

PENNSYLVANIA LIQUOR CONTROL BOARD

MEETING MINUTES

LISTEN TO THE RECORDING

WEDNESDAY, NOVEMBER 10, 2021

NORTHWEST OFFICE BUILDING, CONFERENCE ROOM 117, HARRISBURG, PA
TELEPHONE CONFERENCE MEETING

Tim Holden, Chairman
Mike Negra, Board Member
Mary Isenhour, Board Member
Michael Demko, Executive Director
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

CALL TO ORDER *Chairman Holden*

Pledge of Allegiance to the Flag

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

OLD BUSINESS.....*Secretary Stark*

A. Motion to approve previous Board Meeting Minutes of the October 27, 2021 meeting.

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve previous Board Minutes.

PUBLIC COMMENT ON AGENDA ITEMS

The Board has reserved 10 minutes for Public Comment on printed agenda items.

Caller James Declanio of Washington, PA described himself as a “Bourbon Hunter” who probably frustrates store employees because, although he is looking for bourbon and trying to be polite, he has found that there are always a few select individuals who always know what products are going to stores and when. He stated that he has spoken with a few of these individuals, who have told him that they have friends working at Fine Wine & Good Spirits who tell them warehouse inventory and delivery schedules. Mr. Declanio noted his understanding that the PLCB wants to make distribution fair, but opines that the current store distribution only benefits “career bourbon hunters” who have personal friends working for Fine Wine & Good Spirits. He asked if the PLCB has any plans either to make this delivery information public or to restrict this information from employees so that underground groups with insider information are not securing most of the allocated bottles?

Chairman Holden replied that he is unaware of any insider information being distributed, noting that it is the goal of the PLCB to make sure our products are distributed fairly and that no one has an

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advantage. Chairman Holden then requested Executive Director Michael Demko and Chief Counsel Rodrigo Diaz to elaborate on how the PLCB tries to make the process as fair as possible.

Chief Counsel Diaz noted that if someone has such information, they ought not to be providing it in the manner described by Mr. Declanio, and he asked to speak with Mr. Declanio after the meeting to get more information and find out what is going on. Chief Counsel Diaz emphasized that the PLCB has taken steps to be fair, such as having “Third Wednesdays” to put the product out there so everyone gets a chance. This is also why we put a limit on how much a person can purchase. We also limit some items to PA residents. If there is a problem, Chief Counsel Diaz wants to know about it.

Executive Director Michael Demko also requested that Mr. Declanio contact the Legal department as that is not how the PLCB operates and if information is being “leaked out,” we want to be aware and take care of it. He noted also that the PLCB has put more bourbon on our e-commerce website to enable serving all of Pennsylvania and not just certain stores. Mr. Demko stressed that any information provided will be put investigated and urged Mr. Declanio to contact Chief Counsel Diaz. Chief Counsel Diaz provided his email address for direct contact.

Mr. Declanio expressed his appreciation for steps the PLCB has taken to improve distribution, noting that it has definitely gotten a lot better. He wanted to recognize the efforts of the PLCB in this regard and indicated that he will contact Chief Counsel Diaz as requested.

From the Office of Chief CounselRodrigo Diaz, Chief Counsel

(1) **Kelbud, Inc. t/a Kelly’s Inn**
1906 N. Sherman Street
York, PA 17402
Restaurant Liquor License No. R-10535
LID 14431

Appeal from the Adjudication and Order
of Administrative Law Judge.

At Board Member Negra’s request, Chief Counsel Diaz provided the following background on this matter: a citation was issued against the Licensee because, in June of 2020, Licensee had allowed various individuals to consume food and alcohol on the licensed premises during the time that the COVID emergency declaration had been issued. More specifically, this was during the time when the Governor’s Order and our Advisory Notice had indicated that no on-premise consumption of food and alcohol was permitted. The establishment was not open at the time, however, some distributor employees were there doing work and also some employees of the licensee. They were observed drinking on the premises by a police officer.

Based on these admitted facts, the ALJ sustained the citation. The licensee took an appeal to the PLCB, raising various issues but essentially arguing that Licensee did not serve these individuals, rather, they served themselves. Licensee also argued that they were not open for business and that what was precluded by the Order and the Advisory Notice was the sale, not the consumption, of alcohol.

