

In Re: Timothy Fringer, : File Docket: 13-028
Respondent : X-ref: Order No. 1654
: Date Decided: 5/5/15
: Date Mailed: 5/12/15

Before: Nicholas A. Colafella, Chair
Mark R. Corrigan, Vice Chair
Roger Nick
Kathryn Streeter Lewis
Maria Feeley
Melanie DePalma

This is a final adjudication of the State Ethics Commission.

Procedurally, the Investigative Division of the State Ethics Commission conducted an investigation regarding possible violation(s) of the Public Official and Employee Ethics Act ("Ethics Act"), 65 Pa.C.S. § 1101 et seq., by the above-named Respondent. At the commencement of its investigation, the Investigative Division served upon Respondent written notice of the specific allegations. Upon completion of its investigation, the Investigative Division issued and served upon Respondent a Findings Report identified as an "Investigative Complaint." An Answer was filed and a hearing was requested. A Stipulation of Findings and a Consent Agreement were subsequently submitted by the parties to the Commission for consideration. The Stipulated Findings are set forth as the Findings in this Order. The Consent Agreement has been approved.

I. ALLEGATIONS:

That Timothy Fringer, a public official/public employee in his former capacity as the Chief of the Product Selection/Category Management for the Pennsylvania Liquor Control Board ("PLCB"), as well as in his former position as Spirits Category Manager for the PLCB, violated Section 1103(a) of the State Ethics Act (Act 93 of 1998), 65 Pa.C.S. § 1103(a), when he used the authority of his public position for the private pecuniary benefit of himself when he received various gifts and/or travel, hospitality and lodging from vendors of the PLCB at a time when said vendor(s) had ongoing business/contractual relations with the PLCB; and when he failed to disclose on Statements of Financial Interests filed for the 2009, 2011 and 2012 calendar years, his receipt of travel, lodging, and/or hospitality in excess of an aggregate amount of \$650.00 from any single vendor.

II. FINDINGS:

1. Timothy Fringer was employed as the Chief of the Product Management and Pricing Division of the PLCB from approximately October 31, 2010, until September 16, 2013.
 - a. Fringer began employment with the PLCB on July 12, 2004, as a PMA (Pennsylvania Management Associate) in the Division of Planning and Policy Management.

- b. Fringer voluntarily separated from Commonwealth employment effective September 16, 2013.
2. Fringer held multiple positions during his tenure with the PLCB including PMA, Program Analyst 2, Merchandising and Pricing Coordinator, and Chief of the Product Management and Pricing Division.
 - a. Fringer received no less than two (2) promotions throughout his tenure with the PLCB.
 - b. Fringer began working within the PLCB Bureau of Product Management effective June 3, 2007, when he transferred to the position of Merchandising and Pricing Coordinator.
3. Fringer has not been employed by the PLCB or the Commonwealth since approximately September 2013.
4. Fringer's job description in the position of Chief of the Product Management and Pricing Division of the PLCB sets forth the position purpose, description of duties, and essential functions of the position.
 - a. The formal position title as well as the purpose for the position was identified, in part, as follows:
 1. The position serves as the Chief of the Product/Category Management Division, Bureau of Product Management performing responsible administrative and managerial work planning, directing, and coordinating PLCB's category management, marketing and merchandising functions.
 2. The primary focus of the position is the supervision of a centralized category management program directed at maximizing product selection, agency profitability, and competitive pricing structures.
 - aa. The position report is to the Director of Product Selection.
 - b. The description of duties identified multiple responsibilities associated with the position as detailed, in part, below:
 1. Supervision and provision of approvals for the activities of the category management staff in the establishment of promotional programs; evaluation and presentation of supplier product proposals to the Director of Product Selection; evaluation of special pricing and display programs; and ensuring proper execution of approved marketing plans.
 2. Direction and approval regarding the development of standards for promotional displays and all standard and store specific shelf sets and monitoring of the preparation of documentation for distribution to and training of field personnel.
 3. Direction and approval of the activities of the category managers in the evaluation of the review of currently offered products for delisting consideration in Oracle Category Management for presentation to the Director of Product Selection; direction and approval of the development, revision, and implementation of procedures for delisting of current products which do not reach the established minimum

- standards; direction and approval of delisting reports with appropriate recommendations and corresponding plan for removal of identified codes; direction and approval regarding plan implementation with the category management staff to ensure all objectives are identified and vendor participation is solicited in the closing out of delisted products.
4. Direction and approval of the activities of the category managers in the evaluation of the new product proposals in Oracle Category Management for presentation to the Director of Product Selection; direction and approval of the development, revision, and implementation of procedures for listing new products which reach the established standards; direction and approval of the new listing reports with appropriate recommendations and corresponding plan for introduction of identified codes; direction and approval regarding plan implementation with the category management staff to ensure all objectives are identified and vendor participation is solicited in the introduction of newly listed products.
 5. Direction and approval of the assignment of all weighting criteria in regards to Key Performance Indicators in relation to performance attributes used in Oracle Category Management for the purposes of performing New Listing, Delisting, State Base Assortment, Cluster Base Assortment, and Store Optional assortment score carding; exercising of signature authority for final assignment of weighting criteria for use by category management.
 6. Communication directly with vendors/suppliers regarding questions, problems, and clarification of all aspects of category management.
- c. The essential functions for the position include, among others, the following:
1. Cultivation and maintenance of appropriate and effective working relationships.
5. The PLCB was created by state law on November 29, 1933, following the end of prohibition.
 - a. Prohibition was repealed on December 5, 1933, with the ratification of the 21st Amendment to the U.S. Constitution.
 - b. Pennsylvania is one of eighteen (18) states and two (2) Maryland counties that actively participate in the distribution process to control the sale of alcohol.
 6. The PLCB is governed by a three (3) Member Board, appointed by the Governor and confirmed by two-thirds of the State Senate.
 - a. The Board appoints a Chief Executive Officer.
 7. The PLCB is responsible for regulating the sale of alcohol, educating consumers on the responsible use of alcohol, and working to prevent underage use of alcoholic beverages.
 8. The PLCB accomplishes its responsibilities through marketing and merchandising a retail operation of approximately 608 stores with sales of approximately \$2.1 billion in 2011-2012.

9. On April 12, 1951, the Pennsylvania General Assembly combined existing beer and liquor laws into one statute, entitled the "Liquor Code."
10. On July 1, 1987, the Pennsylvania General Assembly reenacted the Liquor Code and created the Bureau of Liquor Control Enforcement ("BLCE"), within the Pennsylvania State Police, which is responsible for enforcing the Liquor Code and the Board's regulations, and the Office of Administrative Law Judge, an autonomous office within the PLCB, which is responsible for presiding over citation and enforcement hearings.
11. The PLCB provides products and services through seven (7) dedicated departments designed to meet the specific needs of PLCB customers and licensees.
 - a. Each of the seven (7) dedicated offices has specific deputies who have oversight responsibility.
 - b. Dedicated offices are: Finance, Supply Chain, Marketing & Merchandising, Retail Operations, Administration, Regulator Affairs, and External Affairs.
12. The PLCB is a high volume purchaser of wine and spirits in the United States.
 - a. The PLCB currently operates approximately 608 stores, which are leased from private landlords.
 - b. The PLCB outsources warehousing services for three (3) distribution centers in Pennsylvania.
 - c. There currently are approximately 25,595 beverage alcohol licenses and permits throughout Pennsylvania and 5,391 registered malt and brewed beverage brands granted by the PLCB.
13. Products that are sold by the PLCB are categorized as either regular items, luxury items, or special order items.
 - a. Regular items are products that are routinely stocked in the distribution centers.
 - b. Luxury items are products that are purchased intermittently or as one-time purchases.
 - c. Special order products are items that are not stocked in the PLCB distribution centers but may be special ordered by either licensees or by consumers.
 - d. On or about February 4, 2004, the PLCB began the Chairman's Selection Program, which offers wine at premium collection stores.
14. In or about 2006, a policy was developed by the PLCB known as the "bright line."
 - a. The policy was developed during the time when Joseph Martz was serving as PLCB Director of Administration.
 1. In 2006, Martz simultaneously served as Secretary of the Commonwealth and PLCB Director of Administration.
 - b. The bright line was a policy that advised employees they were to accept

- nothing from PLCB vendors.
- c. When initially implemented, the policy was applicable to employees of the Administrative Division of the PLCB.
 1. Employees signed the policy agreeing not to accept anything from PLCB vendors.
 - d. Jonathan Newman was PLCB Chairman at the time the policy was implemented for administrative staff.
15. In 2006, the Director of Administration had no supervisory authority over employees in the Purchasing Division.
- a. Requests were made to James Short, PLCB Director of Marketing, to implement the policy in the Purchasing Department.
 - b. Short never implemented the policy.
16. As a Control State, the PLCB is the only retail seller of wine/spirits in the Commonwealth.
- a. The PLCB may grant licenses to entities/establishments for the sale of alcoholic beverages for on-site consumption as well as for vendors who sell products for off-site consumption.
 - b. In order for an alcoholic beverage to be sold in Pennsylvania, it must be authorized for sale by the PLCB.
 1. If a product is "listed" it is authorized for sale and stocked as a product in PLCB retail stores.
17. In order to have a product sold by the PLCB, a manufacturer/supplier of alcoholic beverage products may employ several different methods to have its product represented within the Commonwealth of Pennsylvania.
- a. A manufacturer/supplier may market its product directly to the PLCB for the listing/delisting process as well as for sales and distribution.
 - b. A manufacturer/supplier may market its product through a vendor.
 1. For all sales/distribution, a vendor of record must be identified with the PLCB.
 2. A manufacturer/supplier may also be a vendor/vendor of record.
 - c. A manufacturer/supplier may enlist the services of a broker, who then in turn represents the manufacturer/supplier and its products before the PLCB.
 1. Any broker may represent multiple manufacturers/suppliers and/or multiple products before the PLCB.
 2. A broker may also serve as a vendor/vendor of record.
18. The PLCB periodically reviews all products currently sold in PLCB retail stores to evaluate their profitability, and at or about the same time, considers new products for placement in PLCB retail stores through a process known as "listing" and

“delisting.”

