

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION NO. I
CIVIL ACTION NO. 14-CI-1282

ANHEUSER-BUSCH, LLC

PETITIONER

v.

MS. STEPHANIE STUMBO,
MALT BEVERAGE ADMINISTRATOR,
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Serve: Ms. Stephanie Stumbo, Malt Beverage Administrator
Department of Alcoholic Beverage Control
Commonwealth of Kentucky
1003 Twilight Trail
Frankfort, Kentucky 40601
Via Certified Mail

Mr. Steve Humphress, General Counsel
Department of Alcoholic Beverage Control
Commonwealth of Kentucky
1003 Twilight Trail
Frankfort, Kentucky 40601
Via Certified Mail

Mr. Jack Conway, Attorney General
Commonwealth of Kentucky
The Capitol, Suite 118
700 Capitol Avenue
Frankfort, KY 40601-3449
Via Certified Mail

AND

MR. FREDERICK HIGDON, COMMISSIONER
MR. TONY DEHNER, DISTILLED SPIRITS ADMINISTRATOR
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Serve: Mr. Frederick Higdon, Commissioner
Mr. Tony Dehner, Distilled Spirits Administrator
Department of Alcoholic Beverage Control
Commonwealth of Kentucky
1003 Twilight Trail
Frankfort, Kentucky 40601
Via Certified Mail

Mr. Peter Ervin, Executive Director
Public Protection Cabinet
Office of Legal Services
5th Fl., Capital Plaza Tower
Frankfort, KY 40601
Via Certified Mail

Mr. Jack Conway, Attorney General
Commonwealth of Kentucky
The Capitol, Suite 118
700 Capitol Avenue
Frankfort, KY 40601-3449
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AND

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

RESPONDENTS

Serve: Mr. Frederick Higdon, Commissioner
Mr. Tony Dehner, Distilled Spirits Administrator
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Commonwealth of Kentucky
1003 Twilight Trail
Frankfort, Kentucky 40601
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**ORIGINAL PROCEEDING FOR PETITION FOR WRIT OF MANDAMUS
PURSUANT TO CIVIL RULES 76.36 AND 81,
FOR INTERMEDIATE RELIEF PURSUANT TO CIVIL RULE 76.36(4), AND
FOR DECLARATORY AND INJUNCTIVE RELIEF
PURSUANT TO CIVIL RULES 57 AND 65**

Comes the Petitioner, Anheuser-Busch, LLC (“Anheuser-Busch”), through counsel, and for its Original Proceeding for Petition for Writ of Mandamus pursuant to CR 76.36 and 81, for Intermediate Relief Pursuant to CR 76.36(4), and for Declaratory and Injunctive Relief Pursuant to CR 57 and 65, asking this Court to:

- (1) mandate and/or enjoin Ms. Stephanie Stumbo, Malt Beverage Administrator for the Kentucky Department of Alcoholic Beverage Control (“ABC”), to grant Anheuser-Busch’s application for a Distributor’s License;
- (2) declare that KRS 243.630 requires Ms. Stumbo to make a determination on Anheuser-Busch’s application for a Distributor’s License and Kentucky law requires that she grant the application; and
- (3) mandate and/or enjoin the ABC Board to set a hearing date on the appeal from the Owensboro City Administrator’s approval of Anheuser-Busch’s application with twenty days’ notice and rule on Anheuser-Busch’s Motion to Dismiss.

In support of its Petition, Anheuser-Busch states as follows:

INTRODUCTION

1. Kentucky law has been unequivocal for over half a century: a brewer may hold a malt beverage distributor's license. The General Counsel of the ABC acknowledged this indisputable fact on July 17, 2014; when asked whether a brewer could hold a distributorship, he simply responded "Yes per attached case." Exhibit 1.

2. In *Kentucky Alcoholic Beverage Control Board v. Anheuser-Busch, Inc.*, 574 S.W.2d 344 (Ky. Ct. App. 1978), the Court of Appeals struck down an ABC regulation purporting to prohibit interlocking interests between brewers and distributors and affirmed the trial court's decision ordering the ABC to issue a distributor's license to Anheuser-Busch. Anheuser-Busch has held a malt beverage distributor's license for its Louisville operation ever since, and is currently a distributor in good standing.

3. Anheuser-Busch has reached an agreement with the Hand Family, LLC ("Hand") to purchase Budweiser of Owensboro, a licensed distributor that has exclusive rights to sell Anheuser-Busch products in a territory that is nearby the Louisville distributorship already owned and operated by Anheuser-Busch. Anheuser-Busch will operate from the same licensed premises from which Budweiser of Owensboro distributes beer.

4. The agreement between Anheuser-Busch and Hand requires that the transaction close by the end of the year. Thus, time is of the essence.

5. In order to close the transaction, Anheuser-Busch needs the approval of both the Owensboro ABC City Administrator and the state Malt Beverage Administrator, Stephanie Stumbo, to transfer the existing distributor's license used by

Budweiser of Owensboro to Anheuser-Busch. Since Anheuser-Busch is already an existing licensee in Louisville and will operate out of the same licensed premises as Budweiser of Owensboro, this should have been a mere formality.

6. Several third parties, none of whom are residents of Owensboro and all of whom are acting in their own self-interest, are seeking to block Anheuser-Busch's application through any means necessary. These protests have no merit, are contrary to Kentucky law, and have been interposed only for purposes of delaying and disrupting the transaction. Among the special interests are five distributors of Anheuser-Busch products in exclusive territories outside of Owensboro and the Kentucky Beer Wholesalers' Association.

7. Anheuser-Busch informed the Kentucky ABC and Ms. Stumbo of the proposed transaction in July and filed its application for transfer of Budweiser of Owensboro's distributor's license on August 7, 2014. This filing provided ample time to obtain the necessary approvals and complete the transaction within the required time period. The application was "substantially complete" on August 18th.

8. The Owensboro City Administrator, Dana Coomes, properly approved Anheuser-Busch's application in a timely fashion and as a routine matter on August 25th.

9. State Director Stumbo was required to either grant or deny Anheuser-Busch's application by October 17th, which is sixty days from the date the application was substantially complete. KRS 243.630(7). She has not done so. There is no basis for

denying the transfer application under Kentucky law. Additional delay, as a practical matter, accomplishes the same thing as a denial.

10. Ms. Stumbo waited until the very end of the statutory period to inform Anheuser-Busch that she would not make a decision within the sixty days required by law. Ms. Stumbo has now advised Anheuser-Busch that she needs more information in connection with the application, but is unwilling or unable at this time to describe what information she needs.

11. Instead, Ms. Stumbo informed Anheuser-Busch that she would send a letter identifying that information at a future date. This was done despite the fact that Anheuser-Busch's application was complete over two months ago, that Anheuser-Busch has repeatedly advised Ms. Stumbo in writing that it needed a timely decision and that Kentucky law required a decision by October 17th, and that prior to the end of the sixty days, Ms. Stumbo never informed Anheuser-Busch of this need for more information.

