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Twinz-N-Control, Inc. dba Twinz-N-Control vs. Alcoholic Beverage Commission

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RE: In the Matter of: Twinz-N-Control, Inc. dba Twinz-N-Control
Docket No. 33.01-127159J

Enclosed is an *Initial Order* rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/llp
Enclosure

**BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

Twinz-N-Control, Inc. dba Twinz-N-Control

DOCKET NO.: 33.01-127159J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BE REVIEWED BY THE ALCOHOLIC BEVERAGE COMMISSION.

A PARTY MAY FILE A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **AUGUST 5 2015.**

YOU MUST FILE THE PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION . THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX B AFFIXED TO THE INITIAL ORDER FOR NOTICE OF REVIEW PROCEDURES.

**BEFORE THE TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION**

IN THE MATTER OF:)	
)	
TWINZ-N-CONTROL, INC.)	DOCKET NO. 33.08-127159J
d/b/a TWINZ-N-CONTROL)	
Respondent)	

INITIAL ORDER

This contested case hearing was held on January 8, 2015, in Nashville, Tennessee, before Administrative Judge Thomas G. Stovall, assigned by the Secretary of State, Administrative Procedures Division, sitting on behalf of the Tennessee Alcoholic Beverage Commission (ABC). Ms. Ginna Winfree, Assistant Director, and Mr. Joshua Stepp, Staff Attorney, represented the ABC. The Respondent Twinz-N-Control, Inc. d/b/a Twinz-N-Control was represented by counsel, Ms. Shari Danielle Elks. This matter became ready for consideration on May 14, 2015, upon submission of proposed findings by the parties.

The subject of the hearing was whether the Respondent's application for renewal of its catering liquor-by-the-drink (LBD) license should be denied. After consideration of the entire record it is determined that the Respondent's application for renewal of its catering LBD license should be **denied** and immediately **revoked**. This decision is based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. "Twinz-N-Control" is essentially a brand name associated with the brothers Randy and Rodney Williams. The Williams brothers reside in Memphis, Tennessee and are involved in a number of ventures related to both the entertainment and the food and beverage business. Twinz-N-Control, Inc. d/b/a Twinz-N-Control is a catering company that has had an LBD

license since 2008. Rodney Williams is the sole stockholder of the corporation. A catering LBD license permits the licensee to serve and sell alcoholic beverages at various locations that qualify for such activity. The Williams brothers are also co-owners of a promotion company called Twinz-N-Control Entertainment.

City Ultra Lounge

2. From May 22, 2013 to January 22, 2014, Four Kings, LLC had an LBD license and operated a business known as the City Ultra Lounge located at 701 4th Avenue South in Nashville, Tennessee. Boyice James, Jr. was a part owner of Four Kings and sub-leased the premises from Ronald Stanley to operate the City Ultra Lounge. In October 2013, Mr. James and Mr. Stanley had a dispute which ultimately resulted in Mr. Stanley changing the locks to the premises and barring the entry of Mr. James into his business. Mr. Stanley continued to operate the City Ultra Lounge through the LBD license held by Four Kings. In an attempt to resolve the dispute, Mr. James made some liquor purchases from wholesalers for Mr. Stanley for sale in the City Ultra Lounge. On at least four occasions in December 2013 and January 2014, Mr. Stanley made unlawful purchases of liquor from retail stores for the purpose of the subsequent sale of that liquor in the City Ultra Lounge. Finally, at some point in January 2014, after being barred from the premises since October 2013 and concluding that he and Mr. Stanley would not be able to resolve their differences, Mr. James broke into the building and physically removed from the wall the LBD license issued to Four Kings to operate the City Ultra Lounge and returned the license to the ABC. The ABC subsequently closed out the LBD license of Four Kings. A large amount of liquor owned by Four Kings was left on the premises of the City Ultra Lounge.

3. In mid-January 2014, Terrence Carpenter obtained a lease from Mr. Stanley for the premises of 701 4th Avenue South apparently with the intention of continuing the operation of

the City Ultra Lounge. After being informed by the ABC that it could take several weeks to obtain an LBD license, Mr. Carpenter decided to utilize a caterer for a scheduled event so as not to lose customers and to maintain continuity at the establishment.