- a. Listing/delisting occurs twice a year, usually in the fall and spring of each year.
 - b. The goal of listing/delisting is to achieve a 1:1 ratio, when for each product listed, one product is delisted, due to the limited amount of shelf space available at each PLCB retail store.
19. The process to present a new product for listing is regulated through the PLCB.
- a. Specifically, the Merchandising and Pricing Coordinator makes item and related marketing and support decisions through a scorecard process.
 - b. The Merchandising Pricing Coordinator would make recommendations to the Chief of Product Selection, Matt Schwenk, who would work through the recommendations of the Merchandising Pricing Coordinator [and] then respond with a modified list.
 - c. This potentially modified list would then be routed through a presentation with the Director of Marketing, James Short, who would ask questions and make changes.
 - d. After Mr. Short made changes, a final list would be put together in the form of preliminary “Board Work.”
 - e. The Board Work would be routed [to] the Board the Friday before the Board meeting.
20. Delisting occurs simultaneously with the listing process.
- a. If a product is to be delisted, the vendor is notified and provided an opportunity to avoid a delisting.
 1. Actions such as an advertising campaign, discounts, and product sampling are used to promote sales and possibly avoid a delisting.
21. The PLCB relies primarily on recommendations made by James Short, the Director of Marketing and Merchandising, and his subordinates, including Fringer in his role as the Chief of the Product Management and Pricing Division, when making listing/delisting decisions.
- a. The Board conducts no independent review of products and relies on staff recommendations.
 - b. It is estimated that 5% of the recommendations to list/delist are not accepted by the Board.
22. The primary vendors providing products to the PLCB are:
- Southern Wine and Spirits
 - Capital Wine and Spirits (Alliance Brands, White Rock Distilleries)
 - Allied Beverage (Majestic)
 - These vendors represent at least 31% of total PLCB sales/inventory.
23. Southern Wine and Spirits of America, Inc. (“Southern”) [claims] to be the nation’s largest wine and spirits distributor.

- a. Since its creation/formation in 1968, Southern has maintained its corporate office in Miami, Florida.
 - b. Currently, Southern represents clients in no less than thirty-five (35) states including "Control States" and "Open States."
 1. An "Open State" refers to a state/jurisdiction where wine, spirits, and beer sales are conducted through an independent beverage distributor/retailer.
 2. A "Control State" is where a state or county "controls" or regulates the distribution and/or the sale of wine, spirits, and/or beer.
 3. Pennsylvania is the largest Control State operation in the United States.
24. Southern Wine and Spirits of Pennsylvania operates as a licensed wine and spirits broker/marketer.
- a. Southern expanded its operations into Pennsylvania in 1995.
 - b. Southern employs approximately two-hundred twenty-five (225) sales and support staff statewide in Pennsylvania.
 - c. Southern maintains two (2) offices within Pennsylvania, one in the King of Prussia area, and the other in the Greater Pittsburgh geographic area.
 1. These employees are responsible for marketing and merchandising alcoholic beverages to the more than six-hundred (600) PLCB state stores, as well as Pennsylvania's 14,500 on-premise accounts.
 2. The PLCB is Southern's only off-premise customer.
25. Brad M. Waxman ("Waxman") is the Executive Vice President, General Manager of Southern Wine and Spirits of Pennsylvania.
- a. In January 1999, Waxman initiated his employment with Southern.
 1. In 2002, Waxman was named Executive Vice President/General Sales Manager of Southern's Pennsylvania operations.
 - b. Mark Sweeney ("Sweeney") is the Vice President and General Manager of North American Wine and Spirits, a division of Southern Wine and Spirits.
 1. Sweeney also makes sales calls to PLCB officials and employees.
 2. In 2008, Waxman was promoted to the position of Executive Vice President/General Manager of Southern's Pennsylvania operations.
26. Southern is a broker and vendor/vendor of record for a number of wines and/or spirits sold to the PLCB.
- a. Waxman serves as a broker for a number of the products before the PLCB.

- b. Products for which Southern serves as broker and/or vendor/vendor of record account for between approximately 6.43% to 6.85% of PLCB total Cost of Goods Sold during the last five (5) years (2007-2012).
 1. Sales to PLCB for years 2007 through 2012 totaled between \$62,051,980.00 and \$77,641,059.78.
27. Capital Wine and Spirits, LLC ("Capital") claims to be one of the largest wholesaler/brokers of wine and spirits in Pennsylvania.
 - a. Capital is a member of the Charmer Sunbelt Group, a nationwide distributor of wine, spirits, beer, and other beverages.
 - b. The Charmer Sunbelt Group is a collection of privately held companies and operates distributor/brokerage houses in no less than fifteen (15) states, including Pennsylvania.
 - c. Capital employs more than two-hundred (200) employees and reports to sell in excess of four million cases of wine and spirits throughout the Commonwealth.
 - d. The reported four million cases of wine/spirit sales include sales to the PLCB.
28. Capital is a broker and vendor/vendor of record for a number of wines and/or spirits sold to the PLCB.
 - a. Products brokered by Capital account for a total of between approximately 19.11% to 22.03% of PLCB total Cost of Goods Sold during the last five (5) years.
 - b. Sales to the PLCB for years 2007 through 2012 totaled between \$198,712,993.38 and \$221,606,618.99.
29. In an effort to condense marketing efforts and maximize sales and product exposure, several manufacturers/producers of wines, spirits and malt/brewed beverages have formed partnerships for marketing purposes; one such partnership is "The Alliance."
 - a. The Alliance is comprised of wine/spirit suppliers: Bacardi USA ("Bacardi"); Brown-Forman; and Remy Cointreau ("Remy").
 - b. The Alliance was established by Bacardi, Brown-Forman, and Remy to "re-shape" their route to market in order to provide greater service and access to the consumer.
 - c. The goal of The Alliance was/is to create a way for Bacardi, Brown-Forman, and Remy to leverage their scale and profitability in order to secure dedicated resources.
30. The Alliance is a United States program and is focused on distribution and a combined portfolio in an effort to compete with other suppliers.
 - a. The Alliance covers twenty-six (26) markets, which include the state of Pennsylvania.
 - b. Within Pennsylvania, The Alliance is represented by Capital Wine and Spirits/Charmer Sunbelt Group.

31. Capital Wine and Spirits/Alliance Brands representatives interacting most often with PLCB officials include the following:
 - Mark Littles, President, Capital Wine and Spirits
 - Christina Desmond, Director of Marketing and Business Analytics
 - Rob Sirota, General Manager, Alliance Division of Capital Wine and Spirits
 - Kevin McCarty, Vice-President of Compliance and Administration of Capital Wine & Spirits
 - Tim Kilcullen, Vice-President of Wine and Education, Capital Wine and Spirits
 - David Franke (Brown-Forman)
32. Allied Beverage Group, LLC (“Allied”) was created by the mergers of The Baxter Group, Inc., F&A Distributing Company and The Jaydor Corporation.
 - a. Allied reports to be New Jersey’s largest and most comprehensive wine and spirits distributor and ranks among the ten largest distributors in the United States.
 - b. Allied also operates subsidiary Majestic Wine & Spirits, USA, LLC (“Majestic”), which is a Pennsylvania brokerage and vendor/vendor of record for products sold to the PLCB.
 1. As a broker/vendor, Majestic provides merchandising and promotional services for several major suppliers of alcoholic beverages.
 2. Majestic reports to be the PLCB’s highest volume distributor of “special liquor orders.”
33. As a broker and vendor/vendor of record for products sold to the PLCB, Allied and/or Majestic’s sales account for between approximately 1.51% to 2.18% of PLCB total Cost of Goods Sold during the last five (5) years.
 - a. Sales to PLCB for years 2007 through 2012 totaled between \$15,267,768.10 and \$25,000,032.79.
34. Majestic’s primary contacts with PLCB officials and employees are Chris Papariello and Edward Murray.
 - a. Papariello is Executive Vice-President of Majestic.
 - b. Murray serves as Majestic’s Eastern Regional Manager.
35. Executives and marketing representatives from vendors supplying products to the PLCB met with PLCB employees to market products.
 - a. The marketing strategies of these representatives included offering gifts, transportation, lodging, and hospitality to PLCB employees, including Fringer.
 - b. The items, including golf events, meals, alcoholic beverages, and gift cards, were offered year round including when listing/delisting of products was occurring.
 - c. Items of value were routinely provided to PLCB officials who were in decision making positions regarding product selection and placement.

36. Representatives of the numerous PLCB vendors frequently contacted Fringer and various other PLCB representatives for a variety of reasons, including marketing new and existing products.
- a. Some of these products were subject to the listing/delisting process.
 - b. Other products were luxury products which are not subject to listing/delisting procedures.
37. Vendor representatives offered and provided Fringer with items of value, including but not limited to the following:
- Alcohol
 - Meals, including lunches and dinners
 - Golf outings
 - Gift cards/certificates
 - Tickets to entertainment/sporting events
- a. Fringer asserts that he received explicit and implicit direction from the Director of Marketing and Merchandising, as well as from the Director of Product Selection, to accept items from vendors, including alcohol, dinners and the like. Specifically, Respondent asserts that he was told that the Director of Marketing and Merchandising, and/or the Director of Product Selection, were aware that PLCB employees received items from vendors, but so long as no one complains or talks about it, "it never happened."
 1. The Investigative Division has no knowledge of specific direction Respondent received from the Director of Marketing and Merchandising, and/or the Director of Product Selection, regarding the acceptance of items of value from PLBC vendors; however, evidence suggests that PLCB employees routinely accepted travel, hospitality, lodging and/or gifts from PLCB vendors, with the knowledge of employees' superiors.
38. Vendors and representatives known to have provided Fringer with items of value included:
- Cristina Desmond, Capital Wine and Spirits
 - Mark Littles, Capital Wine and Spirits
 - Ryan Bonner, Capital Wine and Spirits
 - Tricia Brungo, White Rock Distilleries
 - Paul Doran, White Rock Distilleries
 - Erin "Red" Schiller, Jim Beam Global
 - Amy Sutton, Jim Beam Global
 - Michael O'Brien, Southern Wine and Spirits
 - Danielle Smith, Constellation Brands
39. Fringer accepted items of value from PLCB vendors at a time when the PLCB was considering listing/delisting the offering vendors' products.

THE FOLLOWING FINDINGS RELATE TO FRINGER'S GENERAL RECEIPT OF GIFTS AND HOSPITALITY FROM VENDORS OF THE PLCB AT A TIME WHEN FRINGER WAS RESPONSIBLE FOR MAKING RECOMMENDATIONS REGARDING THE PURCHASING, LISTING, AND DELISTING OF PRODUCT.

