

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
MAY 18, 2011**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its meeting on May 18, 2011, beginning at 10:00 AM. The meeting was recorded and the disk is on file at the ABC Commission in the Legal Division.

**ROLL CALL**

Chairman Jonathan S. Williams, Commissioner Zander Guy and Commissioner Daniel L. Briggs were present at the meeting.

**MINUTES OF APRIL 14, 2011**

Chairman Williams asked for a motion to waive the reading of the April 14, 2011 meeting into the record. Commissioner Guy made a motion to waive the reading of the minutes from the April 14, 2011 meeting. Motion Passed. Commissioner Briggs made a motion to adopt the minutes from the April 14, 2011 meeting. Motion Passed.

**CONFLICTS OF INTEREST**

As required by North Carolina General Statute 138A-35, Chairman Williams asked Commissioner Guy and Commissioner Briggs 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 Guy and Commissioner Briggs stated that they had found no conflicts of interest. Chairman Williams stated that he found no conflicts of interest.

**I. HEARING CASES – 120**

Chief Counsel Fred Gregory stated that contested case #3 will be continued to June and the permits for hearing cases #17 Four Way Grocery, #19 Handi Mart 1, #24 Jolly Rogers and #120 Carolina Super Mart were cancelled before the scheduled hearing and were removed from the agenda.

Chief Counsel Gregory stated that the first case to come before the Commission was contested case #1 Centro Celvesera La Saona. The Respondent failed to file Prehearing Statements. Chief Counsel Gregory recommended that the decision of the administrative law judge be adopted.

Commissioner Briggs made a motion to adopt the decision recommended by the administrative law judge. Motion Passed.

Chief Counsel Gregory stated that the next case to come before the Commission was contested case #2 Taqueria El Azteca. The Respondent failed to file Prehearing Statements. Chief Counsel Gregory recommended that the decision of the administrative law judge be adopted.

Commissioner Guy made a motion to adopt the decision recommended by the administrative law judge. Motion Passed.

Chief Counsel Gregory stated that Ms. Bridgett Aguirre, attorney for hearing case #55 Friendly Grocery, was present on behalf of her client. Ms. Aguirre asked that the penalty be reduced due to the difficult economic times. She stated her client has taken action against the employee by placing a reprimand in the employee's file. The employee completed the training offered by the Commission.

After conferring with the Commissioners, Chairman Williams made a motion to count violations #1 and #2 as one violation and reduce the fine to \$2,400.00 or a 24-day suspension, and to further reduce the penalty by 25% upon verification of the training to \$1,800.00 or an 18-day suspension. Motion Passed.

Chief Counsel Gregory stated that Mona Said Abdul Khalek, wife of the owner of hearing case #85 B J's Community Grocery was present to speak on behalf of the business. Mrs. Khalek stated that she is not an employee and, on the day of the violation, brought dinner to her husband. Upon her arrival, her husband asked her to watch the store while he used the restroom. During the time she was at the counter, a customer tried to purchase alcohol. She asked the customer for his license and calculated the age as 19, but still sold the product. She admitted she made a mistake.

Chairman Williams made a motion to reduce the penalty by 25% from \$1,200.00 to \$900.00 upon the completion of training. Motion Passed.

Chief Counsel Gregory stated that Gary Peacock, employee of hearing case #67 Regency Banquet and Conference Center, was present on behalf of the business. Mr. Peacock accepted responsibility for the violations and the management has been replaced due to the violations. The new management and all staff members have attended the class offered by the Commission. Mr. Peacock asked for leniency as the corporate office is 1/10<sup>th</sup> of a mile from the location and the membership list and all records were kept at that location. Mr. Peacock acknowledged that the records should have been kept at the licensed premises. Mr. Peacock further stated that the spirituous liquor tax stamps must have either fallen off or were rubbed off, as they did have the invoices showing the purchases. He stated that the economic difficulties are also causing the business to struggle.