12. In furtherance of their attempt to delay and disrupt the transaction between Anheuser-Busch and Hand, certain third parties have appealed the Owensboro City Administrator's approval of Anheuser-Busch's application. The appeals have no merit but will have the intended effect of blocking the transaction if not ruled upon as soon as practicable. Anheuser-Busch has moved to dismiss the appeals. Anheuser-Busch's motion can be decided as a matter of law with no need for a hearing or any fact finding.

13. The ABC Board is required to conduct a hearing on the appeals "as soon as practicable." KRS 13B.050(1). It has not done so. The ABC Board has not even

scheduled the hearing. Nor has the ABC Board ruled on Anheuser-Busch's motion to dismiss.

14. As things now stand, the closing deadline for the transaction is fast approaching but Ms. Stumbo and the ABC Board have indefinitely delayed the approval of Anheuser-Busch's application through:

- Failing to approve Anheuser-Busch's application within the 60-day time frame provided in KRS 243.630;
- Failing to schedule a hearing on the appeal "as soon as practicable" in accordance with KRS 13B.050; and
- Failing to rule on Anheuser-Busch's motion to dismiss.

15. If Ms. Stumbo is allowed to continue to delay approval of the license, and the ABC Board is not compelled to schedule an immediate hearing on the appeal and rule on the motion to dismiss, Anheuser-Busch will be unable to complete the transaction before the end of the year and will, as a result, be irreparably harmed.

PARTIES

16. Petitioner Anheuser-Busch is a limited liability company organized under the laws of the State of Missouri with its principal place of business at One Busch Place, St. Louis, Missouri 63118. Anheuser-Busch is the leading American brewer. Anheuser-Busch products (such as the iconic Budweiser, Michelob, and Busch families of beer) are distributed throughout the United States by over 500 distributors who operate in exclusive territories. There are eleven wholesalers distributing Anheuser-Busch products in Kentucky, including a branch in Louisville that Anheuser-Busch has wholly-owned and operated with a distributor's license since 1978.

17. Ms. Stumbo is the Malt Beverage Administrator of the ABC, an agency of the government of the Commonwealth of Kentucky, charged by statute with administering and enforcing procedures relative to the applications for and revocations of licenses and the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages. KRS 241.060.

18. Mr. Higdon is the Commissioner of the ABC.

19. Mr. Dehner is the Distilled Spirits Administrator of the ABC.

20. Together, Mr. Higdon, Mr. Dehner, and Ms. Stumbo comprise Kentucky's ABC Board. Mr. Higdon is Chairman of the ABC Board.

JURISDICTION

21. Pursuant to CR 76.36, "[o]riginal proceedings in an appellate court may be prosecuted only against a judge or agency whose decisions may be reviewed as a matter of right by that appellate court."

22. Pursuant to KRS 243.560, this Court is vested with appellate authority over actions taken or not taken by the ABC, which includes the Malt Beverage Administrator, Ms. Stumbo.

23. Jurisdiction in this Court is proper as Anheuser-Busch seeks to prosecute this Petition for Writ of Mandamus against the Malt Beverage Administrator of the ABC and the ABC Board, whose decisions may be reviewed by this Court as a matter of right pursuant to KRS 243.560.

24. This Court also has general jurisdiction over the subject matter of this Petition and the ability to grant injunctive and declaratory relief pursuant to KRS

23A.010, and under KRS 418.040, *et seq.*, as an actual controversy exists concerning the Petitioner's rights and Respondents' statutory obligations under KRS 243.630 and KRS 13B.050.

RELIEF SOUGHT

25. This is an action seeking a Writ of Mandamus pursuant to CR 76.36 against Ms. Stumbo, the ABC, and the ABC Board as Respondents.

26. Petitioner seeks a Writ and/or injunction requiring Ms. Stumbo to grant the Basic Application for Alcoholic Beverage License filed by Anheuser-Busch on August 7, 2014 (the "Application").

27. Petitioner seeks a Writ and/or injunction requiring the ABC Board to set a hearing date for the appeal from the Owensboro City Administrator's approval of Anheuser-Busch's Application upon twenty days' notice (which hearing would only proceed in the event the motion to dismiss is not granted) and rule on Anheuser-Busch's Motion to Dismiss.

28. In addition, Petitioner seeks a declaration that under KRS 243.630, Ms. Stumbo was required to approve or deny Anheuser-Busch's Application by October 17, 2014 and that, in addition, Kentucky statutory and common law requires Ms. Stumbo to approve the application.

STATEMENT OF FACTS

I. Anheuser-Busch's Application

29. Anheuser-Busch has an agreement with Hand to purchase Budweiser of Owensboro, a licensed distributor of Anheuser-Busch products. The agreement requires that the transaction close this year.

30. Anheuser-Busch seeks approval from the ABC for the transfer of Budweiser of Owensboro's interest in an existing Distributor's License to Anheuser-Busch as part of Anheuser-Busch's acquisition of the assets, operations, and licensed premises of Budweiser of Owensboro.

31. On July 8, 2014, Anheuser-Busch met with Ms. Stumbo and other representatives of the ABC to inform them of Anheuser-Busch's intent to acquire Budweiser of Owensboro.

32. On August 2, 2014, the *Owensboro Messenger-Inquirer* published Anheuser-Busch's notice of its intent to apply for a license pursuant to KRS 243.360.

33. In response to the August 2nd publication of Anheuser-Busch's notice of intent to apply for a license, several third parties submitted letters protesting the application. The baseless letters include misstatements of law and statements that disparage the reputation and goodwill of Anheuser-Busch and its products.

34. On August 7, 2014, Anheuser-Busch submitted the Application to the ABC regarding the licensed premises at 4221 Airpark Drive, Owensboro, Kentucky. Anheuser-Busch will operate from the same licensed premises as Budweiser of Owensboro currently distributes from.

35. On August 18, 2014, Anheuser-Busch submitted an Amendment to the Application Authorization Form in response to a request for additional information from Ms. Stumbo. Also on August 18th, J. R. Hand submitted a letter setting forth the intention of the Hand family to sell (or transfer) its Owensboro area distributorship to Anheuser-Busch, including all Malt Beverage Distributor's License privileges and control of the licensed premises held by Budweiser of Owensboro.

36. As of August 18, 2014, Anheuser-Busch's application was "substantially complete" in accordance with KRS 243.630(7). See Letter from Anheuser-Busch's Kenneth Judd to Ms. Stumbo, attached as Exhibit 2. At no time did Ms. Stumbo indicate any disagreement with Mr. Judd's letter.