40. PLCB Members and employees are prohibited by the Pennsylvania Liquor Code and the PLCB Official Code of Conduct from receiving any gratuity, favor, entertainment, loan, gift, or any other thing of economic or monetary value from PLCB vendors.
41. As an employee with the PLCB for over nine years, Fringer was aware of the prohibition against accepting any gratuity, gifts, or anything of value from PLCB vendors.
 - a. PLCB employees are periodically provided with reminders of the restrictions placed on PLCB personnel by the Pennsylvania Liquor Code, [which prohibit them] from accepting anything of value from vendors.
 1. The most recent reminder was during or about 2011.
42. Vendor representatives make regular appearances at the PLCB offices located in the Northwest Office Building, Harrisburg, Pennsylvania.
 - a. Primary vendors and/or suppliers who marketed products to the PLCB and with whom Fringer interacted on a regular basis included Capital Wine and Spirits, Southern Wine and Spirits, Majestic Wine & Spirits, White Rock Distilleries, Beam Global Spirits and Wine, and Diageo.
 1. Specific representatives with which Fringer dealt included, in part, the following:
 - aa. Capital Wine and Spirits:
 1. Mark Littles, President
 2. Christina Desmond, Director of Marketing and Business Analytics
 3. Ryan Bonner, Sales Representative
 - bb. Southern Wine and Spirits:
 1. Michael O'Brien, PA Vice-President-General Manager Liberty Spirits Division
 - cc. White Rock Distilleries:
 1. Tricia Brungo, Control States Manager
 2. Paul Doran, Regional Sales Manager
 - dd. Beam Global Spirits and Wine:
 1. Erin (a/k/a Red) Schiller, Pennsylvania State Account Manager
 2. Amy Sutton, Pennsylvania State Account Manager (prior to Schiller)
43. Although prohibited by the Liquor Code and PLCB internal policy, Fringer routinely accepted meals, tickets for entertainment functions, and gifts from PLCB vendors in

his position as a PLCB Merchandising and Pricing Coordinator and later as the Chief of Product Management and Pricing Division.

- a. Fringer knowingly and willingly accepted gifts, hospitality, and/or other items of economic value on a regular basis from multiple vendor representatives, including but not limited to: Littles, Desmond, Brungo, Doran, Schiller, Sutton, O'Brien, and Smith.
 - b. But for Fringer's employment with the PLCB, Fringer would not have been in a position to interact with specific PLCB vendor representatives in a purchaser/vendor relationship and be offered/receive anything of value from them as a PLCB purchaser.
 - c. Fringer was provided items by vendors as part of the marketing of products by vendors as a result of his official capacity as Merchandising and Pricing Coordinator and/or the Chief of the Product Management and Pricing Division.
44. While serving in the position of PLCB Merchandising and Pricing Coordinator and later as the Chief of the Product Management and Pricing Division, Fringer knowingly received and accepted meals/hospitality and/or gifts from Mark Littles, Christina Desmond, and/or other representatives of Capital Wine and Spirits.
- a. Littles' expense summaries document meals/hospitality received and accepted by Fringer as detailed in the chart below:

| Activity Date | Net Amount | Description | Additional Text |
|----------------------|-------------------|---------------------------------------|--|
| 11/12/2009 | \$1,335.90 | Dinner/Drinks PLCB Whiskey Fest Event | Union Trust J Short, K Payne, M Schwenk, A Schwenk, T Fringer, 2 PLCB Event Specialists, 4 CWS Managers |

- 1. Littles issued payment for the expenses incurred via use of his personal credit card.
 - aa. Although Capital Wine and Spirits issues corporate credit cards to applicable representatives for business expenses incurred, Littles utilizes his personal credit card regarding payment for business expenses.
 - 1. Capital Wine and Spirits employees are permitted to receive reimbursement from the company for legitimate business expenses incurred.
 - 2. Capital Wine and Spirits employees may not receive reimbursement for personal expenses incurred.
- 2. Littles documented the expenses on his employee expense reports for reimbursement and received reimbursement for said expenses.
- 3. The percentage of expenses which could directly be attributed to Fringer based on the identified number of attendees is documented below:

11/12/09 1/12 of \$1,335.90 \$111.33

45. Desmond's expense summaries document meals/hospitality and/or gifts received and accepted by Fringer as detailed in the chart below:

| Activity Date | Net Amount | Description | Additional Text |
|----------------------|-------------------|--|------------------------|
| 11/03/2010 | \$75.00 | Nordstrom gift for buyer | None |
| 10/20/2011 | \$117.90 | Tinto: Dinner with buyers | None |
| 01/24/2012 | \$442.35 | Holiday Inn: Rooms for Ryan, buyer, myself | Wing Bowl |

- a. In a sworn statement given to State Ethics Commission officials, Desmond confirmed Fringer's receipt/acceptance of the above listed items.
- b. Desmond issued payment for the expenses incurred via use of her corporate issued credit card.
 1. Capital Wine and Spirits employees are permitted to receive reimbursement from the company for business expenses incurred.
 2. Capital Wine and Spirits employees may not receive reimbursement for personal expenses incurred.
- c. Desmond documented the expenses on her employee expense reports for reimbursement and received reimbursement for said expenses.
- d. The percentage of expenses which could directly be attributed to Fringer based on the identified number of attendees is documented below:

| | | |
|---------------|----------------------------------|-----------------|
| 11/03/10 | N/A (Gift Card) | \$75.00 |
| 10/20/11 | 1/3 of \$117.90 | \$39.30 |
| 01/24/12 | <u>1/2 cost for 1 of 3 rooms</u> | <u>\$73.73</u> |
| Total: | | \$188.03 |

- e. Fringer asserts that he did not receive the Nordstrom Gift Card valued at \$75.00 from Desmond.
46. During an interview conducted on May 1, 2014, by representatives of the Investigative Division, Fringer admitted to receiving a free round of golf in Hershey, Pennsylvania, in 2011 and a free round of golf outside the Pittsburgh area in 2012 from Capital Wine and Spirits representatives and/or a Capital Wine and Spirits supplier.
- a. Fringer golfed with Matt Schwenk, PLCB Director of Product Selection; Scott Pickford, a Bacardi representative (Capital Wine and Spirits supplier); and Desmond in Hershey, Pennsylvania.
 1. No information was provided by the vendors documenting the cost of the round of golf.
 2. Fringer did not pay personally for the round of golf played.
 - b. Fringer golfed with John Wagner, PLCB Imports Wine/Spirits Category Manager, Bonner, and an additional Capital Wine and Spirits representative outside the Pittsburgh area in 2012.

1. No documentation was provided by the vendor confirming the value of the golf.
 - aa. The round of golf was scheduled by Bonner.
 - bb. The idea to play/request the round of golf originated with either Fringer or Wagner.
 1. Fringer and Wagner were traveling to Pittsburgh to attend a wine festival and met the Capital Wine and Spirits representatives at the golf course.
 2. Fringer did not pay personally for the round of golf played.
47. Fringer knowingly and willingly accepted the meals/hospitality and/or gifts from Littles, Desmond, and other Capital Wine and Spirits representatives at a time when Fringer was responsible for making recommendations regarding product purchasing, as well as listing and delisting, of products from suppliers represented by Capital Wine and Spirits.
- a. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive the meals/hospitality and/or gifts from Littles, Desmond, or other Capital Wine and Spirits employees serving as PLCB vendor representatives.
 1. The total value of all the meals/hospitality received by Fringer from Littles could not be determined.
 - aa. The amount directly related to Fringer from Littles totaled \$111.33.
 2. The specific value of the gifts/gift cards and meals received and accepted between 2010 and 2012 by Fringer from Desmond totaled at least \$188.03.
 3. The actual value of the rounds of golf played by Fringer in Hershey and the outer Pittsburgh area could not be determined.
 - b. Fringer made no personal payment for any meals/hospitality and/or gifts provided to him from Littles, Desmond, or other Capital Wine and Spirits representatives referenced.

THE FOLLOWING FINDINGS RELATE TO MEALS/HOSPITALITY PROVIDED TO FRINGER BY REPRESENTATIVES OF SOUTHERN WINE AND SPIRITS.

48. While serving in the position of PLCB Merchandising and Pricing Coordinator in the Bureau of Product Management, Fringer knowingly and willingly received and accepted meals/hospitality from Michael O'Brien, a representative of Southern Wine and Spirits, a supplier of alcohol/spirits to the Commonwealth.
 - a. Fringer was offered and accepted at least one ticket to a 2009 World Series baseball game from O'Brien.
49. During an interview conducted on May 1, 2014, by representatives of the Investigative Division, Fringer admitted to receiving a free ticket to a Philadelphia Phillies 2009 World Series Home Game from O'Brien.

- a. Fringer was offered the ticket from O'Brien.
 1. The ticket was for general admission seating on the third base line.
 2. No documentation was provided by Southern Wine and Spirits to confirm the value of the ticket provided to Fringer by O'Brien.
 3. Fringer did not pay personally for the World Series ticket.
- b. O'Brien accompanied Fringer to the Game.
 1. No additional PLCB representatives attended the World Series Game with Fringer and O'Brien.

50. In addition to receipt of the World Series ticket, Fringer received additional ... hospitality including meals and tickets to sporting events from O'Brien as a result of Fringer's employment with the PLCB as the Chief of the Product Management and Pricing Division.

