chapoutier Estate Hermitage Chante Alouette Blanc 2014 750 ML
Chimney Rock Winery Elevage Stags Leap District 2012 750 ML
D'Arenberg Stephanie the Gnome with Rose Tinted Glasses Shiraz Sangiovese 2016 750 ML
Ernie Els Proprietor's Red Blend 2014 750 ML
Lapostolle Clos Apalta 2012 750 ML
Pascal Jolivet Pouilly Fume 2015 750 ML
Ramon Cardova Rioja 2014 750 ML
Terlato Family Vineyards Episode 2012 750 ML

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Tignanello IGT Toscana 2013 750 ML
Warhol by Cuvasion Series 1 of 3 2014 1.5 L

The Wine Merchant

Boschendal The Rose Garden Rose 2016 750 ML
Domaine de Blais Cotes de Provence Rose 2015 750 ML
Elk Cove Vineyards Willamette Valley Pinot Gris 2015 750 ML
Elk Cove Vineyards Willamette Valley Pinot Noir 2014 750 ML
Tommyrotter Distillery Gin 84 Proof 750 ML

Verity Wine Partners

Forty Ounce Muscadet 2015 1 L

Vintage Imports

Alain Graillot Crozes Hermitage Rouge 2014 750 ML
Alain Graillot St. Joseph Blend 2014 750 ML
Duckhorn Vineyards Cabernet Sauvignon 2013 1.5 L
Duckhorn Vineyards Cabernet Sauvignon 2013 375 ML
Les Vignes da Bila Haut Cotes du Roussillon Villages Rouge 2015 750 ML
Morgan Double L Chardonnay 2014 750 ML

Winebow

Altesino Brunello DOCG 2011 750 ML
Domaine F Raveneau Chablis Mont Mains Chardonnay 2014 750 ML
Domaine F Raveneau Chablis Montee de Tonnerre Chardonnay 2014 750 ML
Wine by Joe Pinot Noir 2014 750 ML

RECOMMENDED ACTION: We recommend the Board approve this action

4. Chairman's Selection Recommended Approvals

BRAND NAME AND SIZE

8 Vini

Secoli Prosecco DOC NV 750 ML

Capital Wine and Spirits

Agnitio Walala Pinot Noir Sonoma Coast 2014 750 ML
Outcast Cabernet Sauvignon Napa Valley 2012 750 ML

Southern Wine and Spirits of PA

Ace and Able Dundee Hills Pinot Noir 2015 750 ML
Buoy Ten Willamette Pinot Noir 2015 750 ML
Cross Springs Chardonnay Family Estate 2015 750 ML

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The San Francisco Wine Exchange

Terra Valentine Cabernet Sauvignon Yverdon 2007 750 ML

Terra Valentine Marriage 2010 750 ML

RECOMMENDED ACTION: We recommend the Board approve this action

5. E Commerce Exclusive Items

BRAND NAME AND SIZE

Moet Hennessy

Ardbeg 21 Year Old 92 Proof 750 ML

Palateur Imports

El Dorado 21 Year Old Special Reserve Rum 80 Proof 750 ML

Springbank 21 Year Old Campbeltown Sherry Cask Single Malt 99.6 Proof 750 ML

Sazerac

Antique Collection Set Five 750 ML Bottles

Weygandt Metzler Importing

Chapelle St. Theodoric Chateaneuf-du-Pape La Guigasse 2013 750 ML

RECOMMENDED ACTION: We recommend the Board approve this action

6. Regular Recommended Delist Retail Reductions January 2017

BRAND NAME AND SIZE

Treasury Wine Est Amer Co

Sterling Vineyards VC Syrah 750 ML

Stark Raving Malbec 750 ML

EFFECTIVE DATES: January 2, 2017 through April 2, 2017, the transference to closeout will become effective October 3, 2016

RECOMMENDED ACTION: We recommend the Board approve this action

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Bureau of Product Selection / Marketing Actions.