37. On August 25, 2014, City of Owensboro ABC Administrator Dana Coomes approved Anheuser-Busch's Application in a timely fashion (one week). Exhibit 3.

38. On October 3, 2014, Anheuser-Busch sent a letter to Ms. Stumbo reiterating that time was of the essence in the transaction with Hand and that Kentucky law required a decision by October 17th. Exhibit 4.

39. Pursuant to KRS 243.630, Ms. Stumbo is required to either grant or deny the application within sixty days of the date the application is substantially complete. As the application was substantially complete on August 18, Ms. Stumbo had until October 17, 2014 to approve Anheuser-Busch's Application. Ms. Stumbo did not do so.

40. As of the date of this Petition, Anheuser-Busch has not received notification from Ms. Stumbo or the ABC that the Application has been either granted or denied.

41. To the contrary, on the evening of October 14th, after repeated efforts by Anheuser-Busch to confirm that a decision was forthcoming, Anheuser-Busch's counsel received a call from the General Counsel of the ABC who indicated that Ms. Stumbo planned to send a letter asking for more information. No such letter was forthcoming on October 15th. On October 16th, Anheuser-Busch reiterated that Ms. Stumbo was required to make a decision on the license by no later than October 17th. Exhibit 5. In response, Ms. Stumbo sent a letter stating that she had just completed her initial review of the transfer application and accompanying records and had determined that she needs "additional information and documents necessary for [her] decision." Exhibit 6. Ms. Stumbo has given no indication that she intends to rule on the application in the immediate future. In effect, Ms. Stumbo has granted herself an indefinite extension from the sixty-day statutory requirement.

42. While Ms. Stumbo has stated that her review of Anheuser-Busch's Application was delayed while she was on medical leave following a surgical procedure, documents produced in response to an Open Records Request demonstrate that her staff continued to review Anheuser-Busch's Application and that Ms. Stumbo herself was involved in the proceedings from home during the time she was on medical leave. For example, on August 26th, Ms. Stumbo complained to her staff that the Owensboro City Administrator's approval of Anheuser-Busch's Application was

improper. The same email concludes with Ms. Stumbo directing her staff: "These are only a few of my concerns. Please do not respond. Go speak to the Dept GC." Exhibit 7. Of course, the General Counsel had already recognized weeks earlier that Anheuser-Busch was permitted to hold a distributor's license under long-standing Kentucky law. Exhibit 1.

II. The Appeal of City Administrator Coomes's Approval of Anheuser-Busch's Application

43. In an effort to further bog down the Application, five Kentucky distributors of Anheuser-Busch products (all of whom are located outside of Owensboro) appealed Ms. Coomes's decision approving Anheuser-Busch's Application to the ABC Board. The Kentucky Beer Wholesalers' Association subsequently filed an appeal as well. The appeals have now been consolidated (the "Appeal").

44. After consulting ex parte with counsel for appellants, the ABC Board set a pre-hearing conference regarding the Appeal for November 21, 2014, well into the future. Scheduling a pre-hearing conference at such a late date virtually ensures that the appeal will not be decided before the end of the year. No hearing date has even been set.

45. Notwithstanding a statutory scheme that contemplates that the ABC Board would decide any appeal, Ms. Stumbo has recused herself from participating in the Appeal.

46. On October 3, 2014, Anheuser-Busch filed a motion to dismiss the Appeal as frivolous.

47. Anheuser-Busch had requested a schedule whereby the prehearing conference (if one is necessary, given Anheuser-Busch's motion to dismiss the Appeal) would be set for the week of October 20th.

48. To date, the ABC Board has not ruled on Anheuser-Busch's motion to dismiss, acted upon Anheuser-Busch's request for a more timely prehearing conference, or set a hearing date on the Appeal.

STANDARD FOR ISSUANCE OF A WRIT

49. The standard for the issuance of an extraordinary writ is set forth in *Hoskins v. Maricle*:

A writ of prohibition may be granted upon a showing that (1) the lower court is proceeding or is about to proceed outside of its jurisdiction and there is no remedy through an application to an intermediate court; or (2) that the lower court is acting or is about to act erroneously, although within its jurisdiction, and there exists no adequate remedy by appeal or otherwise and great injustice and irreparable injury will result if the petition is not granted.

150 S.W.3d 1, 10 (Ky. 2004).

50. As set forth below, the Court should issue the Writ under either standard.

MEMORANDUM OF AUTHORITIES IN SUPPORT OF PETITION

I. Ms. Stumbo Is Acting Outside of Her Jurisdiction By Refusing to Grant Anheuser-Busch's Application Within Sixty Days As Required by KRS 243.630(7).

51. KRS 243.630 governs the "transfer of license or acquisition of interest" of an alcoholic beverage license holder. A "transfer" is defined in KRS 243.630(1) as:

(a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, or a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

52. Here, Anheuser-Busch seeks approval for the "transfer" of Budweiser of Owensboro's Malt Beverage Distributor's License because it seeks to acquire a 100% interest in Budweiser of Owensboro's existing Malt Beverage Distributor's License. Therefore, KRS 243.630 governs the review of Anheuser-Busch's Application by Ms. Stumbo and the ABC. The General Counsel of the ABC has acknowledged that KRS 243.630 is the applicable provision. Exhibit 1.

53. KRS 243.630(7) states:

The appropriate state director **shall** grant or deny the application within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the director and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(Emphasis added). The public protest period set forth in KRS 243.360 is thirty (30) days. KRS 243.360(3). That period ended on September 1, 2014. The ABC and Anheuser-Busch, the transferee, have not agreed on a mutually acceptable later date. Thus, Ms. Stumbo **must** either grant or deny Anheuser-Busch's Application between 30 and 60 days after the application is "substantially complete."

54. Anheuser-Busch's Application was "substantially complete" as of August 18, 2014. Exhibit 2.

55. The 60-day period pursuant to KRS 243.630(7) expired on October 17, 2014 without a decision from Ms. Stumbo.

56. By failing to act when required by statute, Ms. Stumbo is acting outside of the jurisdiction granted to her by the General Assembly under KRS 243.630.

57. Anheuser-Busch does not have an adequate remedy for Ms. Stumbo's inaction upon appeal. Ms. Stumbo's failure to render a decision on the Application has left Anheuser-Busch without grounds upon which to launch an administrative appeal.

58. The application was complete over two months ago. Ms. Stumbo waited until the very end of the statutory period (when a **decision** was required by law) to inform Anheuser-Busch that she would not decide and that she needed more information. But Ms. Stumbo refuses even to describe the information she claims to need, stating only that a list will be provided after the expiration of the statutory period.

59. Ms. Stumbo's refusal to grant or deny the Application by October 17th is in violation of Kentucky law. A Writ should issue mandating that Ms. Stumbo take immediate action on Anheuser-Busch's Application pursuant to KRS 243.630(7).