4. Rodney Williams and Mr. Carpenter had been friends and business associates for a number of years. On January 22, 2014, a notice of a catered event was filed with the ABC, indicating that the Respondent would be catering an event hosted by Mr. Carpenter at 701 4th Avenue South in Nashville on January 24 and 25, 2014. The alcohol and food served at the event was to be furnished by the Respondent with the alcohol being transported from Memphis. Supposedly Rodney Williams transported 47 bottles of liquor from Memphis and delivered it to 701 4th Avenue South during the afternoon of January 24, 2014, and then returned to Memphis that same day.

5. At approximately 6:00 p.m. on the evening of January 24, 2014, ABC Special Agent Seth Goodwin went to 701 4th Avenue South in response to the complaint filed by Mr. James that he had been locked out of his property while his former business, City Ultra Lounge, was continuing to operate. Mr. Carpenter and Mr. Stanley were both present upon Agent Goodwin's arrival. Rodney Williams was not present. According to Mr. Carpenter, all of the alcohol left on the premises by the City Ultra Lounge was stored in a locked office on the second floor. Mr. Carpenter stated that the second floor was not accessible to the patrons and the only alcohol to be served at the event was the alcohol brought to the establishment by Mr. Williams earlier that afternoon and stored on the first floor. However, Agent Goodwin observed alcohol and food being consumed by patrons on both the first and second floor of the establishment. He also observed individuals he assumed to be employees of the establishment entering the office on the second floor. Agent Goodwin reviewed footage from a security camera located on the

premises that covered the entire time period from 6:00 a.m. to 10:00 p.m. on January 24, 2014. At no time did Agent Goodwin observe anyone bringing alcohol into the premises and the amount of alcohol visible on the bar did not change during that period of time. When Agent Goodwin asked to see the invoices for the alcohol purportedly furnished by the Respondent, he was told that the invoices were with Rodney Williams in Memphis. Eventually, invoices dated from 2011 were produced for Agent Goodwin's review. These invoices purported to be for the alcohol brought to the City Ultra Lounge in January 2014.

6. The food that was being served at the event was not furnished or prepared by the Respondent. All the food available was sushi prepared by an individual known as Chef Nu, who had been the chef for the City Ultra Lounge. Chef Nu told Agent Goodwin that he worked for City Ultra Lounge, not the Respondent. When Agent Goodwin asked other employees who they worked for, all stated they worked for the City Ultra Lounge. When Agent Goodwin asked Mr. Stanley if any of the employees worked for the Respondent, he stated they all worked for City Ultra Lounge, including himself. When Agent Goodwin asked Mr. Carpenter if anyone on the premises was an employee of the Respondent, Mr. Carpenter responded that Mr. Stanley had been hired by the Respondent as a daily employee to work the event. Upon being confronted with this contradiction by Agent Goodwin, Mr. Stanley then told the agent that he was a one day employee of the Respondent.

7. Agent Goodwin asked Mr. Stanley and Mr. Carpenter the whereabouts of the owner of the catering company. He was told that the owner was in Jackson at a ball game but was to be present at the City Ultra Lounge later that evening. Agent Goodwin finally spoke with Rodney Williams by telephone. Rodney Williams did not appear at the city Ultra Lounge later that night.

Pure Passion

8. Pure Passion is a nightclub in Memphis owned and operated by Pure Passion, Inc. Robert Williams is the sole stockholder in the company. Robert Williams is the uncle of Rodney and Randy Williams. Randy Williams is employed at Pure Passion as a manager. Pure Passion is only licensed to sell beer. Pure Passion is not licensed to sell liquor but does permit patrons to “brown bag,” or to bring their own liquor for their private consumption.

