

Tavern Games Testimony

Presented to the House Gaming Committee

Submitted by Ronda Zeigler, PA Licensee

February 26th, 2015

Good Morning Chairmen Payne and Kotik, and Members of the Tavern Gaming Committee....

My name is Ronda Zeigler. I've been asked to speak to you today about the experiences my husband and I have had with tavern gaming over the past 11 months. We are the owners of Midway Tavern in Hanover, Adams County. Midway was fortunate enough to make Pennsylvania history by becoming the first "R" licensee to receive a tavern gaming license. We also own the Franklin House Tavern, York County and the Franklin House was the first tavern in York County to receive a tavern gaming license. I would like to express our appreciation for tavern gaming becoming legal in November 2013. My husband has lobbied for legalized tavern gaming since 1988 and for these two events to happen to our businesses was really quite a thrill for us.

Specifically, I would like to talk to you about the license process, our experiences with the PCLB, our investment in these opportunities, profitability and the paperwork required by LCE. I would like to preface this with letting you know I have a 30 year background in banking and the mortgage industry. Pushing paper was how I made my living for all those years. I am accustomed to answering the unasked question, reading between the lines and providing documents to document documents and then providing explanations for all of the documents. Paperwork does not intimidate me.

1 year ago January, my husband started pushing me to get our tavern gaming license applications filled out. He told me we could send in our applications January 27th and he wanted ours to be submitted immediately. He had waited 26 years for this opportunity and was growing impatient with me. I was thinking "no big deal". THEN, I went on line to the PCLB website and printed the applications. But, first I had to figure out WHICH applications applied to us. There was a tavern application, individual application and an entity application.

The individual application was 21 pages. It required a copy of the applicant's social security card, driver's license, a 1.5 inch square and UNMOUNTED photo with a MATTE finish that was taken within 60 days of the date the application was submitted AND it needed to bear the name of the individual, the liquor license and LID numbers and the address of the licensed premise...ALL on an UNMOUNTED 1.5 inch square photo. Let me just tell you that a U.S. Passport requires a 2x2 photo and this application wants a 1.5x1.5. I called at least 3 places to see if I could get a 1.5x1.5 and received negative answers so I sent in a 2x2 photo with each of our license applications and hoped we wouldn't get rejected.

NOW, I needed to obtain an original criminal history summary from the FBI for the applicant. In the packet I had printed off there were Fingerprint Packet Instructions including a list of FBI-approved channelers. I know from my banking background that obtaining fingerprints through a channeler is the fastest way to go. There are 11 companies on this list. HOWEVER, clearly no one had vetted that information. I contacted each company and 1 company on the list could do fingerprints for Pennsylvania. I made an appointment for my husband to get his fingerprints done through Fieldprint and that was accomplished on January 28, 2014 for an additional \$50.00.

In completing the individual application, the instructions on page 6 state that the applicant is to provide all information relating to crime or offense, arrest or charges filed EVEN if the charges were dismissed or downgraded, expunged, or pardoned. I personally know of 2 people who had situations where charges were expunged and they had clear FBI background checks. One disclosed their expungement and one did not. The one who did not disclose was contacted by someone from the gaming board explanations and documentation. Neither person knows where the gaming board obtained their information and neither understand why they had to disclose this information. Both people did obtain their gaming licenses but my point is: a judge of the Commonwealth Court of Pennsylvania has reviewed the documentation and evidence submitted to them about that person's circumstances, signed an expungement order and it's gone on to the PSP and the FBI to clear that individual's name. Both of these people wonder where the gaming board gets their information and how they are able to question an order signed by a judge of the Court of the Common Pleas of Pennsylvania.

Having completed the individual application, which now needs notarized in 2 places I then moved on to the tavern application which was 12 pages. The appendices needed were a current ownership and management table with ownership percentages, IRS Form 4506T and a copy of the most recent Federal Tax Return.

Page 3 required the business name as it appears on the Tavern's Certificate of Incorporation. Now I need to dig out the corporate book and look at it. I'm not sure if the word incorporation is spelled out or abbreviated on our official documents. I also need the date the corporation was formed, the Federal EIN, PA Department of Revenue Corporate Box Number, PA Worker's Compensation Policy Number, PA Unemployment Compensation Account Number, PLCB License and LID Numbers and the PA Department of State Entity Number. Now, being the paperwork pusher I am, I know that almost all of this information is available on various state websites...so I go on-line and find the numbers I need because that's the fastest way for me to get the information and I email our insurance agent and get our workman's comp policy number.