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FINANCIAL REPORT *Michael J. Burns, Comptroller Operations, Office of Budget*

**Commonwealth of Pennsylvania
 Pennsylvania Liquor Control Board
 State Stores Fund
 Comparative Statement of Net Position
 (Unaudited)**

	<u>July 31, 2016</u>	<u>July 31, 2015</u>
<u>ASSETS</u>		
Current assets:		
Cash	\$ 34,161,251	\$ 26,511,032
Investments - short term	264,956,226	224,428,386
Accounts and claims receivable, net	1,233,055	1,346,177
Due from other funds - Note 8	3,263	5,744
Merchandise inventories, net	239,483,820	227,621,222
Operating supplies	554,529	204,782
Prepaid expenses	330,000	3,415,736
Total current assets	540,722,144	483,533,079
Non-current assets:		
Non-depreciable capital assets:		
Land	322,973	322,973
Depreciable capital assets:		
Building	19,557,620	19,557,620
Leasehold improvements	757,962	757,962
Machinery and equipment	51,983,814	45,455,211
Intangibles - internally generated software	20,559,499	29,815,445
Less: accumulated depreciation	54,309,115	58,521,540
Net depreciable capital assets	38,549,780	37,064,698
Total non-current capital assets	38,872,753	37,387,671
Total assets	\$ 579,594,897	\$ 520,920,750
Total deferred outflows of resources - Note 4	\$ 94,421,449	\$ 32,938,538
<u>LIABILITIES</u>		
Current liabilities:		
Trade accounts payable	\$ 257,250,409	\$ 238,972,118
Other accounts payable	11,985,733	12,182,519
Accrued expenses	14,833,456	14,862,666
Self-insurance, workers' compensation - Note 6	8,271,965	8,316,604
Due to other funds - Note 8	4,271,335	2,918,355
Due to fiduciary funds - Note 8	1,596,794	1,357,780
Due to other governments - Note 8	482,135	476,506
Total current liabilities	298,691,827	279,086,548
Non-current liabilities:		
OPEB - Note 5	91,578,113	77,752,554
Self-insurance, workers' compensation - Note 6	39,287,287	42,109,251
Net pension liability - Note 4	452,495,699	365,585,050
Compensated absences	19,506,861	20,092,247
Total non-current liabilities	602,867,960	505,539,102
Total liabilities	\$ 901,559,787	\$ 784,625,650
Total deferred inflows of resources - Note 4	\$ 5,826,121	\$ 3,202,223
<u>NET POSITION</u>		
Net investment in capital assets	\$ 38,872,753	\$ 37,387,671
Deficit	(272,242,315)	(271,356,256)
Total net position	\$ (233,369,562)	\$ (233,968,585)

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Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board
State Stores Fund
Comparative Statements of Revenues, Expenses, and Changes in Net Position
For The Month Ending July 31, 2016 and July 31, 2015
(Unaudited)

	<u>July</u> <u>2016-17</u>	<u>July</u> <u>2015-16</u>
Sales net of taxes	\$ 159,107,230	\$ 155,620,356
Cost of goods sold	<u>(110,383,338)</u>	<u>(107,447,902)</u>
Gross profit from sales	48,723,892	48,172,454
Operating (expenses):		
Retail operations	(32,273,134)	(32,161,377)
Marketing & merchandising	(1,211,279)	(786,297)
Supply chain	(617,408)	(531,132)
Wholesale operations	(50,000)	-
Information technology services	(3,107,010)	(2,694,292)
Regulatory affairs	(2,056,718)	(1,892,459)
Administration	(1,110,766)	(1,105,437)
Finance	(273,452)	(485,680)
Board & secretary	(511,078)	(550,863)
Legal	(196,741)	(390,621)
Commonwealth provided services	<u>(1,063,411)</u>	<u>(1,403,795)</u>
Total	<u>(42,470,997)</u>	<u>(42,001,953)</u>
Operating profit	6,252,895	6,170,501
Other operating revenues (expenses):		
Enforcement fines	114,658	167,135
License fees	1,264,628	1,035,442
Miscellaneous income	199,592	200,806
Administrative law judge	<u>(214,703)</u>	<u>(223,094)</u>
Total	<u>1,364,175</u>	<u>1,180,289</u>
Total operating income	7,617,070	7,350,790
Non-operating revenues (expenses):		
Interest income	140,299	40,454
Other	<u>1,491</u>	<u>(393)</u>
Total	<u>141,790</u>	<u>40,061</u>
Income before operating transfers	7,758,860	7,390,851
Operating transfers out:		
PSP enforcement - Note 3	(2,950,058)	(2,652,182)
Income after enforcement/before other transfers	<u>4,808,802</u>	<u>4,738,669</u>
Other operating transfers out:		
General fund appropriations - Note 3	-	-
Drug and alcohol programs - Note 3	-	-
Total	<u>-</u>	<u>-</u>
Change in net position	4,808,802	4,738,669
Total net position - beginning	(238,178,364)	(238,707,254)
Total net position - ending	<u>\$ (233,369,562)</u>	<u>\$ (233,968,585)</u>
Liquor tax	28,732,832	28,091,046
State Sales Tax	11,199,563	10,934,951
Local Tax	701,603	681,469
Taxes remitted to Dept.of Revenue PTD	<u>\$ 40,633,998</u>	<u>\$ 39,707,465</u>

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OTHER ISSUES

2017 Board Meeting Schedule.....Secretary Stark

The public meetings will be held in Harrisburg, PA and commence at 11:00 a.m. in the Northwest Office Building, Conference Room 117.