Chairman Williams asked the legal staff what the penalty would be for a single records violation. Chief Counsel Fred Gregory stated that would be \$200.00. Assistant Counsel LoRita Pinnix stated that the penalty was calculated at \$600.00 for the spirituous liquor violation and \$200.00 each for the other records violations. After conferring with the Commissioners, Chairman Williams made a motion to reduce the penalty from \$1,000.00 to \$500.00 after confirmation that the class had been taken. Motion Passed.

Chief Counsel Gregory stated that Mrs. Eun Sil Yang, the owner of hearing case #115 Sports Fan Grill and Pub was present on behalf of the business. Mrs. Yang stated that the person ticketed was her mother. Her mother was only helping because she had morning sickness. Her mother bought the liquor from another store and tried to transfer the tax stamps from properly bought liquor. She asked for leniency and offered to take another class.

After conferring with the other Commissioners, Chairman Williams made a motion to reduce the suspension from 30 days with the last seven-days an active suspension, to 30 days without the seven-day active suspension and a \$3,500.00 fine. Motion Passed.

Chief Counsel Gregory stated that Mr. Munir Ribhi Triesh, the owner of hearing case #100 M and S Food Mart was present on behalf of the business. Mr. Triesh stated that the employee involved had been an employee for ten years and admitted he made a mistake. The employee was suspended for a week and warned that another offense would result in termination of employment. Mr. Triesh asked for leniency.

Chairman Williams stated that upon verification of training by the staff, the fine would be reduced by 25% from \$2,400.00 and a 24-day suspension to \$1,800.00 and an 18-day suspension. Motion Passed.

Chief Counsel Gregory stated that Mr. Ahmad Mubaslet the owner of hearing case #116 was present on behalf of the business. Chairman Williams stated that during an inspection, the agent found liquor that did not have tax stamps and an additional liquor bottle in the kitchen for cooking that had been refilled. Mr. Mubaslet stated the restaurant had been closed for 1 year and 3 months due to a sewer issue and the liquor had been stored in an office. After the restaurant reopened, the liquor was mistakenly returned to the restaurant. The permittee was unaware that the spirituous liquor used for cooking had to have a tax stamp. When asked by the agent if there were any other liquor bottles on the premise, Mr. Mubaslet brought forward all bottles that were brought from storage. Mr. Mubaslet admitted that they had made a mistake. He admitted to possessing the spirituous liquor for cooking that was not tax stamped, but stated that they did not refill.

Chairman Williams asked the legal staff what a single offense for a missing tax stamped offense would be. Assistant Counsel LoRita Pinnix stated that it would be a six-day suspension or \$600.00 fine. After conferring with the Commissions, Chairman Williams made a motion that upon the staff taking training; the penalty would be reduced from \$3,500.00 and a 30-day suspension to a \$600.00 fine or six-day suspension. Motion Passed.

Chief Counsel Gregory stated that Mr. Louis Cox representative of the owner, Holt Oil Company, Inc. was present to speak on behalf of hearing cases #56 Grays Creek B P and #46 Cedar Creek Country Store. Mr. Cox stated that the businesses had actually been operated since 1998 and 1987 respectfully. There was a change in the partnership that owned the businesses and the permits were reissued in 2008. Each violation was the first offense for the business. Mr. Cox stressed that the management is disappointed in their staff for the violations as they stress carding in meetings.

Chairman Williams asked the legal staff if the businesses had held the permits continuously what would be the resulting penalties. Assistant Counsel LoRita Pinnix stated that it would be considered a first offense and verified that the business ownership had changed as stated and that there were no previous violations. The penalties would actually be \$600.00 or a six-day suspension for each location rather than the original penalty of \$1,200.00 or a 12-day suspension.

After conferring with the Commissioners, Chairman Williams moved that both would be treated as continuous permits and upon verification of training, the fines would be further reduced by 25% resulting in a total fine of \$900.00. Motion Passed.

Chief Counsel Gregory stated that Mr. Kamal Ibrahim, owner of hearing case #103 Mountain Stop, was present on behalf of the business. Mr. Ibrahim stated that the clerk was being notified of a death in his family at the time of the sale and was distracted. He stressed that they are strict regarding the ID policy and this is the first violation.