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Chief Counsel Diaz noted that these same arguments had been raised before the ALJ; however, the ALJ correctly pointed out that if one reads Advisory Notice # 26 in its entirety and looks at the Governor's Order, clearly there was to be no on-premise sale or consumption at that time. Chief Counsel advised that the ALJ was correct as to the law and the facts are not in dispute, so his recommendation would be to sustain the citation.

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to affirm Administrative Law Judge.

*From the Bureau of LicensingTisha Albert, Director of Regulatory Affairs
Barbara Peifer, Director, Bureau of Licensing*

- (1) **Can Man, LLC** New & Request for an Interior
(LID No. 108490) Connection with Another
2512 Quakertown Road Business - Importer
Upper Hanover Township
Pennsburg, Montgomery County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve new importer license and request for interior connection with another business.

- (2) **Chickie's and Pete's/Parx Casino** Requests for Interior
(Colocation of PGCB-Licensed Sportsbooks) Connections with Another
Business & to Conduct Another
Business on the Licensed
Premises – Restaurant

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve request for interior connections with another business and to conduct another business on the licensed premises.

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- (3) **Doan Gang Distillery, LLC** Request to Sell Other
t/a Doan Gang Distillery Items on the Licensed Premises –
AL-46180 (LID No. 103231) Limited Distillery
116 East Broad Street
Quakertown, Bucks County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve request to sell other items on the licensed premises.

- (4) **Hawkeye Distributors, Inc.** Request for Interior
D-3787 (LID No. 85404) Connections with Another
1100-1150 South Main Street Business - Distributor
Hanover Township
Hanover Township, Luzerne County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve request for interior connections with another business.

- (5) **VIP Beverages, Ltd.** Place-to-Place Transfer –
t/a The Beer Mine Importing Distributor
ID-1249 (LID No. 97394) Case No. 21-9031
377 Lavelle Road
Butler Township
Locustdale, Schuylkill County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve place-to-place transfer.

- (6) **1701 Lim, Inc.** Renewal – District 10
R-10404 (LID No. 52108) Case No. 2020-52108
5527 Lansdowne Avenue
Philadelphia, Philadelphia County

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Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

- (7) **Benno JTB Enterprises, L.L.C.** Renewal – District 6
t/a R Bar and Grille
R-17345 (LID No. 64991) Case No. 2020-64991
418 16th Street, P. O. Box 530
North Apollo, Armstrong County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

- (8) **Cactus Group, Inc.** Renewal – District 6
t/a Cactus Jack’s Southwest Grille
R-19253 (LID No. 51774) Case No. 2020-51774
351 Center Grange Road, P. O. Box 223
Center Township
Monaca, Beaver County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

- (9) **Camac 255 Corp.** Conditional Licensing Agreement
R-15625 (LID No. 84155) Case No. 2020-84155 Renewal – District 10
255 South Camac Street & 1217 Spruce Street Rear
Philadelphia, Philadelphia County

HOLD – 9/22/21 SESSION

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve the renewal with Conditional Licensing Agreement (CLA).

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- (10) **Cherry St. Tavern, Inc.** Renewal – District 10
R-5043 (LID No. 11681) Case No. 2020-11681
129 North 22nd Street
Philadelphia, Philadelphia County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve renewal.

- (11) **D & J Susquehanna, Inc.** Renewal – District 10
E-1194 (LID No. 73217) Case No. 2020-73217
1639-43 West Susquehanna Avenue
Philadelphia, Philadelphia County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve renewal.

- (12) **DW’s Deli & Hoagie, Inc.** Conditional Licensing Agreement
R-20110 (LID No. 70600) Case No. 2021-70600
335 East Grand Avenue
Tower City, Schuylkill County
Renewal – District 3

HOLD – 9/22/21 SESSION

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve the renewal with Conditional Licensing Agreement (CLA).

- (13) **Johnstown Freight Station, LLC** Conditional Licensing Agreement
t/a Johnstown Freight Station
R-9298 (LID No. 70734) Case No. 2021-70734
20 Matthews Street
Johnstown, Cambria County
Renewal – District 1

HOLD – 9/22/21 SESSION

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve the renewal with Conditional Licensing Agreement (CLA).