60. Furthermore, the Writ should specifically require that Ms. Stumbo **grant** the license to Anheuser-Busch. Anheuser-Busch's Application is for the **transfer** of an existing license. Pursuant to KRS 243.630(3), in the event of an application for transfer of a license, "[t]he state director **shall grant approval** if the person acquiring the interest meets the qualifications of a new applicant." KRS 243.630(3) (emphasis added).

61. Since Anheuser-Busch has held a distributor's license for over 35 years in accordance with long-standing Kentucky law and is a distributor in good standing,

there can be no question that Anheuser-Busch “meets the qualifications of a new applicant.”

II. The Board Is Acting Outside of Its Jurisdiction By Failing to Set A Hearing As Soon As Practicable Or Rule on Anheuser-Busch’s Motion to Dismiss.

62. As set forth in Anheuser-Busch’s motion to dismiss filed with the ABC Board, the Appeal of Owensboro City Administrator Coomes’s decision approving Anheuser-Busch’s Application is without merit and should be summarily dismissed as a matter of law. The law in Kentucky is clear and has been well-established for nearly 60 years: a brewer may hold a brewer’s license and a malt beverage distributor’s license at the same time. *Ky. Beer Wholesalers’ Assoc., Inc. v. George Wiedemann Brewing Co.*, 302 S.W.2d 606 (Ky. 1957); *Anheuser-Busch, Inc.*, 574 S.W.2d 344. Consistent with this long-standing precedent, Anheuser-Busch has operated a distributorship in Louisville since 1978 in full compliance with Kentucky law and without incident or complaint.

63. The General Counsel of the ABC Board is well aware that Kentucky law permits brewers to hold a distributor’s license. Exhibit 1. The premises Anheuser-Busch will operate out of in Owensboro is currently licensed for the distribution of beer.

64. Although Anheuser-Busch’s motion to dismiss the Appeal has been on file since October 3rd, the appellants’ oppositions have been on file since October 10th, and the law is clear, the ABC Board has not ruled on the motion. Nor has the ABC Board taken any action to set a hearing date “as soon as practicable” pursuant to KRS 13B.050 or to reschedule the prehearing conference for an earlier date despite Anheuser-Busch’s requests to do so.

65. If the ABC Board grants Anheuser-Busch's motion to dismiss the Appeal, that will finally resolve the Appeal and no further proceedings would be necessary. Kentucky law requires a hearing on the Appeal "as soon as practicable." KRS 13B.050.

66. In setting a pre-hearing conference for November 21st after ex parte contacts with appellants' counsel, failing to move that date forward, failing to schedule a hearing date, and failing to act on Anheuser-Busch's requests for an earlier pre-hearing conference and for an immediate hearing date, the ABC Board is, among other things, not fulfilling its duty to conduct a hearing "as soon as practicable."

67. Therefore, the ABC Board's inaction is in violation of Kentucky law and a Writ should issue mandating that the Board set a hearing date for the Appeal upon twenty days' notice and immediately rule on Anheuser-Busch's motion to dismiss.

III. Anheuser-Busch Will Suffer Irreparable Harm Unless The Writ Is Issued.

68. Even if Ms. Stumbo and the Board are acting within their jurisdiction (which they are not), the Writ should issue because no adequate remedy exists by appeal and Anheuser-Busch will suffer immediate and irreparable harm.

69. Time is of the essence in the transaction between Anheuser-Busch and the Hand family. The agreement for the purchase of Budweiser of Owensboro requires that the transaction close this year. Ms. Stumbo and the ABC Board are well aware of this fact. Ms. Stumbo's failure to take action on Anheuser-Busch's Application in the statutorily mandated sixty days jeopardizes the transaction.

70. Unless this Court mandates Ms. Stumbo to grant Anheuser-Busch's Application immediately, and the ABC Board to schedule a hearing within 20 days and

rule on Anheuser-Busch's motion to dismiss, there is a significant risk that Anheuser-Busch will be unable to complete the transaction before the end of the year.

71. Therefore, this Court should issue the Writ and mandate that Ms. Stumbo grant Anheuser-Busch's Application in order to avoid irreparable harm to Anheuser-Busch. In addition, the Court should mandate the ABC Board to set a hearing date on the appeal from the Owensboro City Administrator's approval of Anheuser-Busch's application with twenty days' notice and rule on Anheuser-Busch's Motion to Dismiss.

**THE COURT SHOULD ISSUE INTERMEDIATE RELIEF ON THE PETITION
UNDER CIVIL RULE 76.36**

72. Petitioner also requests and is entitled to intermediate relief under Civil Rule 76.36(4).

73. The Court may grant intermediate relief if a petitioner "will suffer immediate and irreparable injury before a hearing may be had on the petition." CR 76.36(4).

74. As noted above, timing is crucial to the transaction between Anheuser-Busch and Hand, and the ABC Board's failure to rule in accordance with its statutory mandates and clearly established Kentucky law will immediately and irreparably harm Anheuser-Busch.

THE COURT SHOULD ISSUE INJUNCTIVE RELIEF UNDER CIVIL RULE 65

75. A party may obtain injunctive relief from this Court by temporary injunction or permanent injunction in a final judgment. CR 65.01. "An injunction may restrict or mandatorily direct the doing of an act." *Id.*

76. An injunction is “binding upon the parties to the action, their officers, agents, and attorneys; and upon other persons in active concert or participation with them who receive actual notice of the . . . injunction by personal service or otherwise.” CR 65.02(2).

77. The grant of a temporary injunction is warranted where the moving party demonstrates that its “rights are being or will be violated by an adverse party and the movant will suffer immediate and irreparable injury, loss, or damage pending a final judgment in the action, or the acts of the adverse party will tend to render such final judgment ineffectual.” CR 65.04(1).

78. Kentucky courts consider three factors in evaluating a motion for a preliminary injunction: (1) whether the movant has presented a substantial question as to the merits; (2) whether the movant has shown a probability of irreparable injury; and (3) whether the equities are in favor of the issuance of injunctive relief. *Maupin v. Stansbury*, 575 S.W.2d 695, 699 (1978) (“If the party requesting relief has shown a probability of irreparable injury, presented a substantial question as to the merits, and the equities are in favor of issuance, the temporary injunction should be awarded.”); *Com. Revenue Cabinet v. St. Ledger*, 955 S.W.2d 539, 542 (Ky. App. 1997) (“CR 65.04 requires a movant for injunctive relief to show clearly, by suitable evidence, that his or her right has been or will be violated by the adverse party and that without the requested relief he or she will suffer irreparable injury.”).

79. While courts evaluate each of the three factors, the only absolute prerequisite for injunctive relief is the probability of irreparable injury. *Maupin*, 575

S.W.2d at 699 (a probability of irreparable injury is the “mandatory prerequisite to the issuance of any injunction”).