- a. O'Brien's expense report documentation provided for January 2011, December 2011, March 2012, and May 2012 recorded business expenses in relation to business dealings with Fringer as follows:

| Date | Description | Location | Value | Value to Fringer |
|-------------|--|------------------|--------------|-------------------------|
| 12/22/10 | Admiral Nelson Promotion-Savannahs | Harrisburg, PA | \$826.50 | \$275.50 |
| 12/09/11 | New York Jets vs. Philadelphia Eagles Sunday 12/18/11, 4 Tickets | Philadelphia, PA | \$694.55 | \$173.64 |
| 12/18/11 | Capital Grille/Eagles Game | Philadelphia, PA | \$974.46 | \$243.62 |
| 12/18/11 | Ritz Carlton-dinner | Philadelphia, PA | \$104.70 | \$26.18 |
| 12/19/11 | Ritz Carlton-room charges | Philadelphia, PA | \$350.93 | \$350.93 |
| 03/01/12 | Del Friscos | Philadelphia, PA | \$1,000.00 | \$250.00 |
| 03/02/12 | Delilah's | Philadelphia, PA | \$4,128.00 | \$206.40 |
| 05/02/12 | Loews Hotel | Philadelphia, PA | \$206.21 | \$206.21 |

1. O'Brien's expense reports do not document a specific list of items received by Fringer.
2. The specific value to Fringer was calculated by dividing the overall expense value by known individuals present for each event as shown below:

| | | |
|--------------|--------------------|-------------------|
| 12/22/10 | 1/3 of \$826.50 | \$275.50 |
| 12/09/11 | 1/4 of \$694.55 | \$173.64 |
| 12/18/11 | 1/4 of \$974.46 | \$243.62 |
| 12/18/11 | 1/4 of \$104.70 | \$ 26.18 |
| 03/01/12 | 1/4 of \$1,000.00 | \$250.00 |
| 03/02/12 | 1/20 of \$4,128.00 | \$206.40 |
| Total | | \$1,175.34 |

3. Expenses incurred by O'Brien on Fringer's behalf on December 19, 2011, accounted for hotel room fees for Fringer in the amount of \$350.93.
51. Tickets from secondary market companies for the 2009 World Series Games held in Philadelphia averaged over \$1,000 for the October 31st and November 1st home games.
 - a. Tickets from secondary market companies averaged approximately \$373 for the November 2nd home game.
 - b. Despite a subpoena from the State Ethics Commission, O'Brien and/or Southern Wine and Spirits did not provide information as to the World Series tickets provided to Fringer.
 - c. The cost for a ticket, if Fringer was purchasing from a secondary market, was at least \$687.00.

THE FOLLOWING FINDINGS RELATE TO FRINGER'S RECEIPT OF ITEMS OF VALUE FROM WHITE ROCK DISTILLERIES REPRESENTATIVES.

52. While serving in the position of PLCB Merchandising and Pricing Coordinator and later as the PLCB Chief of Product Management and Pricing Division, Fringer knowingly and willingly received and accepted meals/hospitality from Tricia Brungo and/or Paul Doran, representatives of White Rock Distilleries, a supplier of alcohol/spirits to the Commonwealth.
 - a. Brungo's expense summaries document meals/hospitality received and accepted by Fringer as detailed in the chart below:

| <u>Date</u> | <u>Description of Expense</u> | <u>Expense Amount</u> | <u>Individuals Present</u> |
|-------------|--|-----------------------|--|
| 03/04/2009 | Lunch Meeting at Scotts | \$23.85 | Tim Fringer |
| 03/26/2009 | Dinner/Cocktails at Distrito-Martini Madness | \$559.65 | Tim Fringer-PLCB, Cris, Rebecca, Tim-Capital |

1. The percentage of expenses which could directly be attributed to Fringer based on the identified number of attendees on each item includes:

| | | |
|--------------|-----------------|-----------------|
| 03/04/09 | ½ of \$23.85 | \$ 11.93 |
| 03/26/09 | 1/5 of \$559.65 | \$111.93 |
| Total | | \$123.86 |
2. Brungo issued payment for the expenses incurred via use of her corporate issued credit card.
3. The expenses were ultimately paid for by White Rock Distilleries.
 - aa. White Rock Distilleries expense summary reports provide a section for the signature of the employee incurring the expense which serves to certify that all expenses reported were incurred on company business.

- b. Doran's expense summaries document meals/hospitality received and accepted by Fringer as detailed in the chart below:

| Purchase Date | Description of Expense | Expense Amount | Individuals Present |
|----------------------|--|-----------------------|---|
| 11/12/2010 | Pre-Whiskey Fest Entertainment at Fairmont Hotel | \$75.00 | Matt Schwenk-PLCB, Tim Fringer-PLCB |
| 11/12/2010 | Post-Whiskey Fest Entertainment, ATM Receipt; Account did not take credit card | \$125.00 | Tim Fringer-PLCB; Ryan Bonner, Capital Wine and Spirits |
| 11/12/2010 | Post Whiskey Fest Entertainment at One Three Five | \$106.00 | Tim Fringer-PLCB, Ryan Bonner, Capital Wine and Spirits |
| 11/18/2011 | Business Entertainment at Bossa Nova | \$100.00 | Tim Fringer-PLCB, Ryan Bonner-Capital Wine and Spirits, Christina Desmond-Capital Wine and Spirits, Tricia Brungo-White Rock Dist. |
| 11/18/2011 | Business Entertainment at Hyde Park | \$40.00 | Tim Fringer-PLCB, Ryan Bonner-Capital Wine and Spirits, Christina Desmond-Capital Wine and Spirits, Tricia Brungo-White Rock Dist. |
| 11/19/2011 | Business Entertainment at One Three Five | \$100.00 | Tim Fringer-PLCB, Ryan Bonner-Capital Wine and Spirits, Christina Desmond-Capital Wine and Spirits, Rob Sirota-Capital Wine and Spirits, Tricia Brungo-White Rock Dist. |
| 11/19/2011 | Business Entertainment at One Three Five (ATM Withdrawal) | \$165.00 | Tim Fringer-PLCB, Ryan Bonner-Capital Wine and Spirits, Christina Desmond-Capital Wine and Spirits, Rob Sirota-Capital Wine and Spirits, Tricia Brungo-White Rock Dist. |
| 01/12/2012 | Entertainment at PJD Ent. (ATM Receipt) | \$125.00 | Tim Fringer-PLCB, John Wagner-PLCB, Christina Desmond-Capital Wine and Spirits, Ryan Bonner-Capital Wine and Spirits |
| 01/12/2012 | Post-dinner drinks at PJD Entertainment | \$200.00 | Tim Fringer-PLCB, John Wagner-PLCB, Megan Painter-PLCB, Julie Devine-PLCB, Christina Desmond-Capital Wine and Spirits, Ryan Bonner-Capital Wine and Spirits |
| 01/12/2012 | Post-dinner drinks/food at Mulligan's | \$150.00 | Tim Fringer-PLCB, John Wagner-PLCB, Megan Painter-PLCB, Julie Devine-PLCB, Christina Desmond-Capital Wine and Spirits, Ryan Bonner-Capital Wine and Spirits |

1. Doran issued payment for the expenses incurred via use of his corporate issued credit card.
2. The expenses were ultimately paid for by White Rock Distilleries.
 - aa. White Rock Distilleries expense summary reports provide a section for the signature of the employee incurring the expense which serves to certify that all expenses reported were incurred on company business.
3. The percentage of expenses which could directly be attributed to Fringer based on the identified number of attendees on each item includes:

| | | |
|--------------|-----------------|-----------------|
| 11/12/10 | 1/3 of \$75.00 | \$ 25.00 |
| 11/12/10 | 1/3 of \$125.00 | \$ 41.67 |
| 11/13/10 | 1/3 of \$106.00 | \$ 35.33 |
| 11/18/11 | 1/5 of \$100.00 | \$ 20.00 |
| 11/18/11 | 1/5 of \$ 40.00 | \$ 8.00 |
| 11/19/11 | 1/6 of \$100.00 | \$ 16.67 |
| 11/19/11 | 1/6 of \$165.00 | \$ 27.50 |
| 01/12/12 | 1/5 of \$125.00 | \$ 25.00 |
| 01/12/12 | 1/7 of \$200.00 | \$ 28.57 |
| 01/12/12 | 1/7 of \$150.00 | \$ 21.43 |
| Total | | \$249.17 |

53. Fringer knowingly and willingly accepted meals/hospitality from Brungo and/or Doran while Fringer's primary responsibilities included making recommendations regarding product purchasing, as well as listing and delisting of products from White Rock Distilleries.
 - a. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive the meals/hospitality from Brungo and/or Doran, White Rock Distilleries representatives.
 1. The value of the meals/hospitality received and accepted by Fringer from Brungo and/or Doran, PLCB vendor representatives, totaled at least \$373.03.
 - b. Fringer made no personal payment for the meals/hospitality.

THE FOLLOWING FINDINGS RELATE TO FRINGER'S ACCEPTANCE OF ITEMS OF VALUE FROM BEAM GLOBAL WINE & SPIRITS REPRESENTATIVES.

54. While serving in the positions of PLCB Merchandising and Pricing Coordinator and/or as the PLCB Chief of Product Management and Pricing Division, Fringer knowingly and willingly received and accepted meals/hospitality from Erin Schiller and/or Amy Sutton, representatives of Beam Global Wine & Spirits:
 - a. Records obtained from Beam Global Wine & Spirits documented multiple meals paid for by Schiller at which Fringer was present as shown below:

| <u>Date</u> | <u>Description of Expense</u> | <u>Location</u> | <u>Expense Amount</u> | <u>Value to Fringer</u> |
|-------------|-------------------------------|-----------------|-----------------------|-------------------------|
| 11/11/2010 | Tavern on the Hill Steaks | Enola, PA | \$336.07 | \$84.02 |

| <u>Date</u> | <u>Description of Expense</u> | <u>Location</u> | <u>Expense Amount</u> | <u>Value to Fringer</u> |
|--------------|-------------------------------|------------------|-----------------------|-------------------------|
| 11/15/2011 | Pats Pizza | Philadelphia, PA | \$49.57 | \$8.26 |
| 11/16/2011 | MAG Entertainment | Philadelphia, PA | \$400.00 | \$66.67 |
| 11/16/2011 | MAG Entertainment | Philadelphia, PA | \$230.00 | \$38.33 |
| Total | | | | \$197.28 |

1. Schiller issued payment for the meal expenses incurred via use of his corporate issued credit card.
2. The expenses were ultimately paid for by Beam Global Wine & Spirits.
3. The percentage of expenses which could directly be attributed to Fringer based on the identified number of attendees on each item includes:

| | | |
|---------------|-----------------|-----------------|
| 11/11/10 | ¼ of \$336.07 | \$84.02 |
| 11/15/11 | 1/6 of \$49.57 | \$ 8.26 |
| 11/16/11 | 1/6 of \$400.00 | \$66.67 |
| 11/16/11 | 1/6 of 230.00 | \$38.33 |
| Total: | | \$197.28 |

- b. During an interview conducted on May 1, 2014, by representatives of the Investigative Division, Fringer admitted to receiving multiple tickets to various entertainment events from Sutton as shown below:

| <u>Event Description</u> | <u>Event Date</u> | <u>Event Location</u> | <u>Number of Tickets</u> | <u>Value*</u> |
|---------------------------------------|-------------------|-----------------------|--------------------------|-------------------|
| Kid Rock Concert | 07/25/2009 | Virginia Beach, VA | 1 | \$75.00 |
| Kid Rock Concert | 07/31/2009 | Hershey, PA | 2 | \$150.00 |
| Kid Rock Concert | 09/17/2009 | Las Vegas, NV | 1 | \$875.00^ |
| NFL Game- Pittsburgh Steelers | 2010/2011 | Pittsburgh, PA | 2 | \$250.00 |
| Richmond International Speedway | Unknown | Richmond, VA | 4 | \$600.00 |
| Total | | | | \$1,950.00 |

*Values noted are estimates provided by Schiller

^Includes estimated value of round trip airfare and lodging

1. Fringer's round trip air fare to and from Las Vegas was paid for by Beam Global Wine & Spirits.
2. Fringer stayed at the MGM Grand Hotel in Las Vegas, Nevada, the night of the September 17, 2009, Kid Rock Concert.
 - aa. Fringer's hotel accommodations at the MGM Grand were paid for by Beam Global Wine & Spirits.

