FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, April 30th, 2018

Those Present:	Mr. Jesse Pippy, Chairman Mr. Rick Stup, Board Member Mrs. Kathy V. Dean, Administrator Mrs. Linda Thall, Senior Assistant County Attorney Mr. Bob Shrum, Alcoholic Beverage Inspector Mr. Robert Lind, Alcoholic Beverage Inspector

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:05 AM by Chairman Pippy.

1. Board Comments – There was a scheduling issue for Frederick Getgo. They need moved on the agenda to be first. Mr. Stup made a motion to move the case to the beginning of the agenda. Mr. Pippy seconded the motion.
2. Violation

   a. Sales to Minor

Frederick Getgo
David Burnworth and D. David Daniel
for the use of Maryland Convenience Company
t/a Frederick Getgo
1000 W. Patrick Street B
Frederick, Md 21703
Class A, Off Sale, Beer and Light Wine
License #11AW 1882, FCLB Case#11271

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on January 9th, 2018 at approximately 6:30 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Dalton Schaszberger was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensees pled Guilty to this charge. Mrs. Thall made the Frederick City Police report as part of the record.

Mrs. Thall stated that the plain clothes officer and the minor entered the establishment. The minor retreieved a one pint Bud Light Platinum from the cooler. He placed it on the counter to purchase. The Getgo employee identified as Alesia Turner asked the minor for the identification. She proceeded with the sale. Officer Payne explained she was the plain clothes officer who entered the establishment with the minor. She observed the clerk make the sale to the minor. She left the store and notified Officer Jansson who completed the investigation.

Mr. Pippy asked the server when she checked the identification, did she look at the dates. Miss. Turner replied, "Yea, kind of, like I looked really quick." Mr. Pippy asked if she had seen a Pennsylvania driver's license before. He asked her if she felt she did a good job at looking the dates. She said obviously we are here, she didn't do a good job at that. Mr. Pippy went over the identifications and checking dates. Miss. Turner read the identification wrong, she said she was not familiar with out of state identifications. Mr. Pippy asked her if she had taken alcohol identification course. Miss. Turner answered, "No." Mr. Pippy asked if anyone was on site at the time of the incident that was alcohol awareness trained.

Mr. Noel Manalo representing the Frederick Getgo introduced the team here today on behalf of the establishment. This issue has been taken very seriously. There was a certified person on staff that evening.

Mr. Stup asked what type of policies are in place for the clerks to reference. This out of state license is very similar to Maryland's identification. Mr. Manalo interjected that there is a written policy that they are reviewing along with the responsible server policy offered on the Liquor Board website. Eight team members attended the ID Training held on April 9th and the remaining staff will attend the June 1st training. They will be reviewing the internal polices and fine tuning them to avoid future incidents. Mr. Stup added that apparently there is something lacking so requiring no vertical identification may be a solution. Officer Payne interjected that the Getgo employee who was alcohol certified was very attentive and the sale had happened before he could stop it. The most useful tool that she has seen out on the compliance checks is the point of sale system requiring them to enter the dates into the register. This stops the sale immediately.

Mr. Manalo said the establishment is in process of implementing a point of sale system that will do exactly what Officer Payne described. They are also implementing a scan system. The clerk entered the date of birth but entered it incorrectly. This caused them to look at human error and are now purchasing the scanning system to avoid that in the future.

Mr. Pippy said there is no full proof system for checking identification. In Annapolis there was a bill introduced that if an identification is scanned there is no liability. This bill passed, but the issue is you can use someone else's identification and it gets scanned and the clerk doesn't take the time to look at the person and the identification, therefore a sale is still made. An early indicator is the vertical identification. The clerk said she was trained to enter generic dates. She now knows that is wrong.
Mrs. Dean reviewed the violation history. On July 26th, 2010, there was a Late to File a Renewal, they paid a $50.00 no contest fine. On August 1st, 2011, there was a Sales to Minor, they paid a $400.00 fine. On November

18th, 2013, there was a Sales to Minor, they paid an $800.00 fine, with a 30 days suspension that was suspended.

MOTION: Mr. Stup made a motion to assess a fine of $1500.00.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye

The vote was unanimous ***Ayes-2, Nay-0***
(Motion passed)

b. Sales to Minor

Tilted Kilt
Michael Aker and Jay Bajaj
for the use of TK Frederick, LLC.
t/a Tilted Kilt
5605 Spectrum Drive
Frederick, Md 21703
Class B, On Sale, Beer, Wine & Liquor
License #11BL 4565, FCLB Case#11286

Mrs. Thall called for the Officer and the minor. They were not present.