80. First, as noted above, Anheuser-Busch will be irreparably harmed by the Respondents’ failure to comply with their statutory mandates under Kentucky law.

81. Second, Anheuser-Busch has shown far more than a substantial question on the merits. Clearly KRS 243.630 requires Ms. Stumbo to both act on the Application within sixty days pursuant to KRS 243.630(7) and to approve the Application pursuant to KRS 243.630(3).

82. Finally, the equities weigh in favor of granting the injunction. Quite simply, the public interest is served by public officials complying with their statutory duties. Further, executive branch employees’ failure to comply with mandates set forth by the General Assembly sets forth potential violations of Kentucky’s constitutional requirement of separation of powers between the branches of government. *See* Ky. Const. §§ 27-29.

**THE COURT SHOULD ISSUE DECLARATORY RELIEF PURSUANT TO CR 57
AND KRS 418.040**

83. A plaintiff may “seek a declaration of rights, either alone or with other relief; and the court may make a binding declaration of rights, whether or not consequential relief is or could be asked” upon a showing by the plaintiff that “an actual controversy exists.” KRS 418.040.

84. As set forth above, an actual controversy exists regarding whether KRS 243.630 requires Ms. Stumbo to both make a determination and grant Anheuser-Busch's application for a Distributor's License.

85. Anheuser-Busch seeks a declaration that Ms. Stumbo must both make a determination and grant Anheuser-Busch's application for a Distributor's License pursuant to KRS 243.630.

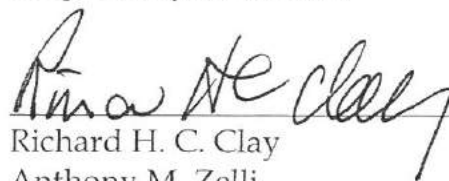
86. Under Kentucky law, "the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar." CR 57.

87. Pursuant to Civil Rules 57 and 65, Anheuser-Busch hereby requests an immediate hearing on this matter so that no further delay will ensue.

WHEREFORE, Petitioner Anheuser-Busch respectfully requests that this Court:

- (1) Mandate and/or enjoin Ms. Stumbo to grant Anheuser-Busch's application for a Distributor's License;
- (2) Declare that KRS 243.630 requires Ms. Stumbo both make a determination and grant Anheuser-Busch's application for a Distributor's License; and
- (3) Mandate and/or enjoin the ABC Board to set a hearing date on the appeal from the Owensboro City Administrator's approval of Anheuser-Busch's application with twenty days' notice and rule on Anheuser-Busch's Motion to Dismiss.
- (4) Grant Anheuser-Busch any all other relief to which it may be entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. C. Clay", written over a horizontal line.

Richard H. C. Clay

Anthony M. Zelli

Daniel J. O'Gara

Dinsmore & Shohl LLP

101 S. Fifth St., Suite 2500

Louisville, Kentucky 40202

(502) 540-2300 (phone)

(502) 585-2207 (fax)

Counsel for Petitioner

Anheuser-Busch, LLC

EXHIBIT 1

Humphress, Steve (PPC)

From: Humphress, Steve (PPC)
Sent: Thursday, July 17, 2014 11:25 AM
To: Dehner, Tony (PPC); Higdon, Frederick; Stumbo, Stephanie (PPC)
Subject: FW: question
Attachments: Anheuser-Busch- incompatible.doc

FYI. AB will have to file a transfer application per KRS 243.630 and provide KRS 243.360 notice which will likely generate protest letters.

"Nearly all men can stand adversity, but if you want to test a man's true character, give him power." -- Abraham Lincoln.

Stephen B. Humphress
General Counsel
Department of Alcoholic Beverage Control
502-782-1027

My duty of loyalty to the Department of Alcoholic Beverage Control and potential conflicts of interest prevent me from providing legal advice or opinions to private individuals or companies. Any information provided in this email is **NOT LEGAL ADVICE**, should not be relied upon as legal advice, and I do not consent to the creation of an attorney-client relationship between myself and any recipient of this email. **BEFORE MAKING ANY PERSONAL OR BUSINESS DECISIONS, CONSULT WITH A PRIVATE ATTORNEY.** Information contained in this email directed to Department and other executive branch representatives, including any accompanying attachments, may be privileged, confidential, and **PROTECTED BY THE ATTORNEY/ CLIENT PRIVILEGE.**

From: Humphress, Steve (PPC)
Sent: Thursday, July 17, 2014 11:24 AM
To: Stone, Vikki S (PPC); Crain, Sam (PPC)
Subject: RE: question

Yes per attached case.

"Nearly all men can stand adversity, but if you want to test a man's true character, give him power." -- Abraham Lincoln.

Stephen B. Humphress
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From: Stone, Vikki S (PPC)
Sent: Thursday, July 17, 2014 10:57 AM
To: Crain, Sam (PPC); Humphress, Steve (PPC)
Subject: RE: question

Got his call this AM – hadn't had a chance to call him back. Please advise. Thanks, V

From: Crain, Sam (PPC)
Sent: Thursday, July 17, 2014 10:51 AM

To: Humphress, Steve (PPC)
Cc: Stone, Vikki S (PPC)
Subject: RE: question

Steve - fyi

From: Crain, Sam (PPC)
Sent: Thursday, July 17, 2014 10:30 AM
To: Stone, Vikki S (PPC)
Subject: question

Call from Brian Oost, Owensboro licensee - [REDACTED] - Anheuser Busch is taking over a distributorship in Owensboro. Can a brewer hold a distributorship? Good Steve question.

EXHIBIT 2



Legal Department
One Busch Place
St. Louis, Missouri
63118-1852

August 18, 2014

Ms. Stephanie Stumbo
Malt Beverage Administrator
Dept. of Alcoholic Beverage Control
1003 Twilight Trail
Frankfort, KY 40601-8400

Re: Formal Communication Concerning Proposed Transfer of Owensboro
Distributor's License

Dear Ms. Stumbo:

As discussed, this serves as formal notice that, in connection with the Basic Application and other requested information regarding the above-referenced transaction, Anheuser-Busch, LLC ("AB") hereby commits that the following items will be produced and provided to the Kentucky Department of Alcoholic Beverage Control ("ABC") on or within three days of the closing as identified below:

1. Deed for the premises located at 4221 Airpark Drive, Owensboro, KY 42301 (executed copy to be provided on closing date);
2. J.R. Hand's surrender of license (executed copy to be provided on closing date, but form attached to this correspondence); and
3. Complete list of inventory of existing brands that AB is purchasing.

