

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

**TANNINS OF INDIANAPOLIS, LLC** )  
**d/b/a TASTINGS – A WINE** )  
**EXPERIENCE, et al.** )

Plaintiffs )

v. )

Case No. 3:19-CV-00504-DJH

*Electronically filed*

**CAROL BETH MARTIN, Commissioner** )  
**of the Kentucky Department of Alcoholic** )  
**Beverage Control, et al.** )

Defendants )

**ANSWER OF COMMISSIONER TO SECOND AMENDED COMPLAINT**

Comes now the Defendant, Allyson Cox Taylor<sup>1</sup>, Commissioner of the Kentucky Department of Alcoholic Beverage Control (hereinafter “Defendant” or “Commissioner”), and for her Answer to the Second Amended Complaint of the Plaintiffs, (hereinafter “Complaint”) states as follows:

**FIRST DEFENSE**

1. With respect to the Introduction, the Commissioner states that the referenced statutes speak for themselves. The Commissioner is without sufficient knowledge to admit or deny the factual allegations contained within this paragraph, and thus, denies the same. The remainder of this paragraph calls for legal conclusions that the Commissioner is required to neither admit nor deny, and thus denies the same.

2. Paragraphs 1 and 2 of the Complaint call for legal conclusions which the Commissioner denies. To the extent these paragraphs contain factual allegations, they are denied.

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<sup>1</sup> Allyson Cox Taylor is now the Commissioner of the Kentucky Department of Alcoholic Beverage Control, having assumed the position previously occupied by Carol Beth Martin. Under Fed. R. Civ. P. 25(d), Commissioner Taylor is automatically substituted as a party to this case as head of the Department.

3. The Commissioner is without sufficient knowledge to admit or deny the allegations contained in paragraphs 3, 4, 5, 6, and 7 of the Complaint, and thus denies the same.

4. Paragraph 8 of the Complaint calls for a legal conclusion that the Commissioner denies. To the extent this paragraph contains factual allegations, they are denied.

5. The Commissioner admits the allegations contained in paragraph 9 of the Complaint.

6. With respect to paragraph 10 of the Complaint, the Commissioner states that Andrew Beshear is no longer the Attorney General of Kentucky. The current Attorney General of Kentucky is Daniel Cameron. The remainder of this paragraph calls for legal conclusions that the Commissioner denies. To the extent this paragraph contains additional factual allegations, they are denied.

7. With respect to paragraph 11 of the Complaint, the Commissioner states that Carol Beth Martin is no longer the Commissioner of the Department. The current Commissioner of the Department is Allyson Cox Taylor. The remainder of this paragraph calls for legal conclusions that the Commissioner denies. To the extent this paragraph contains additional factual allegations, they are denied.

8. Paragraph 12 of the Complaint calls for a legal conclusion that the Commissioner denies. To the extent this paragraph contains factual allegations, they are denied.

9. The Commissioner admits the allegations contained in paragraph 13 of the Complaint.

10. The Commissioner states that the statute referenced in paragraph 14 of the Complaint speaks for itself. The Commissioner is without sufficient knowledge to admit or deny the factual allegations contained in paragraph 14, and thus denies the same.

11. With respect to paragraph 15 of the Complaint, the Commissioner states that Tannins of Indianapolis has never applied for a retail package license so the Commissioner is without sufficient knowledge to admit the allegations contained in said paragraph and thus denies

the same. The remainder of this paragraph calls for legal conclusions that the Commissioner denies.

12. The Commissioner is without sufficient knowledge to admit or deny the allegations contained in paragraph 16 of the Complaint, and thus denies the same.

13. With respect to paragraph 17 of the Complaint, the Commissioner states that neither Bailey nor Tannins of Indianapolis has ever applied for a Kentucky license so the Commissioner is without sufficient knowledge to admit or deny the allegations that no Kentucky license is available to them, and thus denies the same. The Commissioner states that the statutes referenced in paragraph 17 of the Complaint speak for themselves. The Commissioner denies the remaining allegations contained in paragraph 17.

14. The Commissioner is without sufficient knowledge to admit or deny the allegations contained in paragraphs 18, 19, 20, 21, 22, and 23 of the Complaint, and thus denies the same.

15. The Commissioner states that the statutes referenced in paragraph 24 of the Complaint speak for themselves. The Commissioner is unaware of any application by an out-of-state retailer and so is without sufficient knowledge to admit or deny the remaining allegations in paragraph 24, and thus denies the same.

16. The Commissioner is without sufficient knowledge as to the allegations contained in paragraph 25 of the Complaint, and thus denies the same.

17. Paragraph 26 of the Complaint calls for legal conclusions that the Commissioner denies.

18. The Commissioner reasserts the responses articulated *supra* in paragraphs 1-17 as pertaining to paragraph 27 of the Complaint.

19. The Commissioner is without sufficient knowledge to admit or deny the allegations contained in paragraphs 28, 29, 30, 31, 32, 33, 34, 35, and 36 of the Complaint and thus denies the same.

20. With respect to paragraph 37 of the Complaint, the Commissioner states that qualifying Kentucky residents, and qualifying legal entities of any state, can obtain Kentucky

alcoholic beverage licenses to sell and deliver wine to Kentucky residents. The Commissioner denies the remaining allegations in said paragraph.

21. The Commissioner denies the allegations contained in paragraph 38 of the Complaint.

22. Paragraph 39 of the Complaint calls for legal conclusions which the Commissioner denies. To the extent this paragraph contains factual allegations, they are denied.

23. To the extent the section titled "Request for Relief" contains allegations, the Commissioner denies them.

24. The Commissioner denies each and every allegation of the Complaint not specifically admitted herein.

#### **SECOND DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

#### **THIRD DEFENSE**

The Complaint is barred by the applicable statute of limitations.

#### **FOURTH DEFENSE**

The Complaint is barred by the doctrines of laches, waiver and estoppel.

#### **FIFTH DEFENSE**

The Complaint is barred as the Plaintiffs have failed to exhaust their administrative remedies.

#### **SIXTH DEFENSE**

The Complaint is barred by the Eleventh Amendment to the United States Constitution.

#### **PRAYER FOR RELIEF**

Wherefore, the Defendant, Allyson Cox Taylor, Commissioner of the Kentucky Department of Alcoholic Beverage Control respectfully requests that the Court dismiss the Plaintiffs' Complaint, enter final judgment in favor of the Defendant, award the Defendant her costs, expenses and reasonable attorneys' fees, and such other relief to which the Defendant may be entitled.

Respectfully submitted,

/s/ Stephen B. Humphress

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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 18th day of February, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notice of filing to all counsel of record.

*/s/ Stephen B. Humphress* \_\_\_\_\_  
Counsel for Defendant Allyson Cox Taylor  
Commissioner of the Kentucky Department of  
Alcoholic Beverage Control