Page 7 of this application asks: Has the applicant ever been arrested, indicted, charged with or convicted of a criminal offense including a non-traffic summary offense, or been a party to or named as an unindicted co-conspirator in any criminal proceeding in the Commonwealth or any other jurisdiction? If yes provide the information including case and docket number, nature of charge, date of charge or complaint, disposition, name and address of law enforcement agency or court involved, sentence and the name of officer, director/partner or trustee. Keep in mind this is the TAVERN application so this means—has the TAVERN ever been charged with anything? Holy cow I think. Midway was purchased in June of 1990 and the Franklin House has been in the family since 1959. EVER? That's a really long time.

Once again, back to the internet I go. I'm on-line on the PCLB website and under License Search I look up our licenses and print the history listed under "Citation Case Information" for each tavern. I use that for this form and I hope this is sufficient.

This application now needs to be notarized in 2 places.

Estimated time required for each application? I started at 7 a.m. and finished around 8 p.m. that night. I did NOTHING else that day. When I had questions, I tried calling the PLCB and was told all information was on their website. There was no information on their website. A section for FAQ's has since been added. Ironically, on page 4 of the instructions "IF YOU HAVE ANY QUESTIONS REGARDING THE APPLICATION PACKET FORMS OR THE INFORMATION REQUIRED TO COMPLETE ANY APPLICATION, PLEASE CONTACT THE PENNSYLVANIA LIQUOR CONTROL BOARD AT (800) XXX-XXXX."

I would also like you to know that on April 15, 2014 my husband and I were at the PCLB board meeting for their vote on the tavern gaming license for the Franklin House Tavern. I suggested to the board that links for the required information be made available with the applications. It would make it easier for

other licensees to apply. I was told the application is from the PA Gaming Control Board and the information is what they are looking for. As of February 11, 2015 no links exist with the application information.

With the Franklin House application, I made one mistake which delayed that license being approved. I failed to submit an individual application on the manager. At Midway my husband is the manager and he's the sole stockholder. He is also the sole stockholder at the Franklin House. The cover sheet to the Individual Application states *"To be completed by any individual that serves as an officer of the tavern, or owns 10% or more of the tavern, or has a controlling interest in the tavern."* I was notified of this oversight around February 25, 2014 by Tisha Albert with the PLCB. She called to advise us the license for Midway was being voted on March 5th and I asked about the Franklin House license because the application packages were submitted simultaneously.

She told me the application was missing the manager's information. I told her that the manager is not an officer and does not own any stock and does not have a controlling interest in the tavern. She told me it was in the instructions and if I hand carried the information when we came to the meeting on March 5th she would see to it the gaming board received it promptly. So, I immediately scheduled my fingerprints through Fieldprint. I fill out the individual application and on March 4th my fingerprints are done, I print the emailed background check and on the 5th I hand carry the information to Harrisburg to give to Tisha Albert. The vote for the Franklin House license didn't happen until April 15th.

Because our applications were among the first sent in to the PCLB, it took approximately 35 days to obtain the license for Midway. Due to the missing information, it took approximately 77 days for the Franklin House to obtain their license. What I learned is that the application goes to the PLCB, then to the gaming board and then back to the PLCB where they re-review the information before putting it on the agenda for the board to vote. I don't understand why the PLCB needs to review and re-review what they've already reviewed.

Here's the thing about the information that's requested:

- 1) PLCB has the manager's photo. It's required at the time the manager is appointed.
- 2) PCLB has already done a background check on the principles of the licensee and the manager.

That's required in order to obtain a license.

- 3) A tax certification from the Department of Revenue is required and the PCLB obtains that. HOWEVER, a business has to be clear with the Department of Revenue in order to renew their license. So, if you have a valid liquor license...doesn't that imply you are clear with the Department of Revenue?
- 4) Anyone who has ever served on the board for a non-profit organization that had a fundraiser and used small games of chance has NEVER had to go through this type of background check for the same type of games. This is a contradictory license process.
- 5) On the FBI website, they charge \$18.00 for a background check. Yet, we were charged \$1,000 for an investigation fee.

For the 20 some licensees who paid \$2,000 upfront and \$2,000 to actually obtain our tavern gaming license, no one has been able to tell us when we are going to get some sort of credit or refund because of licensing fees being reduced. I was told by PLCB that we would not have renewal license fees in 2015 because of this licensing process all being so new and that was long before the licensing fees were reduced. Each licensee is owed \$1500 per tavern gaming license acquired due to fees being reduced.