- Wednesday, January 18, 2017
- Wednesday, February 1, 2017
- Wednesday, February 15, 2017
- Wednesday, March 8, 2017
- Wednesday, March 22, 2017
- Wednesday, April 5, 2017
- Wednesday, April 19, 2017
- Wednesday, May 3, 2017
- Wednesday, May 17, 2017
- Wednesday, June, 7, 2017
- Wednesday, June 28, 2017
- Wednesday, July 19, 2017
- Wednesday, August 2, 2017
- Wednesday, August 23, 2017
- Wednesday, September 13, 2017
- Wednesday, September 27, 2017
- Wednesday, October 11, 2017
- Wednesday, November 1, 2017
- Wednesday, November 15, 2017
- Wednesday, December 6, 2017
- Wednesday, December 20, 2017

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve the 2017 Board Meeting Schedule as presented.

Recognition of John Metzger, Executive DirectorChairman Holden

Chairman Holden indicated that this would probably be the last public meeting before Executive Director, John Metzger, retires from the PLCB. Chairman Holden noted that Mr. Metzger has done a wonderful job in his time with the PLCB, and he asked Mr. Metzger if he wished to offer a few remarks.

Mr. Metzger stated that it has been quite a ride working for the PLCB. He indicated that he has worked for the PLCB for a total of six years, and has spent three of those years serving as the Executive Director. He remarked that he was once asked what it was like to work for the PLCB, and he replied that “it is like standing in the middle of a four-way intersection without any stop signs or traffic lights.” He explained that this is because of the various issues or challenges that are

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frequently faced by the PLCB as both a government agency and a wholesale and retail business, as well as having to address the multiple perspectives that are often offered relative to the same.

Mr. Metzger indicated that it has been a real honor and privilege to work for the PLCB. He expressed his appreciation and gratitude to everyone that he has had the pleasure of working for or with, including: the current Board—Chairman Holden, Member Negra, and Member Newsome; previous Board Chairmen—P.J. Stapleton and Skip Brion; previous Board Member—Bob Marcus; the executive staff; bureau directors; employees; and industry members and suppliers. Mr. Metzger stated that working for the PLCB has been a tremendously rewarding experience. He shared that he and his wife will be moving on to the next chapter in their lives, but that he plans to keep up with what is happening within the industry.

Mr. Metzger added that he believes his replacement as the next Executive Director for the PLCB, Charlie Mooney, will do a fantastic job. He described Mr. Mooney as a fair, reasonable, and decisive individual whom everyone should find very easy to work with.

Chairman Holden thanked Mr. Metzger for being the captain of the ship, and for keeping the ship steady for the last several years. Chairman Holden emphasized that Mr. Metzger will certainly be missed because he was a great leader and a tremendous asset to the PLCB.

Board Member Negra also extended his thanks to Mr. Metzger for his service to the PLCB. He stated that Mr. Metzger did a terrific job and has overseen many different changes during his time here, including those related to Act 39, which have been beneficial to consumers, licensees, and industry members. Board Member Negra added that he is very proud of the job that Mr. Metzger has done and is grateful for the opportunity to have worked together with him.

Board Member Newsome also thanked Mr. Metzger for all of his hard work and contributions to the PLCB during his time here. He noted that Mr. Metzger did a tremendous job in terms of maintaining morale within the agency. Board Member Newsome noted that it speaks volumes about the type of leader that Mr. Metzger has been in that his team has always respected him and has been committed to getting the job done for him.

CITIZEN COMMENT/BUSINESS FROM THE FLOOR

David Wojnar, Vice President for State Government Relations for DISCUS, along with David Ozgo, Chief Economist for DISCUS, appeared to offer comments on Act 39 and the PLCB's implementation/consideration of the flexible pricing powers granted by that legislation.

Prior to offering his comments, Mr. Wojnar extended his own thanks to John Metzger, Executive Director, for the great job that he has done while working for the PLCB. Mr. Wojnar noted that he has had the opportunity to work with other individuals holding similar positions in the various control states around the country, and that Mr. Metzger has always been one of the best to work with.

Mr. Wojnar proceeded to offer the following comments relative to Act 39 and flexible pricing.