Chairman Williams asked the legal staff for an explanation of the \$1,400.00 penalty. Assistant Counsel K. Renee Cowick stated that the fine was increased because the clerk was also a corporate officer. After conferring with the Commissioners, Chairman Williams moved that the base penalty would be reduced from \$1,400.00 to \$1,200.00 and that upon verification of training there would be an additional reduction of 25% to \$900.00. Motion Passed.

Chief Counsel Gregory stated that Mr. Michael Freas, the owner of hearing case #66 Rec Room, was present on behalf of the business. Mr. Freas stated that the doorman was not experienced enough and rather than watch the door, he was having dinner away from the door. The underage was able to walk through the door without being carded. The bartender assumed that the underage had been carded properly. The doorman's employment was terminated. The remaining staff has more than ten years experience. Mr. Freas admits that there was bad judgment by the employee and not enough supervision.

Chairman Williams cautioned Mr. Freas that it is also the responsibility of the bartender to determine age by carding. Chairman Williams moved that after training the penalty of \$1,200.00 would be reduced by 25% to \$900.00 or a nine-day suspension. Motion Passed.

Chief Counsel Gregory called the representative of hearing case #108 Remedy Diner forward to speak on behalf of the business. Chairman Williams asked the legal staff if the business wanted to sell vermouth, would they just need an additional Fortified Wine permit. The legal staff concurred. The representative stated that the business did not wish to sell fortified wine. She further stated that they would purchase only the unfortified vermouth in the future.

Chairman Williams conferred with the Commissioners and a motion was made to issue a written warning. Motion Passed.

Chief Counsel Gregory stated that Mr. Mike McCauley, owner of hearing case #106 Pelicans Patio Bar and Grille was present on its behalf. Mr. McCauley stated that he had never been in the restaurant or bar business before so he bought all the permits just to be safe. He further stated that the bottles of spirituous liquor were left by a liquor representative as samples prior to the business opening. The bottles were stored in the office. Mr. McCauley stated that it was a mistake. Upon conferring with the Commissioners, Chairman Williams made a motion to issue a written warning. Motion Passed.

Commissioner Williams requested that a motion be made to accept the remaining Offers in Compromise, with the exception of the previously ratified cases. Commissioner Guy made a motion to adopt the remaining Offers. Motion Passed.

## **II. EXEMPTION REQUEST – VICTUS WORLD IMPORTS**

Chief Counsel Fred Gregory stated that the Commission received a petition for exemption. Present on behalf of Victus World Imports was Eric Sheffer, owner of Victus World Imports, a wine importation company, specifically importing wine from Argentina. Mr. Sheffer stated that his counsel, Gary Rowe, had been in contact with Mr. Kris Gardner with the North Carolina Beer and Wine Wholesalers Association, who prepared an order for exemption. The order states that Mr. Sheffer will not sell any alcohol to himself, under penalty and revocation of the license. Chairman Williams stated that there are statutes and rules that prevent suppliers and distributors from doing business at the retail level unless there are specific exemptions recognized by the ABC Commission. Mr. Gardner stated that the North Carolina Beer and Wine Wholesalers Association was fine with this exemption. Chief Counsel Fred Gregory recommended that the order be granted. Chairman Williams made a motion to grant the exemption order. Motion was passed.

**III. OTHER BUSINESS – CONSIDERATION OF ADOPTION OF PROPOSED  
PERMANENT RULES PUBLISHED IN VOLUME 25, ISSUE 18  
OF THE NC REGISTER (04 NCAC 02R.2001, .2002 AND .2003)**

Rules Coordinator Bob Hamilton stated the permanent proposed rules were for required training for local ABC board members and employees. The temporary rules have already been approved and adopted and went into effect on May 2<sup>nd</sup>, but there were a few small changes to satisfy the Rules Review Commission. The changes are basically grammatical and there are no changes to the meaning of the Rules. Chairman Williams moved to adopt these rules as the permanent rules. Motion was passed.

With no further business, the meeting adjourned.

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Jonathan S. Williams, Chairman  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

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Caroline Washburn, Legal Division