1. The value of the airfare and hotel accommodations was estimated by Schiller at approximately \$800.00.
 3. Fringer initiated contact with Sutton seeking to obtain tickets to the event held at the Richmond International Speedway.
55. In addition to providing meals and hospitality, Schiller also provided Fringer with an iPad2 valued at approximately \$499.00 sometime during 2011.
- a. Schiller did not pay for the iPad personally or via use of his corporate credit card.
 1. The iPad2 had been given to Schiller by Beam Global Wine & Spirits as a marketing tool.
 - b. Despite a subpoena from the State Ethics Commission, Schiller and/or Beam Global Wine & Spirits did not disclose that an iPad 2 was provided to Fringer.
56. Fringer knowingly and willingly accepted meals/hospitality and the gift of an iPad from Schiller and/or Sutton while Fringer's primary responsibilities included making recommendations regarding product purchasing, listing and delisting of products from Beam Global Wine & Spirits.
- a. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive the meals/hospitality from Schiller and/or Sutton, Beam Global Wine & Spirits representatives.
 1. The value of the transportation, lodging, and hospitality received and accepted by Fringer from Schiller and Sutton, PLCB vendor representatives, totaled at least \$2,147.28.
 - b. The iPad had a value of at least \$499.00.
 - c. Fringer made no personal payment for the meals/hospitality received from Beam Global Wine & Spirits representatives valued at in excess of \$600.00.

THE FOLLOWING FINDINGS RELATE TO FRINGER'S RECEIPT OF ITEMS OF VALUE FROM MARKETING REPRESENTATIVES OF CONSTELLATION BRANDS.

57. While serving in the position of PLCB Chief of Product Management and Pricing Division, Fringer knowingly and willingly received and accepted hospitality from Danielle Smith ("Smith"), a representative of Constellation Brands, a supplier of alcohol/spirits to the Commonwealth.
- a. Fringer was offered and accepted two tickets from Smith in the summer and winter of 2012 (four tickets total) to attend a Dave Matthews Band concert in New York, New York, and Philadelphia, Pennsylvania, respectively.
 - b. Smith was a sales manager for Constellation Brands at that time.
58. During an interview conducted on May 1, 2014, by representatives of the Investigative Division, Fringer admitted to receiving two tickets to the New York, New York, venue of the Dave Matthews Band 2011 Tour from Smith.
- a. Fringer was offered the tickets by Smith.

1. No documentation was provided by either Smith or Constellation identifying the value of the tickets.
 2. Fringer did not pay personally for the tickets.
 3. Fringer and his wife utilized the concert tickets.
- b. Fringer additionally received two tickets for the December 22, 2012, Dave Matthews show held at the Wells Fargo Center in Philadelphia, Pennsylvania.
1. No documentation could be located to identify the value of the tickets.
 2. Fringer did not pay personally for the tickets.
 3. Fringer and Fringer's spouse utilized the concert tickets.
59. In addition to receipt of the concert tickets, Fringer received additional meals and hospitality from Smith as a result of Fringer's employment with the PLCB.
- a. Smith's expense report documentation provided for 2011 through 2012 recorded business expenses in relation to business dealings with Fringer as follows:

| <u>Date</u> | <u>Description</u> | <u>Business Purpose</u> | <u>Location</u> | <u>Value</u> | <u>Value to Fringer</u> |
|-------------|-----------------------------|--------------------------------------|------------------|--------------|-------------------------|
| 03/16/11 | Cibo: Dinner | New Zealand Travel | Philadelphia, PA | \$106.42 | \$26.61 |
| 03/18/11 | Jack Duggan's: Lunch | New Zealand Travel | Philadelphia, PA | \$10.07 | \$5.03 |
| 03/19/11 | Chili's Too: Dinner | New Zealand Travel | Inglewood, CA | \$83.27 | \$20.82 |
| 03/21/11 | Stamford Plaza: Entrtnmt | New Zealand Travel | Auckland, NZ | \$85.44 | \$17.09 |
| 03/23/11 | Domino's: Dinner | New Zealand Travel | Blenheim, NZ | \$34.84 | \$6.97 |
| 03/25/11 | Stamford Plaza: Entrtnmt | New Zealand Travel | Auckland, NZ | \$118.62 | \$23.72 |
| 06/03/11 | Union Square: Breakfast | Meeting in Harrisburg | Harrisburg, PA | \$8.37 | \$4.19 |
| 06/24/11 | The Fire House: Lunch | Lunch Meeting | Harrisburg, PA | \$34.67 | \$17.34 |
| 09/14/11 | The Fire House: Bar Tab | PLCB Meeting | Harrisburg, PA | \$69.50 | \$17.38 |
| 09/14/11 | Amtrack: Tickets (Rnd Trip) | PLCB Dreaming Tree Trip | New York, NY | \$248.00 | \$248.00* |
| 09/17/11 | Jacque's Bistro: Dinner | PLCB Dreaming Tree Trip | New York, NY | \$455.62 | \$227.82* |
| 09/17/11 | Courtyard: Entrtnmt | PLCB Dreaming Tree Trip | New York, NY | \$41.84 | \$20.92* |
| 09/18/11 | Genesis: Dinner | PLCB Dreaming Tree Trip | New York, NY | \$143.65 | \$71.82* |
| 09/18/11 | Courtyard: Lodging | PLCB Dreaming Tree Trip | New York, NY | \$415.45 | \$415.45* |
| 12/15/11 | Flinchy's: Lunch | Meeting w/ Tim to prioritize listing | Harrisburg, PA | \$44.89 | \$22.44 |

| <u>Date</u> | <u>Description</u> | <u>Business Purpose</u> | <u>Location</u> | <u>Value</u> | <u>Value to Fringer</u> |
|--------------|----------------------------|---|------------------|--------------|-------------------------|
| | | offerings | | | |
| 12/15/11 | Wine & Spirits #2219 | Review of key items & new listings from 2011 w/ regular stock & luxury managers | Harrisburg, PA | \$122.90 | \$15.36 |
| 01/24/12 | Appalachian Brew Co: Lunch | Svedka Colada & Stars & Stripes Meeting | Harrisburg, PA | \$57.99 | \$19.33 |
| 03/13/12 | Aroogha's: Dinner | PLCB Meetings | Harrisburg, PA | \$51.67 | \$25.83 |
| 04/03/12 | The Fire House: Lunch | PLCB Meeting | Harrisburg, PA | \$33.65 | \$16.32 |
| 04/13/12 | Wine & Spirits # 4623 | Dreaming Tree program pitch for PLCB | Flourtown, PA | \$54.03 | \$18.01 |
| 07/10/12 | Sturges Speakeasy: Lunch | PLCB Meeting | Harrisburg, PA | \$37.68 | \$18.84 |
| 08/13/12 | Hotel Hershey: Dinner | PLCB Marketing Conference | Hershey, PA | \$137.00 | \$68.50 |
| 08/14/12 | Hotel Hershey: Lunch | PLCB Marketing Conference | Hershey, PA | \$73.30 | \$12.22 |
| 12/22/12 | Sampan: Dinner | Dave Matthews/the Dreaming Tree agenda | Philadelphia, PA | \$820.80 | \$234.50* |
| 12/23/12 | Square 1682: Entrtnmt | Cocktails after Dave Matthews Show | Philadelphia | \$199.18 | \$56.90* |
| Total | | | | | \$1,631.41 |

*Includes an equal portion of expense attributed to Fringer's spouse

1. Smith's expense reports routinely document Fringer's attendance.
2. The specific value to Fringer was calculated via division of overall expense value by known individuals present for each event as shown below:

| | | | |
|----------|-----------------|----|---------|
| 03/16/11 | 1/4 of \$106.42 | \$ | 26.61 |
| 03/18/11 | 1/2 of \$10.07 | \$ | 5.03 |
| 03/19/11 | 1/4 of \$83.27 | \$ | 20.82 |
| 03/21/11 | 1/5 of \$85.44 | \$ | 17.09 |
| 03/23/11 | 1/5 of \$34.84 | \$ | 6.97 |
| 03/25/11 | 1/5 of \$118.62 | \$ | 23.72 |
| 06/03/11 | 1/2 of \$8.37 | \$ | 4.19 |
| 06/24/11 | 1/2 of \$34.67 | \$ | 17.34 |
| 09/14/11 | 1/4 of \$69.50 | \$ | 17.38 |
| 09/14/11 | N/A | \$ | 248.00 |
| 09/17/11 | 1/2 of \$455.62 | \$ | 227.82* |
| 09/17/11 | 1/2 of \$41.84 | \$ | 20.92 |
| 09/18/11 | 1/2 of \$143.65 | \$ | 71.82 |
| 09/18/11 | N/A | \$ | 415.45 |
| 12/15/11 | 1/2 of \$44.89 | \$ | 22.44 |
| 12/15/11 | 1/8 of \$122.90 | \$ | 15.36 |
| 01/24/12 | 1/3 of \$57.99 | \$ | 19.33 |
| 03/13/12 | 1/2 of \$51.67 | \$ | 25.83 |

| | | |
|--------------|-----------------|-------------------|
| 04/03/12 | 1/2 of \$33.65 | \$ 16.32* |
| 04/13/12 | 1/3 of \$54.03 | \$ 18.01 |
| 07/10/12 | ½ of \$37.68 | \$ 18.84 |
| 08/13/12 | ½ of \$137.00 | \$ 68.50 |
| 08/14/12 | 1/6 of \$73.30 | \$ 12.22 |
| 12/22/12 | 2/7 of \$820.80 | \$ 234.50 |
| 12/23/12 | 2/7 of \$199.18 | \$ 56.90 |
| Total | | \$1,631.41 |

*[sic]. [These particular stipulated amounts reflect immaterial mathematical errors.]