9. Every Thursday night from January through October 2014, Twinz-N-Control Entertainment routinely advertised and produced an event at Pure Passion known as “Bitch Slap Thursday.” These advertisements were posted on various forms of social media and most indicated that the events were sponsored by Twinz-N-Control and Pure Passion. All of the advertisements were on the social media accounts of Randy Williams. Many of the advertisements included photographs of what appear to be glasses and/or bottles of liquor. The advertisements routinely offered some form of free alcohol such as “free shots,” “free drinks,” “free jello shots¹,” and “free Ciroc² shots.”

10. During the course of the summer in 2014, the ABC began an investigation into the possible illegal sale or the free dispensing of liquor at Pure Passion. ABC agents conducted a number of undercover operations at Pure Passion pursuant to this investigation. While in the club on June 19, 2014, posing as a patron, Agent Mark Hooper asked a dancer if he could buy a liquor drink rather than a beer. He was told that he could purchase a bottle of liquor but not a drink by the glass. Agent Hooper observed several bottles of liquor on the tables of customers in the club. Agent Hooper was also in Pure Passion on the night of August 7, 2014. He was accompanied by Agent Bonnie Cooper. The agents were told by a server named Shea that they

¹ A jello shot is a small portion of jello which contains an alcoholic beverage.

² Ciroc is a brand of vodka.

could have free liquor shots later in the evening. Sometime later Agent Hooper inquired about the free liquor shots and Shea returned to the table with two shots of an alcoholic drink. About an hour later Agent Hooper purchased a bottle of Ciroc Peach vodka from Shea for \$40.00. The agents observed many of the customers with various types of liquor, including the shot cups similar to what they had been previously served. On August 15, 2014, Agent Hooper again purchased a bottle of Ciroc Peach vodka for \$40.00. Agent Hooper observed numerous patrons with bottles of liquor and saw bottles of liquor at various locations throughout the club. On August 21, 2014, Agent Hooper returned to Pure Passion where he purchased two bottles of Ciroc Peach vodka and received two free liquor shots.

11. Robert Williams testified that the free shots given away contained beer, not liquor. It is determined that this contention is not credible. The agents testified they had never heard of beer shots. Moreover, the advertisements for the club offered free shots and free Ciroc shots. Common sense says that patrons would not continue to come to Pure Passion when the word began to circulate in the community that the free shots offered at the club contained beer and not liquor.

12. During the early morning hours of August 22, 2014, ABC agents as well as Shelby County Sheriff's officers executed a search warrant at Pure Passion. At the time of the raid both Randy and Rodney Williams were present. The agents saw three bottles of liquor and a water pitcher containing jello shots in the bar area.

13. Other than at the time of the execution of the search warrant, the Williams brothers were not seen at Pure Passion by the ABC agents when they were conducting their undercover operation.

14. The Respondent only filed six Notices of Catered Events with the ABC from 2012 through January 2014. One of these notices was for an event held at Pure Passion on April 27, 2013.

CONCLUSIONS OF LAW

1. The Notice of Hearing in this matter totals 30 pages, which includes 11 pages of citations to statutes and ABC rules that the Respondent allegedly violated. Many of the citations are to statutes or rules that are either irrelevant to this proceeding or ABC has not carried its burden of proof to establish by a preponderance of the evidence that the Respondent violated those laws. Consequently, for the sake of brevity this Order will only specifically address violations of the law that are necessary to reach the ultimate disposition of the case.

City Ultra Lounge

2. The evidence clearly established that the Respondent used, or allowed to be used, his LBD catering license to assist Ronald Stanley and Terrence Carpenter in illegally operating the City Ultra Lounge as an LBD establishment on January 24-25, 2014. From October 2013, after barring the owner of the City Ultra Lounge, Mr. James, from the premises, Mr. Stanley continued to essentially operate Mr. James' business on his own. Mr. Stanley acquired the liquor for his sales by various means including having Mr. James make some of the purchases from wholesalers through the use of Mr. James' license as well as Mr. Stanley making purchases directly from retail package stores. It would appear that Mr. Stanley brought Mr. Carpenter in to assist him in running the business in January 2014, when it became obvious that Mr. James was no longer going to cooperate with him. When Mr. James removed his ABC license from the wall of the business, Mr. Stanley and Mr. Carpenter realized they were going to have to make alternative arrangements for the continued operation of the business. After Mr. Carpenter