MOTION: Mr. Pippy made a motion to dismiss the case because no one is present.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Pippy reiterated to the licensees to use this as a warning.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye

The vote was unanimous ***Ayes 2, Nay-0***
(Motion passed)

c. Sales to Minor

Casa Rico
Ajay Prakash, Renu Prakash, & James Conner
for the use of Rico Brothers Corporation
t/a Casa Rico
1399 W. Patrick Street

Mrs. Thall swore in the witnesses. Mrs. Thall read the charges that on February 6th, 2018 at approximately 2:00 pm, had on premises alcoholic beverages that were not purchased from a licensed manufacturer or wholesaler, private bulk sale permit holder or nonresident winery permit holder, in violation of the Alcoholic Beverages Article of the Annotated Code of Maryland §6-311 (b) (1) and §6.19 of the Frederick County Alcoholic Beverages Regulations.

On February 6th, 2018 at approximately 2:00 pm, either directly or through an agent or employee, kept on the premise alcoholic beverages containers, the contents of which were tampered with, by changing the quantity or quality of the contents, in violation of §6-313(a) of the Alcoholic Beverages Article of the Annotated Code of Maryland and §6.22 of the Frederick County Alcoholic Beverages Regulations.

On February 6th, 2018 at approximately 2:00 pm, either directly or through an agent or employee, had on the premises one or more illicit alcoholic beverages found in a container without a regular label describing the true contents of the container and the true name of the importer, manufacturer, bottler, or rectifier, in violation of §6-315 (a) of the Alcoholic Beverages Article of the Annotated Code of Maryland.

The Licensees pled Guilty to the first violation, and pled Guilty with an explanation for the other two charges. Mrs. Thall made the reports from the Comptroller's office a part of the record.

Inspector Herndon and Inspector Southworth were conducting a routine inspection at the establishment. Upon entering the establishment, they identified themselves to the co-owners and licensees. They requested invoices for alcohol purchases. At that point they noticed at the bar area, there was a small bottle of Smirnoff Vodka Strawberry flavored, that could not be found on any invoices. Mr. Prakash advised them that he was unaware of how the bottle got into the bar area. He did not make that purchase. Also, during the inspection they noticed a 1.75 handled size jug of Titos Vodka in the immediate vicinity of the bar and another 1 liter size being used to mix drinks with. They asked Mr. Prakash if he was using the 1.75 liter bottle to refill the 1 liter bottle. Mr. Prakash said that he was because of pricing. During an inspection of the locked area and the back stock, the inspectors located more of the 1.75 liter bottles that were being used to refill the 1 liter bottles. Upon further investigation of more invoices, it was readily apparent that they routinely ordered larger bottles to refill the 1 liter bottles. In addition to that, the inspectors noticed multiple containers of Montezuma brand tequila around the bar area

opened that contained sliced peppers or a variety of spices. This was explained to them by Mr. Prakash that this was to infuse the tequila with different flavors. The inspectors identified at least a dozen of those bottles that were in various stages of being infused. Some of the bottles were emptied with peppers still in them. Mr. Prakash told the inspectors that this was tradition at their restaurant and that is what they were known for, is the infused tequila. The inspectors explained the violations to Mr. Prakash and they were polite and cooperative through the inspection.

Mrs. Thall asked what the basis was for the charge that references the labels. Mr. Herndon said the basis for that is the Montezuma bottles were labeled for silver tequila and the contents were altered. The label did not describe that it was infused with peppers. There were a few bottles that had a sticky label with cinnamon or pepper for bartending purposes.

Mr. Pippy asked the licensees for their input on these accusations. Mr. Prakash addressed the refilling of the smaller bottles with the larger bottles as a cost savings. They serve from both and the bar rail doesn't accommodate the larger bottle so they keep it below the bar. When he was questioned he had no idea there was anything wrong with serving the alcohol this way and was cooperative with the inspector. As the inspection went on he found out that this was called tampering. He was very ignorant of the fact that he was breaking any rules. He pulled out the Regulation Book and said it was not specific on the tampering. He is Guilty of being ignorant. Mr. Prakash does have an objection to the other bottles they found of Scotch and Black Label in the back stock. He stated that they never refill any other bottles except the Vodka. He hardly sells any Scotch or Black Label. They are kept in the back for personal use. He admits that Vodka was used to refill.

As for the second violation on the tequila, it is their practice to infuse the tequila for flavors. This practice has been going on for a while. The inspectors from the Liquor Board have been in there and have noticed it and never said there was anything wrong with it. This is a common practice for them. He doesn't feel this is tampering. The tequila is in its original bottle. He felt this was legal way of infusing. He is now aware that there is a proper way of infusing. He feels there is a minor discrepancy in the definition of tampering. He has since changed his practices and is following the law. We have never had a visit from the Comptroller's office but many visits from the Frederick County Liquor Board. Mr. Prakash feels they have a very good track record. He has never done anything purposely against the law. This practice was not done for monetary reasons. This was just done with ignorance.
The third issue Mr. Prakash would like to address is the Strawberry Vodka. He had no knowledge of this bottle. His suspicion is that an employee was drinking this on the side. He has no explanation for this and he is very sorry. He has put up a notice to the employees so there are aware of any

