

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
FEBRUARY 8, 2007**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on February 8, 2007, beginning at 10:05 AM. The meeting was recorded and the disk is on file at the ABC Commission in the Legal Division.

ROLL CALL

Chairman Douglas A. Fox and Commissioner John Lyon were present at the meeting. Commissioner Mike Joyner was not present.

MINUTES OF JANUARY 11, 2007 MEETING

Chairman Fox made a motion to waive the reading of the minutes from the January 11, 2007, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the January 11, 2007, meeting. Seconded by Commissioner Lyon. So Ordered.

EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST

As required by Executive Order One, Chairman Fox asked Commissioner Lyon if there were any conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Lyon stated that he found no conflicts of interest. Chairman Fox stated that he had reviewed three cases closely for a possible conflict of interest and there was no problem proceeding with hearing case #2, J R's Mini Market, hearing case #21, Fibber McGees and hearing case #33, Luckys Pub.

I. HEARING CASES – 45 Listed

Chief Counsel Fred Gregory stated that Mr. Berhanu Maru, manager of First Offense case #4, Quick Mart, was present to speak on behalf of the business. Mr. Maru stated that the business had a store meeting the same day the officer came to the store and Mr. Maru had told the employees they were responsible if they sold alcohol or tobacco to an underage person. Mr. Maru stated he was gone for one hour and the employee sold alcohol to an underage person.

Assistant Counsel LoRita Pinnix stated that Mr. Maru had spoken to her before the meeting and they talked about the possibility of training. Ms. Pinnix stated that Mr. Maru is no longer the manager at the store but he is authorized to commit the business for additional training.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Charles Anderson, owner of First Offense case #13, Barn Steakhouse, was present to speak on behalf of his business. Mr. Anderson stated he had operated the restaurant for 14 years with no violations. Mr. Anderson stated he did plan on training for his staff. Mr. Anderson stated the waitress had her court case and paid her penalty.

Chairman Fox asked Mr. Anderson if the waitress was still employed with him. Mr. Anderson said she was still working for him and she had been for about five years.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Bryan Dozier, owner of hearing case #37, Food King Super Market, was present to speak on behalf of his business. Mr. Dozier stated they have five small supermarkets in North Carolina and they do a considerable amount of training for their employees. Mr. Dozier also stated when they hire cashiers, the cashiers are asked to take a responsible alcohol and tobacco retailing test. Mr. Dozier stated they have mystery shoppers to test their cashiers to make sure they are not selling beer and wine to underage persons, and Mr. Dozier and all employees have completed the Responsible Alcohol Seller Program class. Additionally, a memo is posted every month reminding employees to check driver's license and to enter the date in the register. The business has spent one quarter of a million dollars to put new registers in the five stores and the registers will not ring up beer, wine, or tobacco unless a birth date is entered.

Chairman Fox asked Mr. Dozier when was the RASP class completed. Mr. Dozier stated it was December 5, 2006. Mr. Dozier stated they had requested the Stoplight Program which shows what color license allows customers to buy beer.

Assistant Counsel Tim Morse stated the appropriate penalty for this violation should be ten days and \$1,000.00 and not 20 days and \$2,000.00.

Chairman Fox made a motion to reduce the penalty to \$500.00. Seconded by Commissioner Lyon. So Ordered.

Roger Askew, attorney for First Offense case #29, Café Café, was present to speak on behalf of his client. Mr. Askew introduced My Giang, the manager/permittee of the business, who was charged with giving alcohol to an underage person. Mr. Askew stated that this is a family business and has been operating under the permits since July, 2005. This restaurant is located off Navaho Drive in Raleigh and at the time specialized in Vietnamese food and alcohol sales are not a large part of their business.

Mr. Askew asked for leniency and said My Giang was willing to take a class.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all employees attend a RASP class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Allen Terry, owner for hearing case #9, Emmas Carolina Cuisine and Spirits, was not present because of illness but had sent the documentation he would have presented if he were at the Commission meeting. Assistant Counsel Renee Cowick pointed out the last two pages was the Certification of Training proof, that Mr. Terry and his staff had taken the class.