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- (14) **Kinard Entertainment, Inc.** Renewal – District 2
t/a Pandora’s Box Bar & Grill
H-292 (LID No. 43727) Case No. 2020-43727
466-468 East Market Street
York, York County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

- (15) **Jeffrey A. Kline** Renewal – District 3
t/a Main Street Sandwich Shop
R-16660 (LID No. 24338) Case No. 2021-24338
401 Sunbury Street
Minersville, Schuylkill County

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

- (16) **Mamma Ventura Restaurant & Lounge, LLC** Renewal – District 2
t/a Mamma Ventura
R-20389 (LID No. 54230) Case No. 2020-54230
13 Chambersburg Street
Gettysburg, Adams County
- HOLD – 8/4/21 SESSION &
10/27/21 SESSION**

Board Member Negra commented that this matter has been going back and forth and, noting that Licensee’s counsel, Francis O’Brien, was present at the meeting, he asked Mr. O’Brien to explain the reason for the delays before a vote is taken. Chairman Holden likewise noted that this matter has been going on for a long time and the Board is curious about the reasons for the delay in signing the Conditional Licensing Agreement, noting that discussion had taken place after the last Board meeting about a deadline to submit the signed document, but it was not timely received.

Microphones in the Northwest Office Building meeting room could not pick up Mr. O’Brien’s response. Before making his Motion, Board Member Negra noted that such delays put pressure on Licensing and Legal and requests that Mamma Ventura understands for future matters that timeliness is most helpful for all involved.

Motion Made: Board Member Negra to approve the renewal with a Conditional Licensing Agreement.

Board Member Isenhour, who was participating by teleconference, advised that she was unable to hear anything that Mr. O’Brien had said, whereupon Chairman Holden summarized Mr.

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O'Brien's response by stating that Mr. O'Brien was having difficulty making contact with his client to go over the terms and conditions of the Conditional Licensing Agreement, and that was the reason for the delay in getting it to us when we wanted it on Tuesday and did not get it until Friday. Mr. O'Brien agreed that Chairman Holden's summary was accurate. Board Member Isenhour stated that her inclination had been to vote no; however, she did ultimately second the motion and vote yes.

Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve renewal with a Conditional Licensing Agreement.

- (17) **Mazloom, Inc.** Renewal – District 3
R-9203 (LID No. 48345) Case No. 2021-48345
57-59 Valley Street
New Philadelphia, Schuylkill County

Motion Made: Board Member Negra

Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

Chairman Holden noted for the record that whenever there is a vote on this case, he will have to recuse himself.

- (18) **Moka, Inc.** Renewal – District 4
t/a Hampton Lanes
R-16392 (LID No. 31091) Case No. 2020-31091
326 Main Street
Northampton, Northampton County

Motion Made: Board Member Negra

Seconded: Board Member Isenhour

Board Decision: HOLD for Conditional Licensing Agreement (CLA).

- (19) **R & G, Inc.** Renewal – District 5
t/a Lefty's in the Strip
R-19951 (LID No. 56072) Case No. 2021-56072
2021 Penn Avenue
Pittsburgh, Allegheny County

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- Motion Made:** Board Member Negra to approve renewal with the existing Conditional Licensing Agreement.
- Seconded:** None
- Motion Made:** Board Member Isenhour moved to hold for an amended Conditional Licensing Agreement.
- Seconded by:** Chairman Holden
- Board Decision:** Agreed (2-1 vote) to hold for an amended Conditional Licensing Agreement (CLA).

- (20) **Steven Tavern, Inc.** Renewal – District 10
R-5578 (LID No. 65762) Case No. 2020-65762
7447 Torresdale Avenue
Philadelphia, Philadelphia County

- Motion Made:** Board Member Negra to refuse the renewal
- Chairman Holden asked whether there was anyone present, on the teleconference or in the meeting room, representing this licensee. The teleconference moderator advised that there were no callers and no one was at the meeting.
- Seconded:** Board Member Isenhour
- Board Decision:** Unanimously agreed (3-0 vote) refuse the renewal.

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

Personnel Actions

There were 14 personnel actions presented for consideration.