- b. Fringer asserts that he was not present at the events occurring on December 15, 2011, April 13, 2012, nor August 13-14, 2012 (total attributable amount \$114.09).
60. Fringer knowingly and willingly accepted the hospitality from Smith, while Fringer's primary responsibilities included making recommendations regarding product purchasing, listing and delisting of products from Constellation Brands.
- a. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive hospitality from Smith.
 - b. The specific total value of the hospitality received and accepted by Fringer from Smith could not be determined.
 1. The value of the meals/hospitality received and accepted by Fringer from Smith, a PLCB vendor representative, totaled at least \$1,631.41.
 2. No documents were provided by Constellation Brands which identified the value of the tickets for either of the Dave Matthews concerts attended by Fringer and members of his immediate family.
 - c. Fringer made no personal payment for the meals/hospitality.
61. In addition to regularly accepting meals/hospitality and gifts paid for by PLCB vendor representatives and or Commonwealth suppliers specifically identified in this document, Fringer routinely was offered and accepted wine and/or spirit products from multiple PLCB vendors and suppliers at no cost.
- a. Wine and/or spirits were regularly provided to Fringer and other PLCB employees involved in the marketing side of the agency.
 1. Wine/spirits are provided under the guise of sampling; however, marketing employees, executive and Board Members are frequently provided with multiple bottles of wine/spirits for personal consumption.
 - b. Over the years Fringer received multiple bottles of alcohol from various vendor representatives during his tenure as a PLCB Merchandising and Pricing Coordinator and later as the Chief of the Product Management and Pricing Division.
 - c. The majority of the gifts of alcohol provided to Fringer from the various vendors were delivered to Fringer's workspace at the PLCB in the Northwest Office Building.
 - d. The specific value of all wine and/or spirits received by Fringer could not be positively determined.

1. Vendors did not provide records to document the number of bottles of alcohol or the value of alcohol provided to Fringer.
62. During an interview conducted on May 1, 2014, by representatives of the Investigative Division, Fringer stated, in part, the following:
- a. Various PLCB employees received gift cards from vendors, especially on PLCB employee birthdays and Christmas;
 1. The gift cards were often tailored to the recipient's specific interests.
 - b. Extra sample bottles of alcohol were often provided to PLCB employees, especially during the listing and delisting periods;
 - c. The general atmosphere related to vendors providing gifts, hospitality, etc., to PLCB employees was "don't ask, don't tell";
 - d. Fringer was present at various lunches, dinners, and/or after-hours events with additional PLCB employees at which the costs for the meals, event, and/or entertainment were paid by PLCB vendors;
 - e. Fringer received multiple gifts, entertainment, or items of value from vendors for which he did not make personal payment or reimburse the vendor representative; and
 1. Fringer was at times offered items from vendors and on one occasion specifically solicited an item from a vendor.

THE FOLLOWING FINDINGS RELATE TO ALLEGATIONS THAT FRINGER FAILED TO DISCLOSE HIS RECEIPT OF TRANSPORTATION, LODGING, AND/OR HOSPITALITY ON STATEMENTS OF FINANCIAL INTERESTS FILED FOR THE 2009, 2011, AND 2012 CALENDAR YEARS.

63. Statement of Financial Interests (SFI) filing requirements for public officials and public employees are mandated by Section 1104 of the State Ethics Act.
- a. Section 1104 of the State Ethics Act requires a public official/employee to file an SFI no later than May 1st of each year that he/she holds such a position and the year after leaving such a position.
64. Fringer was required to file Statements of Financial Interests by May 1st annually in his position as the Chief of the PLCB Product Management and Pricing Division.
- a. Fringer was also required to file SFIs by May 1st annually in his position as a PLCB Merchandising and Pricing Coordinator.
65. Information to be disclosed on Statements of Financial Interests filed by public officials and public employees is mandated by Section 1105 of the State Ethics Act.
- a. Section 1105(b), Subsections 1-10 identify specific information to be disclosed, as well as exceptions to disclosure requirements, when applicable.
 1. Section 1105(b)(7) mandates disclosure of the following on Statements of Financial interests filed:

“The name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where such actual expenses for transportation and lodging or hospitality exceed \$650 in an aggregate amount per year. This paragraph shall not apply to expenses reimbursed by a governmental body or to expenses reimbursed by an organization or association of public officials or employees of political subdivisions which the public official or employee serves in an official capacity.”

66. Fringer filed Statements of Financial Interests for calendar years 2009 through 2013 in compliance with Section 1104 of the State Ethics Act as follows:

| Date Filed | Calendar Year |
|-------------------|----------------------|
| 02/09/2010 | 2009 |
| 01/25/2011 | 2010 |
| 03/19/2012 | 2011 |
| 01/22/2013 | 2012 |

- a. Fringer disclosed transportation, lodging, and hospitality received from the American Chamber of Commerce regarding a trip to New Zealand and from the Virgin Islands Economic Development Council on his Statement of Financial Interests filed for calendar year 2011.
1. Fringer’s 2009, 2010, and 2012 calendar year Statements of Financial Interests documented “none” in relation to transportation, lodging, and hospitality received.
- b. Fringer’s signature was present on each Statement of Financial Interests filed, signifying that the information provided on the form is true and correct to the best of his knowledge, information, and belief subject to penalties prescribed by 18 Pa.C.S. § 4904 (unsworn falsification to authorities) and the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1109(b).
67. Fringer never disclosed or otherwise identified the name and address of any payment for or reimbursement of actual expenses for transportation, lodging, and/or hospitality received in excess of \$650.00 in the aggregate amount per year and gifts received in excess of \$250.00 from vendors doing business with the PLCB on his Statements of Financial Interests filed for calendar years 2009, 2011 and 2012 as documented below:

| Year | Source | Description | Minimum Value |
|-------------|---|--|----------------------|
| 2009 | Jim Beam Global Wine & Spirits: Amy Sutton | Aggregate tickets, lodging, airfare | \$1,100.00 |
| 2009 | Southern Wine and Spirits: Mike O'Brien | World Series tickets | \$687.00 |
| 2011 | Southern Wine and Spirits: Mike O'Brien | Aggregate tickets, lodging, meals | \$794.37 |
| 2011 | Jim Beam Global Wine & Spirits: Red Schiller | iPad | \$499.00 |
| 2011 | Constellation Brands: Danielle Smith | Aggregate transportation, meals, entertainment, lodging | \$1,160.96 |

| <u>Year</u> | <u>Source</u> | <u>Description</u> | <u>Minimum Value</u> |
|-------------|--|--------------------------|----------------------|
| 2012 | Southern Wine and Spirits: Mike O'Brien | Aggregate lodging, meals | \$662.61 |

III. DISCUSSION:

As the Chief of the Product Management and Pricing Division of the Pennsylvania Liquor Control Board ("PLCB") from approximately October 31, 2010, until September 16, 2013, Respondent Timothy Fringer, hereinafter also referred to as "Respondent," "Respondent Fringer," and "Fringer," was a public official/public employee subject to the provisions of the Public Official and Employee Ethics Act ("Ethics Act"), 65 Pa.C.S. § 1101 et seq.

Per the allegations and Consent Agreement, the parties are in agreement that in a prior position as Spirits Category Manager for the PLCB, Respondent Fringer was likewise a public official/public employee subject to the provisions of the Ethics Act. The Stipulated Findings do not indicate the dates when Respondent held such position.

The allegations are that Respondent Fringer violated Section 1103(a) of the Ethics Act when he used the authority of his public position for the private pecuniary benefit of himself when he received various gifts and/or travel, hospitality and lodging from vendors of the PLCB at a time when said vendor(s) had ongoing business/contractual relations with the PLCB; and when he failed to disclose on Statements of Financial Interests ("SFIs") filed for the 2009, 2011 and 2012 calendar years, his receipt of travel, lodging, and/or hospitality in excess of an aggregate amount of \$650.00 from any single vendor.

Pursuant to Section 1103(a) of the Ethics Act, a public official/public employee is prohibited from engaging in conduct that constitutes a conflict of interest:

§ 1103. Restricted activities

(a) Conflict of interest.—No public official or public employee shall engage in conduct that constitutes a conflict of interest.

65 Pa.C.S. § 1103(a).

The term "conflict of interest" is defined in the Ethics Act as follows:

§ 1102. Definitions

"Conflict" or "conflict of interest." Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

65 Pa.C.S. § 1102.

Section 1103(a) of the Ethics Act prohibits a public official/public employee from using the authority of public office/employment or confidential information received by holding such a public position for the private pecuniary benefit of the public official/public employee himself, any member of his immediate family, or a business with which he or a member of his immediate family is associated.

Although Section 1105(b)(7) of the Ethics Act is not referenced in the allegations, the parties have, per their Consent Agreement, included it as a recommended basis for the disposition of this matter. Subject to certain statutory exceptions not applicable to this matter, Section 1105(b)(7) of the Ethics Act requires the filer to disclose on the SFI the name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where such actual expenses exceed \$650 in an aggregate amount per year.

As noted above, the parties have submitted a Consent Agreement and Stipulation of Findings. The parties' Stipulated Findings are set forth above as the Findings of this Commission. We shall now summarize the relevant facts as contained therein.

Fringer began employment with the PLCB on July 12, 2004. Effective June 3, 2007, Fringer began working within the PLCB Bureau of Product Management as the Merchandising and Pricing Coordinator. Although the Stipulated Findings do not mention Fringer's service as Spirits Category Manager for the PLCB, the allegations and Consent Agreement indicate that at some point in time, Fringer served in that capacity. Fringer was ultimately employed as the Chief of the Product Management and Pricing Division of the PLCB from approximately October 31, 2010, until September 16, 2013. Fringer voluntarily separated from Commonwealth employment effective September 16, 2013.

The PLCB is governed by a three-Member Board. The PLCB regulates the sale of alcohol in Pennsylvania. In order for an alcoholic beverage to be sold in Pennsylvania, it must be authorized for sale by the PLCB. The PLCB is the only retail seller of wine/spirits in the Commonwealth.