Chairman Fox made a motion to reduce the penalty to \$500.00 considering the RASP class already completed on November 15, 2006. Seconded by Commissioner Lyon. So Ordered.

Chairman Fox made a motion to approve the remaining Offers in Compromise, with the exception of hearing case #9, Emmas Carolina Cuisine and Spirits and hearing case #37, Food King Super Market, which had already been ratified. Seconded by Commissioner Lyon. So Ordered.

The following was an add-on Hearing case:

#45 – Maco Depot

The following was an add-on First Offense case:

#42F – New China Chinese Restaurant

II. FIRST OFFENSE CASES – 42 Listed

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on February 8, 2007, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Alco 18 – 317 West Church Street – Hwy 52, Richfield, NC 28137
2. Saddlebrook Restaurant – 476 Meadow Road, Ferguson, NC 28624
3. Renaissance Hotel – One Thomas Wolfe Plaza, Asheville, NC 28801
4. Quick Mart – 1910 Poole Road, Raleigh, NC 27610
5. Little Reno Billiards – 115 Eastern Boulevard – Fayetteville, NC 28301
6. La Dolce Vita Pizzeria – 301 West Center Street – Holly Springs, NC 27540
7. La Violeta Mexican Grocery Store – 1241-1 East Dixon Boulevard, Shelby, NC 28152
8. House of Taipei – 16500 Northcross Drive, Huntersville, NC 28078
9. Eckerd Drugs 8606 – 103-B New Waverly Place – Cary, NC 27518
10. Carolina Fast Mart – 1508 Hwy 29 North, Concord, NC 28025
11. Eastern Chinese Restaurant – 2101 South Tarboro Street, Wilson, NC 27893
12. Crossroads Curb Market – 1301 Blair Street, Thomasville, NC 27360
13. Barn Steakhouse – 3630 West Vernon Avenue, Kinston, NC 28504
14. Fairfield Fuel Market – 1137 Broad Creek Road, New Bern, NC 28560
15. Watering Hole – 904 South George Street, Goldsboro, NC 27530
16. Sagebrush Steakhouse and Saloon – 2250 Hendersonville Road, Arden, NC 28704
17. Jeffries Road Food Mart – 650 Jeffries Road, Rocky Mount, NC 27804
18. Fuji Steakhouse – 2714 Ward Boulevard, Wilson, NC 27893
19. Dragon Fly – 5110 Park Road-Suite G, Charlotte, NC 28209
20. Copper Cuisine of India – 311 East Boulevard, Charlotte, NC 28203
21. Wal Mart Supercenter 1133 – 781 Leonard Avenue, Albemarle, NC 28001
22. Aquaria Seafood Grill – 3800 Tinsley Drive, Suite 109, High Point, NC 27265
23. Upstream – 6902 Phillips Place Court, Charlotte, NC 28210
24. Tortugas – 140 Fairview Drive, Emerald Isle, NC 28594
25. V Mart – 608 Buffalo Road, Smithfield, NC 27577
26. Thai Thai Sea Food Restaurant – 2405 Neuse Boulevard, New Bern, NC 28562
27. Shoe Heel Grocery and Grill – 8212 Old Beulah Road, Kenly, NC 27542
28. Longview Phillips 66 – 1700 New Bern Avenue, Raleigh, NC 27610
29. Café Café – 1110 Navaho Drive, Suite 150, Raleigh, NC 27609
30. Downtown Convenience – 137 West Mountain Street, Kernersville, NC 27284
31. Cajun Yard Dog – 8036 Providence Road, Suite 900, Charlotte, NC 28277
32. Xpress Mart 6 – 6233 Albemarle Road, Charlotte, NC 28212
33. Travel Store 7 – 5450 US Hwy 264 East, Washington, NC 27889
34. Smokey Bones BBQ Sports Bar 7551 – 1891 Skibo Road, Fayetteville, NC 28303
35. Pizza Inn of Tarboro – Tarboro Shopping Center, Tarboro, NC 27886
36. Oak Hall Exxon – 601 North Main Street, Holly Springs, NC 27540
37. Kwik Mart – 9027 Crew Drive, Emerald Isle, NC 28594
38. Greenville Country Club – 216 Country Club Drive, Greenville, NC 27834
39. D and E Jones Country Store – 7274 Stokestown – St John Road, Grifton, NC 28530
40. Linares Mexican Restaurant – 4918 Central Avenue, Charlotte, NC 28205
41. Fiddle Stix – 6501 Glenwood Avenue, Raleigh, NC 27612