- (1) **Jatoree Aikens – Affirm Removal**
- (2) **Renata Alexander – Affirm Removal**
- (3) **Andrea Broadnax – Affirm Removal**
- (4) **Chad Detwiler - Removal**
- (5) **Brandon Gillam – Affirm Removal**
- (6) **Hobart Howard – Affirm Removal**

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- (7) **Rasheedah Ingram – Affirm Removal**
- (8) **James Lanahan – Removal**
- (9) **Ryan O’Neill – Affirm Removal**
- (10) **Kaylah Porter – Affirm Removal**
- (11) **Kelly Thomas – Affirm Removal**
- (12) **Kevin Willis – Affirm Removal**
- (13) **Nneka Young - Removal**
- (14) **Tashea Young – Affirm Removal**

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

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

*From the Bureau of Accounting & PurchasingMichael Demko, Executive Director
Koppolu Ravindraraj, Director, Bureau of Accounting & Purchasing
Mike Freeman, Director, Bureau of Financial Management & Analysis*

Procurement Actions:

- (1) **Cisco Smartnet Renewal** - Cisco Smartnet hardware and software maintenance support renewal (next business day) for the PLCB’s Cisco network components such as switches, routers, access points, and other appliances. These components are installed in distribution centers, regional offices, PLCB Central Office, and Point of Sale (POS) stores. Cisco Smartnet coverage provides PLCB staff with telephone, online, and onsite support from a Cisco authorized maintenance vendor, software upgrade assurance, and troubleshooting assistance.

Procured via DGS Contract #4400020304 – VENDOR: **ePlus** – TERM: One year for period 11/1/2021 through 10/31/2022 - **\$83,237.23 estimated cost** which represents a 14.33% decrease from last year’s cost of \$97,163.42.

- (2) **Cisco 2802i Access Points with Licensing and Three-Year Support** – This procurement is for 100 Cisco 2802i Wireless Access Points (AP’s) with WLC licenses, licensing for Prime Infrastructure, and three years of Smartnet support. These AP's will be used to support store openings/relocations and to address poor WiFi coverage issues in stores needed to support iPads and Teams Android phones, including 38 to be used at Licensee Service Centers.

Procured via DGS Contract #4400020304 – VENDOR: **ePlus** – TERM: Three years for the period 11/15/2021 through 11/14/2024 - **\$116,885.00 estimated cost.**

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Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve all Procurement Actions.

Inter-Agency Charges:

- (1) **Office of Administration – HR Shared Services** – Billing of \$515,575 for the FY 2021-22 Q2 billing for OA’s HR-Enterprise Services (labor relations, employee benefits, training, etc). The LCB’s charge represents 2.4% of the total \$21.9M OA- HR Shared Services billing. The billing includes a true-up of \$56,875 for the FY 2021-22 Q1 estimated billing of \$401,825.
- (2) **Department of Auditor General** – FY 2021-22 first quarter net billing of \$670,957.50 from the Department of the Auditor General. The billing includes a credit adjustment of \$10,925.40 for an over-charge on the estimated FY 2020-21 Q4 billing. The charge for FY 2021-22 Q1 services is \$681,882.90 and is \$9,642 (+1.4%) more than last year’s billing and is based on actual audit hours for July, August and September, which were down 5.0% from last year’s Q1 billing.

The Bureau of Financial Management and Analysis has reviewed these charges and determined that they are reasonable based on billing methodology and previous experience.

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

Board Decision: Unanimously agreed (3-0 vote) to approve the Inter-Agency Charges.

From the Office of Retail Operations.....Michael Demko, Executive Director

- (1) **#0261 – 2629 Brownsville Road, Pittsburgh Amendment**
- (2) **#4506 – 1060 North 9th Street, Stroudsburg Amendment**