The PLCB adds and removes products sold in PLCB retail stores through a process known as "listing" and "delisting." The parties have stipulated that the PLCB relies primarily on recommendations made by James Short, the Director of Marketing and Merchandising, and his subordinates—which included Fringer in his role as the Chief of the Product Management and Pricing Division—when making listing/delisting decisions. The Board conducted no independent review of products and relied on staff recommendations.

As Chief of the Product Management and Pricing Division of the PLCB, Fringer's responsibilities and duties specifically included: (1) evaluating and presenting supplier product proposals to the Director of Product Selection, who was Fringer's immediate supervisor; (2) providing direction and approval of the development, revision, and implementation of procedures for listing and delisting products; (3) providing direction and approval of the activities of the category managers in the evaluation of new product proposals and the evaluation of the review of products for delisting, for presentation to the Director of Product Selection; (4) authorizing the final assignment of certain weighting criteria used in relation to listing and delisting; and (5) communicating directly with vendors/suppliers regarding questions, problems, and clarification of all aspects of category management.

A manufacturer/supplier of alcoholic beverage products may market its products to the PLCB directly or through a vendor or broker. The primary vendors providing products to the PLCB are: (1) Southern Wine and Spirits ("Southern"); (2) Capital Wine and Spirits

("Capital"); and (3) Allied Beverage Group, LLC ("Allied"), which has a subsidiary named "Majestic Wine & Spirits, USA, LLC" ("Majestic").

Products for which Southern serves as broker and/or vendor/vendor of record account for approximately 6.43% to 6.85% of the PLCB total Cost of Goods Sold during the last five (5) years.

Capital is a member of the "Charmer Sunbelt Group," a nationwide distributor of wine, spirits, beer, and other beverages. Products brokered by Capital account for a total of approximately 19.11% to 22.03% of the PLCB total Cost of Goods Sold during the last five (5) years. In Pennsylvania, Capital/Charmer Sunbelt Group represents a marketing partnership named "the Alliance," which is comprised of wine/spirit suppliers Bacardi USA ("Bacardi"), Brown-Forman, and Remy Cointreau ("Remy").

Allied was created by the mergers of The Baxter Group, Inc., F&A Distributing Company and The Jaydor Corporation. Allied ranks among the ten largest wine and spirits distributors in the United States. Allied subsidiary Majestic is a Pennsylvania brokerage and vendor/vendor of record for products sold to the PLCB. Allied's and/or Majestic's sales account for approximately 1.51% to 2.18% of PLCB total Cost of Goods Sold during the last five (5) years.

Executives and marketing representatives from vendors supplying products to the PLCB would meet with PLCB employees to market products. Those representatives offered gifts and hospitality to PLCB representatives year round, including when listing/delisting of products was occurring. Items of value were routinely provided to PLCB officials in decision making positions regarding product selection and placement.

Representatives of the numerous PLCB vendors frequently contacted Fringer and various other PLCB representatives to market new and existing products. Some of these products were subject to the listing/delisting process. Other products were luxury products which are not subject to listing/delisting procedures.

Vendor representatives offered and provided Fringer with items of value, including but not limited to alcohol, meals, golf outings, gift cards/certificates, and tickets to entertainment/sporting events.

PLCB Members and employees are prohibited by the Pennsylvania Liquor Code and the PLCB Official Code of Conduct from receiving any gratuity, favor, entertainment, loan, gift, or any other thing of economic or monetary value from PLCB vendors. PLCB employees are periodically provided with reminders of the restrictions placed on PLCB personnel by the Pennsylvania Liquor Code, which prohibit them from accepting anything of value from vendors. The most recent reminder was during or about 2011.

As an employee with the PLCB for over nine years, Fringer was aware of the prohibition against accepting any gratuity, gifts, or anything of value from PLCB vendors. Nevertheless, Fringer routinely accepted meals, tickets for entertainment functions, and gifts from PLCB vendors in his positions as a PLCB Merchandising and Pricing Coordinator and Chief of the Product Management and Pricing Division.

Fringer asserts that he received explicit and implicit direction from the Director of Marketing and Merchandising, as well as from the Director of Product Selection, to accept items from vendors, including alcohol, dinners and the like. Specifically, Fringer asserts that he was told that the Director of Marketing and Merchandising and/or the Director of Product Selection were aware that PLCB employees received items from vendors, but so long as no one complains or talks about it, "it never happened."

Fringer accepted items of value from PLCB vendors at a time when the PLCB was considering listing/delisting the offering vendors' products. Fringer knowingly and willingly accepted gifts, hospitality, and/or other items of economic value on a regular basis from multiple vendor representatives including:

- Capital representatives Cristina Desmond ("Desmond") and Mark Littles ("Littles");
- Southern representative Michael O'Brien ("O'Brien");
- White Rock Distilleries ("White Rock") representatives Tricia Brungo ("Brungo") and Paul Doran ("Doran");
- Beam Global Wine & Spirits ("Beam Global") representatives Erin "Red" Schiller ("Schiller") and Amy Sutton ("Sutton"); and
- Constellation Brands representative Danielle Smith ("Smith").

Fringer was provided items by vendors as part of the marketing of products by vendors as a result of his official capacity as Merchandising and Pricing Coordinator and/or the Chief of the Product Management and Pricing Division. But for Fringer's employment with the PLCB, Fringer would not have been in a position to interact with specific PLCB vendor representatives in a purchaser/vendor relationship and be offered/receive anything of value from them as a PLCB purchaser.

Capital:

While serving in the positions of PLCB Merchandising and Pricing Coordinator and Chief of the Product Management and Pricing Division, Fringer knowingly received and accepted hospitality and/or gifts from Capital representatives. The total value of all the hospitality received by Fringer from Littles could not be determined but was at least \$111.33. The value of the gifts/gift cards and meals received and accepted between 2010 and 2012 by Fringer from Desmond totaled at least \$188.03.

Additionally, Fringer received from Capital representatives and/or a Capital supplier rounds of golf in Hershey, Pennsylvania, in 2011 and outside the Pittsburgh area in 2012, the value of which hospitality could not be determined.

Southern:

While serving in the position of PLCB Merchandising and Pricing Coordinator, Fringer was offered and accepted from O'Brien at least one ticket to a 2009 World Series baseball game. The cost for such a ticket, if purchased from a secondary market, was at least \$687.00.

From December 2010 through May 2012, Fringer received additional hospitality and lodging from O'Brien totaling \$1,175.34 as a result of Fringer's employment with the PLCB as the Chief of the Product Management and Pricing Division.

White Rock:

While serving in the positions of PLCB Merchandising and Pricing Coordinator and Chief of Product Management and Pricing Division, Fringer knowingly and willingly received and accepted hospitality from Brungo and/or Doran, representatives of White Rock. The value of the hospitality received and accepted by Fringer from Brungo and/or Doran totaled at least \$373.03, with \$123.86 of that amount received by Fringer in March 2009 and \$249.17 of that amount received by Fringer from November 2010 through January 2012.

Fringer knowingly and willingly accepted hospitality from Brungo and/or Doran while Fringer's primary responsibilities included making recommendations regarding product

purchasing, as well as listing and delisting of products from White Rock. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive the aforesaid hospitality from Brungo and/or Doran.

Beam Global:

While serving in the positions of PLCB Merchandising and Pricing Coordinator and/or as the PLCB Chief of Product Management and Pricing Division, Fringer accepted transportation, lodging and hospitality totaling at least \$2,147.28 from Schiller and/or Sutton, representatives of Beam Global.

From November 2010 through November 2011, Fringer received, at the expense of Beam Global, multiple meals totaling \$197.28.

As detailed in Fact Finding 54 b, Fringer also received from Sutton transportation, lodging and hospitality totaling \$1,950.00, paid for by Beam Global, related to three Kid Rock concerts, an NFL Pittsburgh Steelers game, and an event at the Richmond International Speedway. Fringer initiated contact with Sutton seeking to obtain tickets to the event held at the Richmond International Speedway.

In 2011 Schiller provided to Fringer an iPad2 with a value of at least \$499.00. The iPad2 had been given to Schiller by Beam Global as a marketing tool.

Fringer knowingly and willingly accepted hospitality and the gift of an iPad from Schiller and/or Sutton while Fringer's primary responsibilities included making recommendations regarding purchasing, listing and delisting of products from Beam Global. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive hospitality from Beam Global representatives.

Constellation Brands:

While serving in the position of PLCB Chief of Product Management and Pricing Division, Fringer knowingly and willingly received and accepted hospitality from Smith, a representative of PLCB supplier Constellation Brands. In 2012 Fringer was offered and accepted from Smith four tickets for Dave Matthews Band concerts. Fringer and his wife utilized the concert tickets. No documents were provided/located to identify the value of the tickets.

Fringer received additional hospitality and lodging totaling at least \$1,631.41 from Smith as a result of Fringer's employment with the PLCB.

Fringer knowingly and willingly accepted hospitality from Smith, while Fringer's primary responsibilities included making recommendations regarding purchasing, listing and delisting of products from Constellation Brands. Absent Fringer's employment with the PLCB, Fringer would not have been in a position to receive hospitality from Smith.

Wine/Spirit Products:

During his tenure as a PLCB Merchandising and Pricing Coordinator and later as the Chief of the Product Management and Pricing Division, Fringer received, at no cost to Fringer, multiple bottles of alcohol from various vendor representatives. Wine and/or spirits were regularly provided to Fringer and other PLCB employees involved in the marketing side of the agency. Per the Stipulated Findings, wine/spirits are provided under the guise of sampling; however, marketing employees, executive and Board Members are frequently provided with multiple bottles of wine/spirits for personal consumption. The

specific value of all wine and/or spirits received by Fringer could not be positively determined.

During an interview conducted on May 1, 2014, by representatives of the Investigative Division, Fringer stated, inter alia:

- Various PLCB employees received gift cards from vendors, which were often tailored to the recipient's specific interests;
- Extra sample bottles of alcohol were often provided to PLCB employees, especially during the listing and delisting periods;
- The general atmosphere related to vendors providing gifts, hospitality, and the like to PLCB employees was "don't ask, don't tell";
- Fringer was present at various lunches, dinners, and/or after-hours events with additional PLCB employees at which the costs for the meals, event, and/or entertainment were paid by PLCB vendors;
- Fringer received multiple gifts, entertainment, or items of value from vendors for which he did not make personal payment or reimburse the vendor representative, and Fringer was at times offered items from vendors and on one occasion specifically solicited an item from a vendor.