discovered from the ABC how long it would take for him to obtain an LBD license of his own, he and Mr. Stanley apparently conceived of the idea of using the Respondent's LBD catering license to conduct business on January 24 and 25, 2014. The evidence strongly suggests that Rodney Williams never brought any liquor to the City Ultra Lounge on the afternoon of January 24, 2015, for the purpose of a catered event. According to Agent Goodwin, his review of the security tapes for the entire day of January 24, 2015, failed to show Rodney Williams or anyone else on his behalf delivering 47 bottles of liquor to the premises. The liquor bottles present at the bar which were visible on the security tape did not change during the entire time period covered by Agent Goodwin's review. When an invoice for the liquor purportedly brought by the Rodney Williams was ultimately produced for Agent Goodwin's review, the invoice reflected liquor purchased in 2011. It stretches credulity to suggest that liquor purchased by the Respondent in 2011 in Memphis was still available to be brought to the City Ultra Lounge in Nashville in January 2014. However, even if Rodney Williams did transport the 47 bottles of liquor to the City Ultra Lounge, that act was his **only** involvement in the event which is in clear violation of the ABC laws on catered events. None of the servers or staff working the event were employees of the Respondent as required by ABC Rule No. 0100-01-.06(2)(7). When asked by Agent Goodwin who they worked for, all employees, including Chef Nu, stated they worked for City Ultra Lounge. Mr. Stanley ultimately claimed to have been a one day employee of the Respondent after first stating that he too was an employee of City Ultra Lounge. However, no evidence was offered to support his claim that he was employed by the Respondent.

3. The evidenced demonstrated that in fact nothing about the operation of the City Ultra Lounge on January 24, 2014, while purportedly run as a catered event by the Respondent, was any different than any other night the business was open. The employees were the same, the

food was being prepared by Chef Nu, and the alcohol being served was what had been left on the premises by Four Kings as well as what had been obtained by Mr. Stanley through various means after he barred Mr. James from the premises in October 2013. Mr. Stanley and Mr. Carpenter simply used the Respondent to create a sham catered event so that they could continue to operate the City Ultra Lounge on January 24 and 25, 2014, as it had been operated in the past.

4. Tenn. Code Ann. § 57-3-213(c) provides for the nonrenewal of a license issued by the ABC. Tenn. Code Ann. § 57-3-104(c)(2) allows the ABC to refuse to issue (or re-issue) a license if the applicant:

...has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business or employment...or in case of fraud or false swearing by the applicant touching any matter relating to the operation of the business or employment...

5. The evidence clearly supports the decision of the ABC to refuse to renew the Respondent's LBD license. When all of the evidence in this case is analyzed, the crux of the case is actually relatively simple; the Respondent filed a notice of a catered event with the ABC which indicated that it was to cater an event at the City Ultra Lounge. This was a false statement. The Respondent never intended to cater an event at that location, or if it did intend to do so, no such catering actually took place. The preponderance of the evidence is that Rodney Williams never transported liquor to the City Ultra Lounge for a catered event, or that Mr. Williams was ever even at the location. For the reasons set forth in Conclusions of Law Nos. 2 and 3, it is determined that the Respondent did not cater an event at City Ultra Lounge on January 24 and 25, 2014, despite filing a notice of his intention to do so with the ABC. The purpose of his false statement to the ABC, both in his filing as well in his communications with Agent Goodwin, was to assist Mr. Stanley and Mr. Carpenter in their endeavors to illegally

continue to operate the City Ultra Lounge without a valid LBD license and with the alcohol that ultimately belonged to Mr. James.

6. In the alternative, even if it was somehow determined that the Respondent was in fact catering an event at the City Ultra Lounge, the nonrenewal of the Respondent's LBD license would still be justified. ABC Rule No. 0100-01-.03(6) requires a licensee to maintain an establishment in compliance with all applicable law. This would make the Respondent responsible for all of the violations of the law which may have occurred at the City Ultra Lounge, such as having individuals working and serving alcohol at an event who are not employees of the caterer.