Motion Made: Board Member Negra
Seconded: Board Member Isenhour

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

From the Bureau of Product SelectionTom Bowman, Director of Product Selection

None

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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>September 30, 2021</u>	<u>September 30, 2020*</u>
ASSETS		
Current assets:		
Cash	\$ 30,431,188	\$ 27,179,249
Investments - short term	373,598,324	298,030,285
Accounts and claims receivable, net	7,258,575	7,414,454
Due from other funds - Note 9	-	-
Merchandise inventories, net	228,124,795	228,141,345
Operating supplies	291,302	608,601
Prepaid expenses	1,213,179	1,753,768
	640,917,363	563,127,702
Total current assets		
Non-current assets:		
Non-depreciable capital assets:		
Land	322,973	322,973
Depreciable capital assets:		
Building	10,691,986	20,875,220
Leasehold improvements	209,134	197,771
Machinery and equipment	47,398,295	49,517,646
Intangible - internally generated software	33,133,392	22,962,435
Intangible - right to use leases - Note 10	333,503,567	278,527,913
	129,303,005	78,877,472
Less: accumulated depreciation	129,303,005	78,877,472
Net depreciable capital assets	295,633,369	293,203,513
Total non-current capital assets	295,956,342	293,526,486
Total assets	\$ 936,873,705	\$ 856,654,188
Total deferred outflows of resources - Notes 5, 6	\$ 203,445,647	\$ 131,139,169
LIABILITIES		
Current liabilities:		
Trade accounts payable	\$ 354,603,203	\$ 303,477,197
Other accounts payable	28,126,117	19,545,103
Accrued expenses	25,687,330	23,863,605
OPEB - Note 6	-	18,874,000
Self-insurance, workers' compensation - Note 7	6,298,715	7,095,210
Due to other funds - Note 9	7,049,754	6,419,155
Due to fiduciary funds - Note 9	4,028,592	3,650,386
Due to other governments - Note 9	1,091,827	986,389
Right to use liabilities - Note 10	52,835,345	42,793,794
Total current liabilities	479,720,883	426,704,839
Non-current liabilities:		
OPEB - Note 6	492,316,000	431,236,000
Self-insurance, workers' compensation - Note 7	60,400,983	47,995,269
Net pension liability - Note 5	466,640,728	467,286,220
Compensated absences - Note 1	25,995,401	24,809,043
Right to use liabilities - Note 10	214,628,724	223,079,003
Total non-current liabilities	1,259,981,836	1,194,405,535
Total liabilities	\$ 1,739,702,719	\$ 1,621,110,374
Total deferred inflows of resources - Notes 5, 6	\$ 342,413,564	\$ 391,501,038
NET POSITION		
Net investment in capital assets	\$ 28,492,273	\$ 27,653,689
Deficit	(970,289,204)	(1,052,471,744)
Total net position	\$ (941,796,931)	\$ (1,024,818,055)

* The prior fiscal year (FY) 2020-21 comparative Net investment in capital assets and Deficit amounts are adjusted to include the Right to use liabilities associated with Intangibles - right to use leases as part of Net investment in capital assets, and excluding them from Deficit. The adjustments did not affect Total net position.

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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 September 30, 2021 and September 30, 2020
(Unaudited)

	<u>2021-22</u>	<u>2020-21</u>
Sales net of taxes	\$ 190,749,167	\$ 178,634,452
Cost of goods sold	<u>(131,319,767)</u>	<u>(119,762,801)</u>
Gross profit from sales	59,429,400	58,871,651
Operating (expenses):		
Retail operations	(28,283,412)	(30,140,519)
Marketing & merchandising	(655,927)	(1,651,452)
Supply chain	(369,433)	(805,965)
Wholesale operations	(113,273)	(128,891)
Information technology services	(2,226,266)	(2,378,706)
Regulatory affairs	(1,515,593)	(1,212,800)
Administration	(732,686)	(785,969)
Finance	(164,161)	(199,942)
Board & secretary	(517,384)	(208,243)
Legal	(370,640)	(254,682)
Commonwealth provided services - Note 2	<u>(1,119,409)</u>	<u>(1,188,336)</u>
Total	<u>(36,068,184)</u>	<u>(38,955,505)</u>
Operating profit/(loss)	23,361,216	19,916,146
Other operating revenues (expenses):		
Enforcement fines	150,816	120,710
License fees	1,402,240	2,435,425
Miscellaneous income	548,595	146,379
Administrative law judge	<u>(231,101)</u>	<u>(226,825)</u>
Total	<u>1,870,550</u>	<u>2,475,689</u>
Total operating income/(loss)	25,231,766	22,391,835
Miscellaneous revenues (expenses):		
Interest income (expense)	(379,811)	(324,548)
Other	<u>-</u>	<u>-</u>
Total	<u>(379,811)</u>	<u>(324,548)</u>
Income/(Loss) before operating transfers	24,851,955	22,067,287
Operating transfers out:		
PSP enforcement - Note 3	(2,253,963)	(2,226,778)
Net Income/(Loss) from operations	<u>22,597,992</u>	<u>19,840,509</u>
Statutory Transfers:		
General fund - Note 4	-	-
Drug and alcohol programs - Note 4	-	-
Total	<u>-</u>	<u>-</u>
Change in net position	22,597,992	19,840,509
Total net position - beginning	<u>(964,394,923)</u>	<u>(1,044,658,564)</u>
Total net position - ending	<u>\$ (941,796,931)</u>	<u>\$ (1,024,818,055)</u>
Liquor tax	34,348,819	32,054,081
State Sales Tax	13,521,262	12,631,695
Local Tax	848,576	769,173
Taxes remitted to Dept. of Revenue PTD	<u>\$ 48,718,657</u>	<u>\$ 45,454,949</u>