When we started this process we knew we would have to make a serious financial investment. Our application fee and background check fee was \$2,000 at each tavern. Then when the license was approved, we needed to pay another \$2,000 as a "Thank You Commonwealth of Pennsylvania" fee to actually get the license in our possession. Now, we need gaming supplies. We purchased new pull tab machines at a cost of \$2650 each plus tax and now we need to buy games. When it was all said and done, we spent \$11,000 at each tavern to start tavern gaming. Our cost is high because we pay our 65% tax up front to our distributor at the time the games are purchased.

Everyone who has interviewed me asks about how much money we are making. Let me tell you, we are not getting rich off of this. For example, on the game Pockets Full of Cash which is a pull tab game with 4 \$100 holders, the flare says our ideal profit is \$150. From that number we need to deduct sales tax, the cost of the game, the 65% tax and that leaves us with \$26.90...now that goes into the tavern's income and we pay income tax on that figure. The ideal profit only exists on paper. Sometimes we see a little more and most of the time it's less because people will hold tickets and collect payouts out of a different jar. When we started gaming, my husband estimated it would take at least 3 years for us to break even on our initial \$11,000 investment.

Another thing that has been cumbersome is the paperwork required by LCE...which is not available on the PLCB website where the application for tavern gaming is. The record keeping can be time consuming. It starts with a schedule T4a. On this schedule you list the pull tabs games by date as they go in and out of play. There is to be a separate page for each week. Then you take that information and you go to schedule T4 and you list the total payout and profit from each game by day. If you are doing a daily drawing your payout will go on schedule T3, again a separate page for each week of the year. There is schedule T5 for raffles and again a page for each week of the year. Now, bring the totals of each page forward to the Schedule T2 and at the end of the month move the monthly total forward to T1. In addition, we have to keep track of the tavern tax we paid to our distributor so that at the end of each quarter we can file our tavern gaming tax return with the Department of Revenue.

My husband and I met with the LCE to go over the paperwork because the original forms they released didn't work properly. The way they had us putting our tavern tax on the forms didn't match the total from our distributors invoices quarterly. I had figured out how to make it flow correctly. I asked why we had to keep these records and I was told the law said we had to have records of daily, weekly, monthly and annual payouts. They had taken club forms and modified them for us to use.

As you know our weekly payout is capped at \$35,000 per week. For either of our taverns to pay out \$35,000 per week that means we are selling 87 games of Pockets Full of Cash each week. The 65% upfront tax would result in just one of our taverns paying \$45,522.75 PER WEEK at the time games were purchased which works out to \$2,367,183.00.

I give you this example so you can see how ridiculous the paperwork worrying about us going over our weekly payout amount really is.

I have had the opportunity to speak to numerous licensees all over the Commonwealth about tavern gaming. There are a couple of things that resonate with all of the conversations: with the cumbersome application process, the weekly paperwork required for LCE to ensure we don't exceed our payout amount AND the nominal amount of money that we make on our 35% less expenses and income tax...is acquiring a license worth the effort? That is a decision that that each licensee must make for themselves. However, the consensus among most licensees that I've spoken with is that this process was made as difficult as possible to discourage licensees from applying.

In conclusion, while we are appreciative for the opportunity to offer tavern gaming, there are changes that need to be made to make this opportunity more attractive to our industry:

- 1) The split needs to be increased in favor of the tavern. It should be 65% tavern and 35% tax. This is a better incentive to get more taverns to apply and thus, revenue to the state will be increased. The current split does not offer the tavern enough profit to make offering the games attractive for the amount of work required.
- 2) The cost of the game needs to come out before the tax is calculated. This increases profitability to the tavern. The cost associated with a daily drawing or a raffle is deducted before the tax is paid but it's not that way for pull-tabs.
- 3) A gaming violation should not be tied to the liquor license...just as a health code violation is not tied to the liquor license. This is **HUGE** issue for all of us.
- 4) Clearly, a less cumbersome application process.
- 5) Lower fees associated with obtaining a license AND for the 20+ licensees who paid \$4,000 and who showed good faith and got on board with the state and tavern gaming helping to solve a budget crisis, it's time for the state to show good faith to us and tell us how and when we are getting a credit or refund.
- 6) Enforcement of tavern gaming should be transferred to the Department of Revenue. Our tax is collected up front or reported and paid quarterly and therefore we don't need LCE looking over our shoulder to keep us honest. Any of our issues are going to be with the Department of Revenue.
- 7) Education and training needs to be offered to the licensees by the responsible agency. We shouldn't be left to figure all of this out on our own while in fear we are going to do something wrong and receive a citation or fine.
- 8) The gaming license should transfer with the liquor license just as a health license transfers with the liquor license if the license is sold. This should be something that helps increase the value of our liquor license.

I thank you for this opportunity to reflect on our experiences over the past 11 months and I look forward to working with you.