The parties are in agreement that as the Chief of the PLCB Product Management and Pricing Division and as a PLCB Merchandising and Pricing Coordinator, Fringer was required to file SFIs. On his SFIs for calendar years 2009, 2011 and 2012, Fringer did not disclose or otherwise identify the name and address of any payment for or reimbursement of actual expenses for transportation, lodging, and/or hospitality received in excess of \$650.00 in the aggregate amount per year and gifts received in excess of \$250.00 from vendors doing business with the PLCB as set forth below:

| <u>Year</u> | <u>Source</u> | <u>Description</u> | <u>Minimum Value</u> |
|-------------|-----------------------------|---|----------------------|
| 2009 | Beam Global: Sutton | Aggregate tickets, lodging, airfare | \$1,100.00 |
| 2009 | Southern: O'Brien | World Series tickets | \$687.00 |
| 2011 | Southern: O'Brien | Aggregate tickets, lodging, meals | \$794.37 |
| 2011 | Beam Global: Schiller | iPad | \$499.00 |
| 2011 | Constellation Brands: Smith | Aggregate transportation, meals, entertainment, lodging | \$1,160.96 |
| 2012 | Southern: O'Brien | Aggregate lodging, meals | \$662.61 |

Having highlighted the Stipulated Findings and issues before us, we shall now apply the Ethics Act to determine the proper disposition of this case.

The parties' Consent Agreement sets forth a proposed resolution of the allegations as follows:

3. The Investigative Division will recommend the following in relation to the above allegations:
 - a. That a violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a) occurred when Fringer, as the Chief of the Product Selection/Category Management for the Pennsylvania Liquor Control Board (PLCB) and/or as the Spirits Category Manager for the PLCB, accepted/received various gifts and/or

travel, hospitality and lodging from vendors of the PLCB, at a time when he was participating in and/or making recommendations/decisions regarding the PLCB's purchase of wine and spirits from those vendors;

- b. That a violation of Section 1105(b)(7) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1105(b)(7) occurred when Fringer failed to disclose on Statement[s] of Financial Interests filed for the 2009, 2011 and 2012 calendar years, his receipt of Travel, Lodging, and/or Hospitality in excess of an aggregate amount of \$650.00 from any single vendor.
4. Fringer agrees to make payment in the amount of \$7,180.52 in settlement of this matter payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission within thirty (30) days of the issuance of the final adjudication in this matter.
5. Fringer agrees to file complete and accurate Statements of Financial Interests with the Pennsylvania Liquor Control Board (PLCB) through the Pennsylvania State Ethics Commission, for [the] 2009, 2011 and 2012 calendar years within thirty (30) days of the issuance of the final adjudication in this matter.
6. Fringer agrees to not accept any reimbursement, compensation or other payment from the PLCB/ Commonwealth of Pennsylvania representing a full or partial reimbursement of the amount paid in settlement of this matter.
7. The Investigative Division and Fringer acknowledge that:
 - a. All Orders issued by the State Ethics Commission are provided to the Pennsylvania Office of the Attorney General as a matter of course;
 - b. All Orders issued by the State Ethics Commission become a matter of public record and may be acted upon [by] law enforcement authority(ies) as they deem appropriate.
 - c. The State Ethics Commission is not prohibited from initiating appropriate enforcement actions in the event of Respondent's failure to comply with the terms of the Consent Agreement or the Commission's Final Order; nor is the State Ethics Commission prohibited from cooperating with any other authority who may so choose to review any aspect arising from the issuance of the State Ethics Commission's Final Order in this matter.

In considering the Consent Agreement, we accept the recommendation of the parties for a finding that a violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), occurred when Fringer, as the Chief of the Product Selection/Category Management for the PLCB and/or as the Spirits Category Manager for the PLCB, accepted/received various gifts and/or travel, hospitality and lodging from vendors of the PLCB, at a time when he was participating in and/or making recommendations/decisions regarding the PLCB's purchase of wine and spirits from those vendors.

The acceptance of gifts, transportation, lodging or hospitality from donor(s) with which a public official/public employee has involvement in his public capacity can form the basis for a conflict of interest under Section 1103(a) of the Ethics Act. See, Cohen, Opinion 03-006 (regarding a PLCB Hearing Examiner's prospective acceptance of item(s) from licensees); see, e.g., Short, Order 1629; Haldeman, Order 1443; Munford, Order 1390; Espenshade, Order 1387.

But for Fringer's employment with the PLCB, Fringer would not have been in a position to interact with specific PLCB vendor representatives in a purchaser/vendor relationship and be offered/receive anything of value from them as a PLCB purchaser. Fringer used the authority of his PLCB positions for prohibited private pecuniary benefits when he performed his official duties as to PLCB vendors while receiving gifts and/or travel, hospitality and lodging from such vendors.

Based upon the Stipulated Findings and Consent Agreement of the parties, we hold that a violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), occurred when Fringer, as the Chief of the Product Selection/Category Management for the PLCB and/or as the Spirits Category Manager for the PLCB, accepted/received various gifts and/or travel, hospitality and lodging from vendors of the PLCB, at a time when he was participating in and/or making recommendations/decisions regarding the PLCB's purchase of wine and spirits from those vendors.

We agree with the parties and we hold that a violation of Section 1105(b)(7) of the Ethics Act, 65 Pa.C.S. § 1105(b)(7), occurred when Fringer failed to disclose on SFIs filed for the 2009, 2011 and 2012 calendar years his receipt of travel, lodging, and/or hospitality in excess of an aggregate amount of \$650.00 from any single vendor. See, Fact Finding 67.

As part of the Consent Agreement, Fringer has agreed to make payment in the amount of \$7,180.52 payable to the Commonwealth of Pennsylvania and forwarded to this Commission within thirty (30) days of the issuance of the final adjudication in this matter. Fringer has agreed to not accept any reimbursement, compensation or other payment from the PLCB/Commonwealth of Pennsylvania representing a full or partial reimbursement of the amount paid in settlement of this matter. Fringer has also agreed to file complete and accurate SFIs with the PLCB through this Commission for the 2009, 2011 and 2012 calendar years within thirty (30) days of the issuance of the final adjudication in this matter.

We determine that the Consent Agreement submitted by the parties sets forth a proper disposition for this case, based upon our review as reflected in the above analysis and the totality of the facts and circumstances.

Accordingly, per the Consent Agreement of the parties, Fringer is directed to make payment in the amount of \$7,180.52 payable to the Commonwealth of Pennsylvania and forwarded to this Commission by no later than the thirtieth (30th) day after the mailing date of this adjudication and Order.

Per the Consent Agreement of the parties, Fringer is further directed to not accept any reimbursement, compensation or other payment from the PLCB/Commonwealth of

Pennsylvania representing a full or partial reimbursement of the amount paid in settlement of this matter.

To the extent he has not already done so, Fringer is directed to file complete and accurate SFIs with the PLCB through this Commission for the 2009, 2011 and 2012 calendar years by no later than the thirtieth (30th) day after the mailing date of this adjudication and Order.

Compliance with the foregoing will result in the closing of this case with no further action by this Commission. Noncompliance will result in the institution of an order enforcement action.

IV. CONCLUSIONS OF LAW:

1. Timothy Fringer, as the Chief of the Product Management and Pricing Division of the Pennsylvania Liquor Control Board ("PLCB") from approximately October 31, 2010, until September 16, 2013, and in a prior position as Spirits Category Manager for the PLCB, was a public official/public employee subject to the provisions of the Public Official and Employee Ethics Act ("Ethics Act"), 65 Pa.C.S. § 1101 et seq.
2. Fringer violated Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), when he, as the Chief of the Product Selection/Category Management for the PLCB and/or as the Spirits Category Manager for the PLCB, accepted/received various gifts and/or travel, hospitality and lodging from vendors of the PLCB, at a time when he was participating in and/or making recommendations/decisions regarding the PLCB's purchase of wine and spirits from those vendors.
3. A violation of Section 1105(b)(7) of the Ethics Act, 65 Pa.C.S. § 1105(b)(7), occurred when Fringer failed to disclose on Statements of Financial Interests filed for the 2009, 2011 and 2012 calendar years his receipt of travel, lodging, and/or hospitality in excess of an aggregate amount of \$650.00 from any single vendor.

In Re: Timothy Fringer,
Respondent

: File Docket: 13-028
: Date Decided: 5/5/15
: Date Mailed: 5/12/15

ORDER NO. 1654

1. Timothy Fringer (“Fringer”) violated Section 1103(a) of the Public Official and Employee Ethics Act (“Ethics Act”), 65 Pa.C.S. § 1103(a), when he, as the Chief of the Product Selection/Category Management for the Pennsylvania Liquor Control Board (“PLCB”) and/or as the Spirits Category Manager for the PLCB, accepted/received various gifts and/or travel, hospitality and lodging from vendors of the PLCB, at a time when he was participating in and/or making recommendations/decisions regarding the PLCB’s purchase of wine and spirits from those vendors.
2. A violation of Section 1105(b)(7) of the Ethics Act, 65 Pa.C.S. § 1105(b)(7), occurred when Fringer failed to disclose on Statements of Financial Interests filed for the 2009, 2011 and 2012 calendar years his receipt of travel, lodging, and/or hospitality in excess of an aggregate amount of \$650.00 from any single vendor.
3. Per the Consent Agreement of the parties, Fringer is directed to make payment in the amount of \$7,180.52 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the thirtieth (30th) day after the mailing date of this Order.
4. Per the Consent Agreement of the parties, Fringer is further directed to not accept any reimbursement, compensation or other payment from the PLCB/ Commonwealth of Pennsylvania representing a full or partial reimbursement of the amount paid in settlement of this matter.
5. To the extent he has not already done so, Fringer is directed to file complete and accurate Statements of Financial Interests with the PLCB through the Pennsylvania State Ethics Commission for the 2009, 2011 and 2012 calendar years by no later than the thirtieth (30th) day after the mailing date of this Order.
6. Compliance with Paragraphs 3, 4, and 5 of this Order will result in the closing of this case with no further action by this Commission.
 - a. Non-compliance will result in the institution of an order enforcement action.

BY THE COMMISSION,

Nicholas A. Colafella, Chair