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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 Three Months Ending September 30, 2021 and September 30, 2020
(Unaudited)

	<u>2021-22</u>	<u>2020-21</u>
Sales net of taxes	\$ 579,945,010	\$ 537,269,485
Cost of goods sold	(400,316,465)	(362,790,805)
Gross profit from sales	<u>179,628,545</u>	<u>174,478,680</u>
Operating (expenses):		
Retail operations	(85,138,428)	(90,825,928)
Marketing & merchandising	(1,551,500)	(2,672,039)
Supply chain	(1,061,913)	(2,165,972)
Wholesale operations	(333,415)	(393,157)
Information technology services	(5,922,824)	(6,186,185)
Regulatory affairs	(3,957,399)	(4,282,606)
Administration	(2,223,874)	(2,326,849)
Finance	(516,743)	(813,601)
Board & secretary	(1,765,137)	(711,310)
Legal	(1,060,153)	(906,325)
Commonwealth provided services - Note 2	(3,443,515)	(3,430,762)
Total	<u>(106,974,901)</u>	<u>(114,714,734)</u>
Operating profit/(loss)	<u>72,653,644</u>	<u>59,763,946</u>
Other operating revenues (expenses):		
Enforcement fines	260,182	274,086
License fees	3,669,274	8,821,634
Miscellaneous income	1,528,310	504,483
Administrative law judge	(707,329)	(650,642)
Total	<u>4,750,437</u>	<u>8,949,561</u>
Total operating income/(loss)	<u>77,404,081</u>	<u>68,713,507</u>
Miscellaneous revenues (expenses):		
Interest income (expense)	(1,150,557)	(951,320)
Other	46,420	-
Total	<u>(1,104,137)</u>	<u>(951,320)</u>
Income/(Loss) before operating transfers	76,299,944	67,762,187
Operating transfers out:		
PSP enforcement - Note 3	(6,808,537)	(6,830,785)
Net Income/(Loss) from operations	<u>69,491,407</u>	<u>60,931,402</u>
Statutory Transfers:		
General fund - Note 4	-	-
Drug and alcohol programs - Note 4	-	-
Total	<u>-</u>	<u>-</u>
Change in net position	69,491,407	60,931,402
Total net position - beginning	<u>(1,011,288,338)</u>	<u>(1,085,749,457)</u>
Total net position - ending	<u>\$ (941,796,931)</u>	<u>\$ (1,024,818,055)</u>
Liquor tax	104,038,866	96,429,639
State Sales Tax	40,937,238	38,072,298
Local Tax	2,523,286	2,197,906
Taxes remitted to Dept.of Revenue YTD	<u>\$ 147,499,390</u>	<u>\$ 136,699,843</u>

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OTHER ISSUES

Board Member Negra raised his concern with the Governor's recently announced incentive of five additional days of leave or a lump sum payout to state employees as an incentive for providing proof of vaccination against COVID-19.

Board Member Negra is concerned about the estimated cost of \$6,000,000 to the PLCB. It is his understanding that it doesn't matter when a person was vaccinated that makes them eligible. Supposedly, only 38% of Commonwealth employees have registered their vaccination status online, but that doesn't mean only 38% of Commonwealth employees have been vaccinated. Over 80% of adults in PA have received at least 1 shot according to the Governor's office and that was in August. Thus, this bonus/incentive is more of a bonus than an incentive. We've been trying to figure out a bonus system for our store employees based on performance for years and we were always told the Commonwealth doesn't allow bonuses. Now, that seems to be okay.

Member Negra said the idea that this \$6,000,000 will be covered by our budget is absurd unless there is a directive to not cover the shift of someone taking 5 days off in the stores and thus diminish customer service. But what if the lump sum option is taken? How does our current budget cover that? Is the directive for our staff to reduce expenses in the same amount as paid out? This bonus plan will be costly to the PLCB and to the Commonwealth. Incentives haven't worked around the country to change people's minds, so why would this be any different? He stated, is the percentage goal 100% vaccination status? What happens when we reach the goal and will the mask mandate currently in place on Commonwealth employees, including those in our stores, go away? As an independent agency we can and should refuse to direct our resources in this manner and instead utilize those resources in a more productive way for the long-term welfare of our employees and customers.