There have been two different interpretations of the flexible pricing language that was included in Act 39. Some people have interpreted the legislation as allowing the PLCB to implement pricing on certain products in a manner that maximizes profits and as basically giving the PLCB a blank check to optimize its margins at the expense of the suppliers producing the spirits and wine the PLCB sells to consumers in the

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Commonwealth. However, others have interpreted the flexible pricing language as a way to allow the PLCB to provide better prices for Pennsylvania consumers, which, in turn, will result in maximizing the PLCB's returns. DISCUS agrees with the latter interpretation of Act 39 because it would provide the widest available spirits and wine choices for the citizens of the Commonwealth and would be in keeping with the precepts of good governance.

DISCUS is concerned about what it has been hearing regarding the approach being considered by the PLCB to implement flexible pricing based on Act 39. DISCUS is disappointed with the decision to proceed with one-on-one supplier meetings without having a clear approach that is transparent and understood by all stakeholders. Letters sent to suppliers and the Pennsylvania Wine and Spirits Association have also raised some additional questions regarding how the PLCB will implement pricing and the PLCB's reasons for requesting unprecedented access to the proprietary information of suppliers.

DISCUS is asking that the PLCB utilize an open and transparent process that would allow industry representatives and stakeholders to have the opportunity to provide input as the PLCB develops its flexible pricing policy. Typically, when other control states have considered a policy shift of this magnitude, industry groups or stakeholder groups have been assembled to make sure that all voices are heard and that the process is undertaken in an open and transparent manner. Iowa and Maine serve as recent successful examples of this practice. NABCA, the control state trade association, also continually stresses the need for industry and regulators to work together and collaborate as policy proposals are considered.

Back in the 1980s, the Healy case involved unconstitutional price affirmation requirements and the PLCB spoke out against those types of practices at that time. DISCUS is again asking the PLCB to stand up against those practices and to not engage in them with the approach being developed.

Mr. Wojnar then turned things over to Mr. Ozgo, who offered the following remarks.

The manner in which the PLCB intends to implement flexible pricing is at odds with practices typically used in open states where multiple retailers compete for the consumer's business. While it would raise serious antitrust concerns for me to have access to the kind of detailed supplier pricing and cost data that the PLCB envisions, in open states when a supplier offers promotional prices, the price discount is designed to be a benefit to the consumer. If, for example, a supplier were to offer a \$1.00 per bottle discount, the wholesaler might also reduce his margin by \$0.50 per bottle and the retailer by another \$0.50. Thus, with the supplier, wholesaler and retailer all reducing their margin, the consumer gets a \$2.00 per bottle discount.

This is really contrary to what the PLCB plans with its flexible pricing authority. Any price discounting by suppliers will be met by a mark-up increase by the PLCB. Thus, the consumer will receive no benefit whatsoever. Across the country retailer margins are declining in open states, not going up. From the perspective of the PLCB's customers, far from modernizing the marketplace, flexible pricing will be a step backward.

Given that the marketplace and tax structure of each state differs, pricing of a particular brand is only one element of a successful strategy for marketing that brand. Advertising, market positioning, point-of-sale materials, and promotions are integral in realizing the full sales potential of a brand. The appropriate balancing of these elements along with strategic pricing decisions are critical and the resources devoted to these components demand a brand owner's/supplier's expertise. The wholesaler/retailer control state cannot and should not mandate a supplier to allocate an arbitrary and/or disproportionate share of its brand support to pricing.

Mr. Ozgo then turned things back over to Mr. Wojnar.

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Mr. Wojnar asked if any decision has been made by the PLCB with regard to how flexible pricing will be implemented.

Chairman Holden responded that the PLCB is actively involved in negotiating with vendors, but no decision has been made regarding how items will be priced under the flexible pricing approach.

Mr. Wojnar also asked what happens if a supplier refuses the terms and price offered by the PLCB.

Chairman Holden responded that the PLCB would let DISCUS know if and when that happens.

Thereafter, Mr. Wojnar indicated that he would like to conclude with the following remarks.

As a monopoly, the PLCB has an obligation to ensure that the rights to fair and equitable treatment for all suppliers are respected and protected. Because suppliers have no other place to go in a control state, DISCUS believes that the PLCB must go above and beyond the normal market place checks and balances in order to ensure basic fairness.

When compared to other states, Pennsylvania does not have a pricing problem. Rather, the problem in Pennsylvania is that it only has 600 retail outlets and is, therefore, underserved. Pennsylvania needs more outlets. While better pricing and better deals may offer some benefits, the addition of more outlets would better serve the needs of consumers in Pennsylvania.

In addition, holiday listings and promotional support for spirits items are in place and were presented to the Board in the spring. These listings were accepted and approved by the PLCB prior to the first week of July. Thus, suppliers have already established their price quotes and brand support for the holidays. To retroactively change these agreed-upon terms now would be problematic and very detrimental to suppliers.