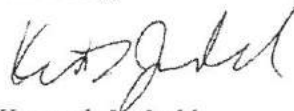
Further, pursuant to your requests, we have also submitted under separate cover Form 714 and the "Amendment to Application Authorization form." Please note that all information requested and required by ABC has been provided to the ABC, and AB considers the application to be substantially complete pursuant to KRS 243.630(7).

We understand that a protest has been filed with respect to this proposed transaction. We believe that there should be no challenge to the transfer of this license to AB since the state has long allowed AB to hold a distributor's license. *See Kentucky Alcoholic Beverage Control Bd. v. Anheuser-Busch, Inc.*, 574 S.W.2d 344 (Ky. App. 1978) (citing *Kentucky Beer Wholesalers*

Ass'n v. George Wiedemann Brewing Co., 302 S.W.2d 606 (Ky. 1957)). Indeed, AB has owned and operated a distributorship in the Louisville area for decades and has fully complied with ABC statutes and regulations. It would be contrary to both statute and the express intent of the General Assembly to deny AB's license application on this basis.

I look forward to receiving your response to this application. Please let me know of any questions or if you want to discuss further.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Judd", written in a cursive style.

Kenneth L. Judd
Associate General Counsel

Enclosure



COMMONWEALTH OF KENTUCKY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1003 Twilight Trail
Frankfort, Kentucky 40601-8400
502-564-4850 phone
502-564-1442 fax
http://abc.ky.gov

NOTICE OF SURRENDER OF LICENSE(S)

I, (print full name) Charles W. Hand, Jr., hereby swear and affirm that I am the owner or authorized officer of (name of business) Budweiser of Owensboro that holds the following state license(s), the numbers of which are given here: 030-MD-162 / 030-WH-223

The business is located at (street address) 4221 Airpark Drive
(city) Owensboro (county) Daviess (state) Kentucky
(zip code) 42301

My contact information is (street address) _____
(city) _____ (county) _____ (state) _____
(zip code) _____ (phone) 931-552-3300 (fax) _____

I hereby surrender said license(s) and in doing so relinquish all rights and claims thereto and all privileges thereunder. I understand that I must apply for a new license(s) in order to reopen this business or open any new alcoholic beverage business.

Signature: Charles W. Hand, Jr.

Sworn and affirmed before me this date: _____ at (city) _____, (state) Kentucky

Notary Public _____ County: _____ State: _____

My Commission expires: _____ Notary ID# _____

(Canadian applicants are exempt from this notary requirement.)

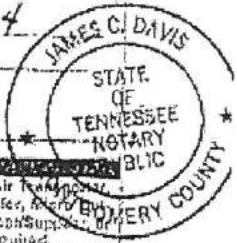
THE LICENSE(S) BEING SURRENDERED MUST BE ATTACHED TO THIS FORM.

EXHIBIT 3

SECTION 4A
 THE BUYER MUST COMPLETE THIS SECTION IF SECTION (D) IS HAS BEEN ANSWERED "YES" OR IF A LICENSE IS BEING TRANSFERRED.

Name: Charles W. Bond, Jr. (Date the exact name(s) and address of the current license(s))
 Title: Buyer of Owensboro (Capacity of the trade(s) of the following license number(s))
 Address: 4221 Airpark Dr., Owensboro
 License Number(s): D30-MD-162 and D30-MD-221
 I hereby request that I pay have agreed to survey all license privileges and terms of the wanted services and business in Anheuser-Busch, LLC
 (Date the exact name(s) of the buyer applicant)

business, processes, or interest in the license(s) and the Buyer's application has been reviewed by the Ky. Dept. of Alcoholic Beverage Control.
 * Signature of Buyer: Charles W. Bond, Jr. Title: President Date: 8/14/14
 (If a partnership, all partners must sign. If a corporation, only one officer must sign.)
 Signed and attested before me on this 6th day of Aug, year of 2014. My Commission expires 8/13/14
 Notary Public: James Adams County of Montgomery State of TN
 (Cancellation applicants are exempt from this notary requirement.)
 Notary ID# _____



SECTION 4B
 This section is not required if the applicant is applying for any of the following license types: Special Nonbeverage Alcohol, Air Transporter's, Out-of-State Distilled Spirits/Wine Producer/Supplier, Limited Out-of-State Distilled Spirits/Wine Producer/Supplier, Out-of-State Distilled Spirits/Wine Producer/Supplier, Special Agent/Seller, Small Farm Winery, Out-of-State Malt Beverage Producer/Supplier, Limited Out-of-State Malt Beverage Producer/Supplier. Applicants must complete this section if an equivalent local license is required.

OBTAIN LOCAL ABC ADMINISTRATOR'S SIGNATURE OF APPROVAL
 The local ABC Administrator must approve this application and such approval must be forwarded to the state ABC. Take or mail this application, fees, and all attachments to the local ABC administrator. Obtain the local ABC Administrator's signature and approval or arrange for such approval to be sent to the state ABC Office.

I hereby declare under oath that the applicant(s) has been approved for the equivalent local license type(s) applied for(s) for the licensed premises, and that the applicant satisfies all local ordinances.
 SIGNATURE OF APPROVAL OF LOCAL ABC ADMINISTRATOR: Dana L. Coomes Date: 8-25-14
 City of Owensboro Administrator, County of _____

APPLICATION AFFIDAVIT
 AFFIDAVIT OF BUYER OR NEW PERSON APPLYING FOR THE ABC LICENSE(S)

I, Katharina M. Barrett, do hereby swear and affirm under penalty of perjury that all information contained in this application and all its attachments are true and correct to the best of my knowledge, information, and belief. I hereby swear and affirm that I shall not engage in any activity involving alcoholic beverages at the premises described herein until I have been issued the appropriate license(s) by the Kentucky Department of Alcoholic Beverage Control. I hereby swear and affirm that the license(s) is issued. I shall abide by all state and local statutes, regulations, and ordinances relating to the manufacture, sale, use, and marketing of alcoholic beverages. I hereby swear and affirm that no person listed in Section (C) 2 of this application is in default of unrepaid obligations under any Federal program administered by a Kentucky Federal Education Assistance Authority (FEDERAL STUDY AID) or related loan repayment.
 Signature of Buyer or New Applicant: [Signature] Title: Secretary Date: 7/30/14
 Signed and attested before me on this 30th day of July, year of 2014. My Commission expires 5-12-17
 Notary Public: Lydia A. Thomas County of St. Louis State of Missouri
 (Cancellation applicants are exempt from this notary requirement.)

Notary ID# E3480816
 This concludes the ABC Basic Application.
 LYDIA A. THOMAS
 Notary Public, Notary Seal
 State of Missouri
 St. Louis County
 Commission # E3480816
 My Commission Expires May 12, 2017

RECEIVED
 AUG 29 PM 3 17
 RECEIVED

EXHIBIT 4



Legal Counsel.