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases with the exception of First Offense cases #4, Quick Mart, case #13, Barn Steakhouse and case #29, Café Café, which had been earlier ratified. Seconded by Commissioner Lyon. So Ordered.

III. OTHER BUSINESS –

A. ABC Store Location – Carteret County ABC Board

Administrator Michael Herring addressed the Commission about correspondence from Bob Shipp, Administrator of the Carteret County ABC Board, requesting approval to relocate the ABC store in Cape Carteret. The Board plans to move the store across the street to Carteret Crossing Plaza. On January 16, 2007, ALE Agent Matt Knight began an investigation and found that the current store is located at 202 W.B. McLean Drive and the proposed new store would be located at 205 W.B. McLean Drive, Cape Carteret, North Carolina. The proposed location is currently occupied by a Maxway retail store in the Carteret Crossing Plaza.

The property is owned by Triple A Investments Limited Partnership and Cedar Creek Crossing East LLC. Their managing company is Swain and Associates, and the ABC board would enter into a lease with Swain and Associates after approval of site plans by the town.

No financial conflicts of interest exist between the Carteret County ABC Board members and the property owners.

The projected sales volume would increase about 30 percent at this new location and sales are expected to be close to one million dollars a year. It will house a liquor-by-the-drink store for the mixed beverage permittees in the area.

The Carteret County ABC Board plans to construct a building similar to their recent stores. The building will be a 7,000 square foot facility with a retail and warehouse area.

The nearest church is Cape Carteret Baptist Church and is approximately .3 of a mile from the proposed location.

The nearest school is White Oak Elementary School and is approximately .6 of a mile from the proposed location.

The nearest ABC store to this location is approximately four miles southeast in Emerald Isle.

Pursuant to ABC Commission Rules, Notice of Intent was posted on January 3, 2007, in compliance with the ABC Commission's 30-day requirement. The ABC Commission has received no objections to this proposed location. The Carteret County ABC Board sent a fax to the Commission from the Mayor advising the planning board did approve the ABC store site plans. The Mayor expects the town board to approve the site plan.

Mr. Herring recommended that the Commission approve this request for the proposed relocation on the condition that the Town Commissioners approve the site plan at their next meeting.

Chairman Fox made a motion to approve the proposed relocation of the ABC store. Seconded by Commissioner Lyon. So Ordered.

B. Commission Activity

Mr. Herring presented the Commission activity for the month of January, 2007. In January, the Permit Division issued 475 permits compared to 1,217 in January, 2006. Three hundred and thirty-seven wines were approved compared to 441 wines in January, 2006. There were 22 beers approved compared to 12 beers in January, 2006. The Legal Division received 203 violations compared to 162 in January, 2006, which was a 20% increase. The Education/Training Division presented 67 Responsible Alcohol Seller Programs to 351 participants compared to 18 Responsible Alcohol Seller Programs to 71 participants in January, 2006.

C. ABC Warehouse Expansion

Mr. Herring discussed the progress on the ABC Warehouse expansion. Mr. Herring stated he met with Pease Architects and Engineers who designed the warehouse in the 1980's. They have prepared five different design proposals based on Commission needs. Mr. Herring is in the process of working with State Construction and Pease and is trying to get recommendations for expansion of the warehouse. At the current rate of growth, the Commission will probably max out the facility in three to five years. The cost for the different options will be about \$9,500.00. The options will be presented to the Commission, one option approved, and blueprints designed.

Chairman Fox made a motion to approve proceeding with Pease and State Construction and not to exceed \$10,000. Seconded by Commissioner Lyon. So Ordered.

With no further business, the meeting adjourned.

Douglas A. Fox, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

Dottie L. Taylor, Legal Division