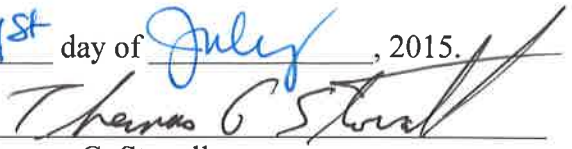
Pure Passion

7. The evidence clearly established that activities in violation of the ABC laws were common place at Pure Passion. As set forth in Finding of Fact No. 11, Pure Passion was regularly engaged in the unlawful sale of liquor to the public when it is not licensed to do so, in violation of Tenn. Code Ann. § 57-4-203(i)(1)(A). Tenn. Code Ann. § 39-17-702 makes it a Class B misdemeanor to sell alcohol unless the establishment is in compliance with all laws governing the sale of alcoholic beverages, the most basic of which is to have a properly issued LBD license which Pure Passion did not have. While "brown bagging" is permitted in an unlicensed establishment, it is clear from the evidence that liquor was sold to the ABC agents upon request. The agents had not brought their own liquor into the club for consumption. Moreover, full bottles of liquor were sold to the agents in violation of ABC Rule No. 0100-01-.03(8) and free shots of liquor were given to the patrons in violation of ABC Rule No. 0100-01-.03(14).

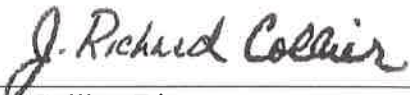
8. While the evidence is overwhelming that Pure Passion was not operating in compliance with the law, there is insufficient evidence to establish that Rodney Williams, and most importantly the Respondent catering company, were involved in the illegal activity. The Bitch Slap Thursdays were not held out as catered events by the Respondent, not even to the extent of the sham catered event described above with reference to the City Ultra Lounge. There was no evidence that the Rodney Williams was supplying the liquor to Pure Passion. Rodney Williams was only seen at Pure Passion on one occasion during the course of the numerous undercover visits made to the club by the ABC agents. The only connection to the operation of Pure Passion and Rodney Williams and his catering company was his joint ownership of Twinz-N-Control Entertainment with his brother Randy. This was the entity that was promoting events at Pure Passion called Bitch Slap Thursday. It must be noted that all of the promotion for these events was done on the social media accounts of Randy Williams. While it may well be presumed that Rodney had some involvement in the activities at Pure Passion since he and his brother's company was promoting the events and his uncle owned the club, the preponderance of the evidence does not establish that Rodney himself or the Respondent catering company was acting in violation of the ABC laws.

9. Based upon the foregoing, it is hereby **ORDERED** that the Respondent's application for renewal of its LBD license shall be **DENIED** and is hereby **REVOKED**. It is further **ORDERED** that the costs of this proceeding shall be assessed against the Respondent pursuant to Tenn. Code Ann. § 57-3-201 and ABC Rule No. 0100-04-.02(3).

This Initial Order entered and effective this 21st day of July, 2015.


Thomas G. Stovall
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this
24th day of July, 2015.



J. Richard Collier, Director
Administrative Procedures Division

APPENDIX B TO INITIAL ORDER

NOTICE OF REVIEW PROCEDURES

Review of Initial Order

(1) Pursuant to the provisions of T.C.A. §4-5-315, notice is hereby given that this Initial Order will be reviewed by the Alcoholic Beverage Commission. Pursuant to Alcoholic Beverage Commission the parties may file written briefs with the Commission.

(2) A party may file a petition for reconsideration of this Initial Order, within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. See T.C.A. §4-5-317 on petitions for reconsideration.

After the disposition of the petition for reconsideration, the Initial Order will be subject to the Alcoholic Beverage Commission's review as set forth in paragraph (1) above.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the entry date of a Final Order by the agency, a party may petition the agency for reconsideration of the Final Order. If no action is taken within twenty (20) days for filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in Davidson County Chancery Court within sixty (60) days of the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.