DINSMORE & SHOHL LLP
101 South Fifth Street ^ Suite 2500 ^ Louisville, KY 40202
www.dinsmore.com

Richard H.C. Clay
(502) 581-8005 (direct) ^ (502) 585-2207 (fax)
richard.clay@dinsmore.com

October 3, 2014

VIA HAND DELIVERY

Stephanie Stumbo
Kentucky Malt Beverage Administrator
Department of Alcoholic Beverage Control
1003 Twilight Trail
Frankfort, Kentucky 40601

Re: Anheuser-Busch, LLC Application for Transfer of Distributor's License

Dear Ms. Stumbo:

Thank you for your correspondence dated September 23, 2014. We are glad you are back from medical leave and happy to hear that you are in the process of reviewing Anheuser-Busch, LLC's application for transfer of Budweiser of Owensboro's interest in an existing Distributor's License to Anheuser-Busch as part of Anheuser-Busch's acquisition of Budweiser of Owensboro.

We expect that a decision approving Anheuser-Busch's application can be made quickly, and well within the 60-day period that is set to expire on October 17th. Indeed, City of Owensboro ABC Administrator Dana Coomes approved Anheuser-Busch's application within one week. As you are aware, time is of the essence with regard to this application. The agreement between Anheuser-Busch and the Hand Family, LLC requires that the transaction close this year.

Approval of Anheuser-Busch's application, which is governed by KRS 243.630(3), is a simple and straightforward matter. Under the governing statute, "[t]he state director **shall** grant approval [for acquisition of interest in a license] if the person acquiring the interest meets the qualifications for a new applicant." KRS 243.630(3) (emphasis added). Since Anheuser-Busch has held a Distributor's License in Louisville for over thirty years and is a distributor in good standing, there can be no doubt that Anheuser-Busch "meets the qualifications for a new applicant." Longstanding Kentucky precedent clearly establishes that a brewer may hold a brewer's license and a distributor's license at the same time. *Ky. Beer Wholesalers' Assoc., Inc. v. George*

Stephanie Stumbo
October 3, 2014
Page 2

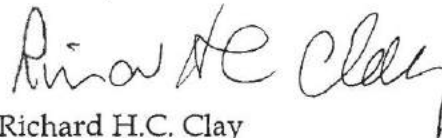
Wiedemann Brewing Co., 302 S.W.2d 606 (Ky. 1957) (affirming judgment of Franklin Circuit Court approving the Board's issuance of a distributor's license to a brewer); *Ky. Alcoholic Beverage Control Bd. v. Anheuser-Busch, Inc.*, 574 S.W.2d 344 (Ky. Ct. App. 1978) (affirming decision ordering the Board to grant A-B's application for a distributor's license).

The protest letters that have been filed ignore this well-established Kentucky law and ask you to do the same. These protests have no merit and have been made in a transparent attempt to delay or disrupt the transaction. Certainly, none of the protest letters identify any grounds upon which the license could properly be denied under Kentucky law. Nor do any of the parties who have objected address the fact that Anheuser-Busch has operated a distributorship in Louisville for decades in full compliance with Kentucky law and without incident or complaint. We trust that your decision under KRS 243.630 will be guided by well-settled law and not the distortions, baseless allegations, and misstatements found in the protest letters - none of which were submitted by entities located in the Owensboro area.

Finally, in response to your request, I will be the single point of contact for Anheuser-Busch for all matters involving this application. You can reach me at the contact information below or my cell phone, at 502-468-9257. I am available at any time to address any questions you have about the application and to expedite this application, which has already been pending for six weeks.

Thank you for your consideration and we look forward to your approval of Anheuser-Busch's application.

Sincerely,



Richard H.C. Clay

RHCC:AMZ

cc: Kenneth L. Judd
J.R. Hand

7290407v1

EXHIBIT 5



Legal Counsel.

DINSMORE & SHOHL LLP
101 South Fifth Street ^ Suite 2500 ^ Louisville, KY 40202
www.dinsmore.com

Richard H.C. Clay
(502) 581-8005 (direct) ^ (502) 585-2207 (fax)
richard.clay@dinsmore.com

October 16, 2014

Ms. Stephanie Stumbo
Mr. Steve Humphress
Department of Alcoholic Beverage Control
Commonwealth of Kentucky
1003 Twilight Trail
Frankfort, Kentucky 40601

Re: Anheuser-Busch, LLC's Application for Transfer of Distributor's License

Dear Ms. Stumbo and Mr. Humphress:

It is my understanding from my conversation with Mr. Humphress on Tuesday, October 14, that Ms. Stumbo does not intend to comply with her statutory duty to approve Anheuser-Busch, LLC's ("A-B") application for the transfer of the Hand Family, LLC's ("Hand") Owensboro distributor's license by October 17, 2014. Please understand that such a failure would be directly contrary to Kentucky law and risks causing irreparable harm to A-B and Hand. Accordingly, A-B respectfully requests that Ms. Stumbo approve its application by Friday, October 17.

A-B's application for the transfer of Hand's distributor's license was substantially complete as of August 18, 2014. In the nearly two months that A-B's application has now been pending approval by Ms. Stumbo, A-B has not received any indication from Ms. Stumbo or the ABC that its application is deficient in any respect. Nor did Ms. Stumbo's letter of September 23, 2014, dated more than one month after A-B's application was substantially complete, note any deficiencies with the application or outstanding questions. On October 3, 2014, A-B advised Ms. Stumbo that she is required to grant A-B's application by October 17, 2014 pursuant to longstanding Kentucky statutory law.

Ms. Stephanie Stumbo
Mr. Steve Humphress
Department of Alcoholic Beverage Control
October 16, 2014
Page 2

Unfortunately, Mr. Humphress has now advised me that Ms. Stumbo intends to send a letter outlining additional questions she has in connection with "protest letters" filed with the ABC months ago. As of today, we still have no such letter. This course of conduct is directly contrary to Kentucky law.

Pursuant to KRS 243.630—the statute that governs A-B's application for the transfer of Hand's distributor's license—A-B has a statutory right to a decision on its application by October 17, 2014. KRS 243.630(7) states that "The appropriate state director **shall grant or deny** the application within sixty days of the date the application is substantially complete" Here, A-B's application was substantially complete as of August 18, 2014. Therefore, A-B is entitled to a decision on its application from Ms. Stumbo no later than October 17, 2014.