issues. He is taking all the steps necessary to prevent this from happening again. He presented the Board with a copy of the notice. Mr. Prakash wanted to add that this is a family style Mexican restaurant, ninety percent of their sales come from Margarita and Beer sales. They don't sell much liquor. At no time did he ever have any unlawful intentions. They realize through ignorance that they have unintentionally violated the liquor laws. They are now educated about what tampering means and have ceased all practices that were not legal. He sincerely apologizes to the Board. He assures the Board that he will abide by any Regulations. They have thirty one years of a clean record. This is proof of their sincere intentions and validates their lawful business practices. They request that the Board see this as an unintentional act and not to impose any fines or penalties.

Mr. Pippy asked the Comptroller's office if they had randomly inspected other businesses in the area. Mr. Herndon said yes they routinely inspect the retail establishments that serve alcohol. Mr. Pippy asked how often this happens. Mr. Herndon replied that this division is tasked with monitoring more than alcohol. They monitor fuel, tobacco tax, and alcohol tax. Routinely he would say he is checking fuel three days a week and alcohol two days a week. Sometimes the inspections overlap at the same location. Mr. Pippy asked the inspectors what made them check this establishment. Mr. Herndon said it was based on proximity of other inspections they were performing that day. There were no complaints on this establishment. Mr. Herndon added that Mr. Prakash didn't appear to be intentionally trying to hide anything. He was very cooperative.

Mr. Pippy asked the Inspector Lind when the last time he visited this establishment was. Inspector Lind answered, "About a month ago." Mr. Pippy asked if he had noticed any tampering. Inspector Lind responded that he did not observe any at the time he was there. He was not aware of any infusing.

Mr. Stup was troubled by the statement that our inspectors had been in to the establishment and was aware this was happening but had not said anything. Our inspectors may not have noticed because this is not something they typically look for. Mr. Stup was troubled by the fact that an employee was drinking during their shift. Mr. Prakash interjected that he has very strict policies and does not tolerate drinking while working. Mr. Stup applauded his efforts but the licensee is held accountable. Mrs. Prakash stated since this incident they check stock daily to be sure their invoices match what is on the premises. They have become vigilant in enforcing the rules. Mr. Stup said one of the biggest laws on the books is tampering so that people don't get sick. He understands there was no intent to defraud but this is a huge issue from a health standpoint. This is the first we have seen this in five years. He is very concerned.

Mr. Pippy asked the Comptroller's office to explain the illicit labeling. Inspector Southworth said that the label must describe the true contents of the container. Once it is altered the label no longer describes what is in that bottle. The infusion was at various stages and the alcohol content is being rectified. It is not the same contents. The label that was originally on the bottle is no longer valid. It is considered contraband at that point. Same with refilling a bottle, it is a concerted effort to save money. There is a safety concern when this takes place. The products were seized. Mr. Pippy asked the inspectors to elaborate on the testing. The lab tech testified that the alcohol fell within the guidelines when tested.

Mr. Pippy went over the rules of getting alcohol from a licensed distributor is for various reasons. The main reason is for safety. The bottles are not to be tampered with. There have been cases where different types of alcohol were being mixed. This can become very dangerous. The rules for alcohol have been in place for over eighty years. There are multiple issues with bringing in outside alcohol and tampering with bottles.

Mrs. Dean reviewed that there was no violation history.

MOTION: Mr. Stup made a motion on charge one to assess a $250.00 fine, suspended. On charge two to assess a $1000.00. On charge three to assess a $250.00 fine, suspended. There will be a six month probation. The probation was removed in the discussion.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Pippy reviewed on charge one that it refers to the smaller bottles. Mr. Stup suspended that because of their record. On charge two, the infusion is the most serious of the three charges and charge three is because the true contents were not in the bottle. Mr. Stup felt there was no true intent to defraud. If within the next six months, while on probation, there is another offense to do with alcohol the suspended fines will be payable. Mr. Pippy thought it was hard to accept that they did not know that modifying alcohol and serving to the public was wrong. Mr. Stup and Mr. Pippy agreed to amend the motion to retract the six month probation.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye

The vote was unanimous ***Ayes-2, Nay-0***
(Motion passed)

3. Minutes Update – Minutes are not up to date. The minutes that need to be completed are March 26th, 2018 public and staff, April 23rd, 2018 public and staff.

4. Public comment – Tom Kline would like to discuss what the requirements are for the amount of alcohol required by a licensed establishment. There are no Regulations that specify the use of a license in regards to the amount of alcohol required. The Board listened to Mr. Kline's concerns and will note them for future forum discussions.

Meeting adjourned at 10:31 am

Respectfully submitted,
Kathy V. Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Dawn Shugars