DISCUS respectfully requests that the PLCB not make any flexible pricing decisions until after the holiday selling season and until an industry working group is assembled with an open and transparent process so that the industry can work with the PLCB on a flexible pricing plan that benefits the consumer without adversely affecting the PLCB's business partners.

Chairman Holden responded that the PLCB has no intention of being heavy-handed with its approach to the negotiations. He explained that it is his understanding that the negotiations have been very relaxed and non-aggressive in nature. He indicated that the PLCB also understands the need for consumer convenience. With that being said, Chairman Holden emphasized that the PLCB has a clear mandate to implement Act 39, and there is an expectation from the Legislature and from the Governor for the PLCB to generate more revenue. He expressed that the PLCB is not in a position to push back any timetables, noting that Act 39 was passed in the summer and only went into effect on August 8th. He stated the PLCB will be expected to answer to the legislature at the appropriations hearings early next year about the progress that it has made towards meeting the prescribed goals. He added that the PLCB's staff has done a great job in implementing the various provisions in a very short period of time, but again reiterated that PLCB is simply unable to negotiate in terms of pushing back a deadline.

Mr. Wojnar indicated that, if he is being candid, he is disappointed and surprised by the PLCB's support for a policy that would hurt both consumers and suppliers. He is also disappointed to hear that the Governor would place the desire to generate more revenue above the interests of consumers and suppliers.

Board Member Negra responded by stating that no decisions have been made in terms of a flexible pricing policy or structure. He also challenged DISCUS's assertions that the PLCB has no plans to implement Act

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39 in a way that will result in better pricing for consumers. He specifically questioned how anyone could possibly know that right now. Board Member Negra pointed out that there are a lot of different variables that go into pricing for each product, and that revenues and consumer benefits will likely vary for each individual product.

Board Member Newsome indicated that, for the most part, the Board has chosen not to interject itself into the process. He stated that the Board places great faith in its staff and has deferred to Dale Horst, as the Director of Marketing and Merchandising, to handle the negotiations and discussions with suppliers. Board Member Newsome asked Dale Horst to provide a short synopsis of how the negotiations have been unfolding.

Mr. Horst explained that the one-on-one meetings with suppliers began on September 7, 2016, and most of those meetings have already taken place. He noted that there are three more meetings scheduled for October 12, 2016. He further explained that the PLCB has gone into these meetings with the understanding that it is a two-way street and that the PLCB and the suppliers need to work together with each other in order to be successful. Mr. Horst stated that, in preparing for these meetings, the PLCB has looked at various factors, including costs, sales trends, sale volumes, present margin, etc. He explained that the cost to acquire goods in Pennsylvania has been a starting point for the discussions, but emphasized that employees were specifically instructed not to get involved with discussing specifics about supplier strategies or profit margins during the meetings. He also indicated that the PLCB worked with Nielson to provide a survey of pricing in surrounding states in order to have a relative basis for comparisons. Mr. Horst also emphasized that the suppliers have simply been asked to review the PLCB's proposals, and that the PLCB has not demanded anything at this point. He stated that it has been a simple ask based on volume.

Mr. Wojnar asked Mr. Horst if the PLCB has received any responses back from suppliers.

Mr. Horst responded that a little more than half of the suppliers with whom meetings have already been held have responded in some way.

Mr. Wojnar also asked Mr. Horst if the PLCB has a drop dead date for responses from suppliers.

Mr. Horst responded that the PLCB's goal is to implement the cost changes by November 1, 2016. Mr. Horst also added that even though prices may have been agreed upon in the spring, the PLCB reviews pricing four times per year.

Mr. Wojnar thanked everyone for their time.

Chairman Holden thanked Mr. Wojnar and Mr. Ozgo for taking the time to attend the meeting and share the concerns of DISCUS. Chairman Holden added that although there is sometimes a divergence of viewpoints on issues like this, he hopes that everyone understands that it's just business, and nothing personal should be taken from it.

NEXT BOARD MEETING

The next meeting of the PLCB will be a formal meeting on Wednesday, October 26, 2016 beginning at 11:00 A.M. Prior to the public meeting, there will be an Executive Session to discuss matters of personnel and to engage in non-deliberative informational discussions, some of which are regarding actions and matters which have been approved at previous public meetings.

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ADJOURNMENT

On a motion by Board Member Negra, seconded by Board Member Newsome, the meeting was adjourned.

The foregoing actions are hereby officially approved.

Chairman

Member

Member

ATTEST:

Secretary