Board Member Negra then made a motion to not institute the bonus/incentive plan suggested by the Governor and instead to follow the lead of the Auditor General's office, the Office of the Treasurer, and other agencies that have decided it is not the best use of Commonwealth funds.

Chairman Holden stated that he believes the Governor should be commended for implementing this incentive program for employees, giving them the opportunity to get vaccinated. However, he first wanted to recognize the parliamentary process that the Board is involved in with these public meetings. He asked Chief Counsel Diaz for a summary of his conversations on the topic with the Office of General Counsel and the Governor's Office.

Chief Counsel Diaz stated that he did reach out to the Office of General Counsel to get a better sense of what the Office of Administration was indicating. They are indicating something more akin to administrative leave and not vacation time or the like. Chief Counsel Diaz explained that while the Liquor Control Board is not an agency under the Governor's jurisdiction, we are an executive agency under the authority of the Office of Administration, which has the right to establish administrative leave if they want to and the PLCB must comply with any rules or procedures issued by that office.

Chief Counsel Diaz explained that there are agencies such as the Office of the Attorney General, Auditor General, and Office of the Treasurer over which the Secretary of Administration has no authority because those agencies have elected heads. It is Chief Counsel's opinion that the Board is subject to this rule and, while the Board is welcome to have a conversation about the merits, the Board does not have the authority to vote against this incentive.

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Chairman Holden stated that he strongly disagrees with Board Member Negra's position, but noted that even if he and Board Member Isenhour did agree with Board Member Negra, that would be irrelevant as the PLCB is subject to the authority of the Secretary of Administration on this matter.

Chairman Holden wanted to thank and commend the Governor for what he has done, noting that the PLCB's employee vaccination rate is only around 32% as of November 9th, and he opined that it is the Board's responsibility during this public health crisis to do anything that can be done to give employees an incentive to get vaccinated, not only to protect state employees, but customers of the PLCB's retail stores and those who enter the Northwest Office Building as well.

For these reasons, based on guidance from Chief Counsel Diaz, Chairman Holden stated there would not be a vote.

Board Member Isenhour noted that while she respects Board Member Negra's position on the matter, she vehemently disagrees with it. If there were a vote on the pending motion, she would not second it and she further requested it be noted she would have been a "no" vote on the motion if there had been a second. Board Member Isenhour stated that she echoed everything that Chairman Holden had said about public health and safety. Furthermore, she noted that PLCB employees are employees of the Commonwealth who should be treated in the same way that other employees of the Commonwealth are being treated in this matter.

Board Member Negra noted that the Board had gotten some flak for not taking a formal vote on closing the stores in March of 2020, even though if all three Board members had voted not to close the stores, the stores would still have been closed because that was the directive that was coming from the Governor's Office. He stated he was taking the approach with his motion that the Board would be taking a symbolic vote by putting their votes on the record and he asked Chief Counsel Diaz for his opinion regarding taking a symbolic vote on this issue.

Chief Counsel Diaz agreed that sometimes symbolic votes are taken, such as voting to approve conveying certain monies that, by statute, must be transferred somewhere else. However, he advised against doing so in this situation because it suggests that if the Board voted against it, the administrative leave would not be available, which is simply inaccurate. The administrative leave is available.

Additionally, regarding the example of the store closings as noted by Board Member Negra, Chief Counsel Diaz noted that the concern expressed at that time by elected officials was that there were no public comments about it and the public did not know what was going on. Here, by virtue of this conversation, the Board is hereby making the public aware that the PLCB is subject to this incentive program and the Board members have each expressed their opinions on the issue. Under the emergency order, the Governor had the express authority to close the stores and the only vote this Board would have taken would have been whether to sue the Governor, which was not going to happen.

Finally, Chief Counsel Diaz noted that by virtue of this conversation on the record, the public now knows where each Board member stands on the issue and where the agency is going to be on the issue, as the PLCB's authority is not as much as the Treasurer's and not as much as the Attorney General or the Auditor General.

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CITIZEN COMMENT

None

BUSINESS FROM THE FLOOR

On behalf of the Board, Chairman Holden recognized the many veterans who make up the PLCB and thanked them for their service in recognition of Veterans Day.

Board Member Negra echoed that thanks and noted today was also the birthday of the US Marine Corps.

NEXT BOARD MEETING

The next meeting of the PLCB will be a formal meeting on Wednesday, December 1, 2021 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.

ADJOURNMENT

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

The foregoing actions are hereby officially approved.

Chairman

Member

Member

ATTEST:

Secretary