Furthermore, there is no basis under Kentucky law for Ms. Stumbo to do anything other than approve A-B's application. KRS 243.630(3) states that, "[t]he state director **shall grant approval** [for acquisition of interest in an existing license] if the person acquiring the interest meets the qualifications for a new applicant." KRS 243.630(3) (emphasis added). It is indisputable that A-B "meets the qualifications for a new applicant." A-B has held a Distributor's License in Louisville for over thirty years and is currently a distributor in good standing. Longstanding Kentucky precedent clearly establishes that a brewer may hold a brewer's license and a distributor's license at the same time. *Ky. Beer Wholesalers' Assoc., Inc. v. George Wiedemann Brewing Co.*, 302 S.W.2d 606 (Ky. 1957) (affirming judgment of Franklin Circuit Court approving the Board's issuance of a distributor's license to a brewer); *Ky. Alcoholic Beverage Control Bd. v. Anheuser-Busch, Inc.*, 574 S.W.2d 344 (Ky. Ct. App. 1978) (affirming decision ordering the Board to grant A-B's application for a distributor's license).

In view of the foregoing, A-B respectfully reiterates its request that Ms. Stumbo approve the application for the transfer of Hand's distributor's license by this Friday, October 17. Any action short of approval risks disrupting A-B's acquisition of Budweiser of Owensboro. As you both are aware, A-B's agreement with Hand requires that the transaction close this year. Further delay by Ms. Stumbo places this closing deadline in jeopardy. A-B and Hand will be irreparably harmed if they are unable to close in a timely manner.

Ms. Stephanie Stumbo
Mr. Steve Humphress
Department of Alcoholic Beverage Control
October 16, 2014
Page 3

Thank you for your consideration.

Sincerely,

DINSMORE & SHOHL, LLP

A handwritten signature in black ink that reads "Richard H. C. Clay". The signature is written in a cursive, slightly slanted style.

Richard H. C. Clay
(502) 581-8005
richard.clay@dinsmore.com

RHCC/le

cc: Mr. J.R. Hand

EXHIBIT 6

Steven L. Beshear
Governor



Larry R. Bond
Acting Secretary

Frederick A. Higdon
Commissioner

**PUBLIC PROTECTION CABINET
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

1003 Twilight Trail
Frankfort, KY 40601
502-564-4850
502-564-7479 (fax)
abc.ky.gov

October 16, 2014

VIA CERTIFIED MAIL AND EMAIL

Anheuser-Busch, LLC
C/O Honorable Richard Clay
Dinsmore & Shohl, LLP
101 South Fifth Street, Suite 2500
Louisville, Kentucky 40202

RE: Pending application for a Kentucky Quota Distributors License located at 4221
Airpark Drive, Owensboro, Kentucky 42301

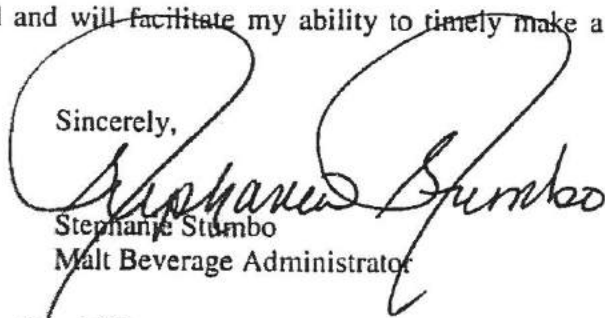
Dear Mr. Clay:

Thank you for your letter of October 3, 2014. As you were likely advised by your client, Anheuser-Busch, LLC, my leaving for a major surgical procedure coincided with the filing of your client's application. Regretfully, I have only this week been released by my surgeon to return to full-time employment. As a consequence of the surgery and backlog of official duties, I have just completed my initial review of the transfer application and accompanying records.

During my review of the application file and related records, I have determined that I will require additional information and documents necessary for my decision. I have begun compiling a list of the additional necessary information and documents and will provide this list to you by close of business on Tuesday, October 21, 2014. Similarly, I have requested information from the seller, Hand Family, LLC, necessary to complete the transfer. Upon my receipt of all requested information and documents, the application should be substantially complete for purposes of my decision.

Your cooperation in this regard is appreciated and will facilitate my ability to timely make a decision.

Sincerely,


Stephanie Stumbo
Malt Beverage Administrator

Files

EXHIBIT 7

Humphress, Steve (PPC)

From: Stumbo, Stephanie (PPC)
Sent: Tuesday, August 26, 2014 7:33 PM
To: Semones, Sonya (PPC)
Cc: Higdon, Frederick; Humphress, Steve (PPC)
Subject: Re: Message from KMBT_C652

Please get with Steve on this. I do not totally agree with your initial response to me. They in fact do have the same statutes to consider as the state administrators for licenses. My concern is related to a few items. A couple of items, just to mention-first the 30 day protest period has not expired so no app should be approved before, how can they say they considered them if they have approved and the protest period does not close until the 31st? Next, unless something new has been provided there is no deed, lease or permit in the applicants name for the owensboro property yet and we both still have active licenses there. The statute requirement or right to property deed, lease or permit is not covered or met by just letters advising those will exist at the proposed closing date. All that does is allow us to accept app and hold till we are in receipt.

These are only a few of my concerns. Please do not respond. Go speak to the Dept GC.

Thanks

From: Semones, Sonya (PPC)
Sent: Tuesday, August 26, 2014 03:02 PM
To: Stumbo, Stephanie (PPC)
Cc: Higdon, Frederick; Humphress, Steve (PPC)
Subject: RE: Message from KMBT_C652

No, they have the same app from what I understand. Many local offices do not look for the same requirements we do when approving locally, that is normal.

From: Stumbo, Stephanie (PPC)
Sent: Tuesday, August 26, 2014 3:01 PM
To: Semones, Sonya (PPC)
Cc: Higdon, Frederick; Humphress, Steve (PPC)
Subject: Re: Message from KMBT_C652

How can they issue a approval when they do not have a lease or deed or signatures on section BB sellers section of the app? Did they get something different than I have to review?

From: Semones, Sonya (PPC)
Sent: Monday, August 25, 2014 03:58 PM
To: Coomes, Dana <[REDACTED]>
Cc: Stumbo, Stephanie (PPC); Higdon, Frederick; Humphress, Steve (PPC)
Subject: RE: Message from KMBT_C652

Thank you very much, I will print and place with their pending file here in our office.

Sonya Semones

From: Coomes, Dana [mailto:[REDACTED]]
Sent: Monday, August 25, 2014 3:54 PM

To: Semones, Sonya (PPC)
Subject: FW: Message from KMBT_C652

Local approval for Anheuser Busch

Thank you,

Dana R Coomes
Occupational Tax & ABC Administrator
City of Owensboro
(270) 687-8321
FAX: (270) 687-8526
[REDACTED]

Owensboro



CONFIDENTIALITY NOTICE: The information contained in this communication, including attachments, is privileged and confidential. It is intended only for the exclusive use of the addressee. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me by telephone immediately at (270) 687-8321.

From: [REDACTED] [mailto:\[REDACTED\]](mailto:[REDACTED])]
Sent: Monday, August 25, 2014 3:52 PM
To: Coomes, Dana
Subject: Message from KMBT_C652