

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
APRIL 12, 2007**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on April 12, 2007, beginning at 10:30 a.m. The meeting was tape-recorded and the tape(s) are on file at the ABC Commission in the Legal Division.

**ROLL CALL**

Chairman Douglas A. Fox, Commissioner Mike Joyner and Commissioner John Lyon were present at the meeting.

**MINUTES OF MARCH 13, 2007 MEETING**

Chairman Fox made a motion to waive the reading of the minutes from the March 13, 2007, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the March 13, 2007, meeting. Seconded by Commissioner Lyon. So Ordered.

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order One, Chairman Fox asked Commissioner Joyner and 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 recused himself from First Offense Case #37, Cashions Quick Stop 5. Chairman Fox asked to continue First Offense Case #9, Kimbers. Commissioner Joyner stated that he found no conflicts of interest. Chairman Fox recused himself from ruling on the following cases:

Hearing Case #7 – Olive or Twist  
Hearing Case #29 – Sweet and Savory  
Hearing Case #32 – Kangaroo Express 858  
Hearing Case #43 – L and R Lounge  
Hearing Case #71 – Cardinal Lanes North  
Hearing Case #76 – Pleasure Island Post 129  
Hearing Case #78 – Tidal Creek Cooperative Food Market  
Hearing Case #85 – G Spot Mini Mart  
First Offense Case #54 – El Cerro Grande

**I. HEARING CASES – 102 Listed**

Chief Counsel Fred A. Gregory stated that there were no contested cases.

Ms. Debra Benitez, daughter of the owner of First Offense case #48, Faulkners Store, was present to speak on behalf of her father's business. Ms. Benitez stated the employee had worked in the store for less than 30 days when she sold alcohol to an underage person. Ms. Benitez stated the employee does not work there anymore and she asked for some leniency in the fine.

Chairman Fox stated that 14 places were checked on that date and this was the only place which sold to the underage person.

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. Russell Rhodes, President/CEO of hearing case #17, Neuse Sport Shop, was present to speak on behalf of the business. Mr. Rhodes stated that the business has sold fishing tackle, hunting, camping and marine goods on Highway 70 in Kinston, North Carolina since 1953.

Mr. Rhodes stated an off-duty narcotics agent was working and in conversation with an off-duty ALE agent three feet from the transaction when the employee sold beer to an underage person. The malt beverage sold, "Sparks," has similar packaging to "Rock Star Juice," a non-alcoholic product also sold at the business. Mr. Rhodes stated the employee who sold acknowledged to the ALE agent she should have checked the age.

Mr. Rhodes said they do not have minors attempting to buy beer in their store. Alcoholic beverages are now sold in six packs or greater and the POS manager has to validate that the product is in the bar code system correctly before the vendor is paid for the product. Also, the business has increased age limit training with a monthly staff meeting. Mr. Rhodes stated human errors are made and asked the Commission to have leniency or set aside the fine.

Chairman Fox stated the initial permit for the Neuse Sport Shop was in August, 1976 and this was the second violation which was in 1990.

Commissioner Joyner made a motion to eliminate the penalty upon the stipulation that all the employees attend a RASP class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Rob Shapiro, owner and manager of hearing case #29, Sweet and Savory, was present to speak on behalf of his business. Mr. Shapiro stated the waitress asked for the I.D. of the person who ordered the beer and failed to pay attention to detail and sold to an underage person.

Mr. Shapiro discussed the corrective action taken to avoid this violation occurring again. Mr. Shapiro asked the Commission for leniency on the penalty.

Commissioner Joyner 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. Johnny Waters, manager of hearing case #99, Copa Rocka Cantina, was present to speak on behalf of the business. Mr. Waters stated that in October, 2004, the business purchased three bottles of Christian Brothers Brandy and have not purchased anymore since that date. Mr. Waters stated he did not know what happened to the mixed beverage stamp unless they came off when the bartender wiped the bottles down.

Mr. Waters stated he did not have a problem with the fine but would like to avoid the three-day suspension. Mr. Waters asked the Commission for some leniency.

Chairman Fox made a motion to reduce the penalty to \$500.00 with no active suspension and with further stipulation that all employees attend a RASP class within the next 45 days. Seconded by Commissioner Joyner. So Ordered.

Mr. Brent Bennett, general manager for hearing case #40, Hibernian Restaurant and Pub, was present to speak on behalf of the business. Mr. Bennett stated the violation was defacing or altering mixed beverage tax stamps. Mr. Bennett stated that on each confiscated bottle the tax stamp was intact and had been defaced by wiping the bottles down. Mr. Bennett stated the Wake County Environmental Services inspect the bottles and they have to be wiped down because they could attract fruit flies.

Mr. Bennett asked the Commission for some leniency on the fine and to attend an education class.

Chairman Fox made a motion to reduce the penalty to \$250.00 upon stipulation that all the employees attend a RASP class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Damon Scott, Food Services Director for hearing case #10, Anderson Conference Center, was present to speak on behalf of the business. Mr. Scott stated that they purchased alcohol for a client for an event but since this violation they do not purchase or store alcohol for clients in the facility. Mr. Scott stated the campus has had their license since 1988 and this was the first violation. Mr. Scott asked the Commission for leniency because they were purchasing for people on campus.

Chairman Fox made a motion to eliminate the penalty upon the stipulation that he and all the employees attend a RASP class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Mr. George Sloan, owner of hearing case #94, Ribeye Joes, was present to speak on behalf of his business. Mr. Sloan stated two empty bottles with mixed beverage tax stamps had not been discarded. Also, Mr. Sloan stated a full bottle of liquor was brought in without a mixed beverage tax stamp by a patron. Mr. Sloan stated these violations would not happen again.

Chairman Fox made a motion to reduce the penalty to \$750.00 upon stipulation that all the employees attend a RASP class within the next 45 days. Seconded by Commissioner Joyner. So Ordered.

Mr. Chuck Richards, owner of First Offense case #16, Reids Uptown Market, was present to speak on behalf of his business. Commissioner Lyon recused himself from this case. Mr. Richards stated this is a one store operation in uptown Charlotte founded in 1928.

Mr. Smith, general manager, talked about training procedures such as training cashiers to check for I.D. to prevent selling to underage persons purchasing a POS system which prompts the cashier to enter the age and having Age Alert at the cash registers. Mr. Smith stated they would do anything to avoid this happening again.

Commissioner Joyner made a motion to reduce the penalty to \$300.00 upon the stipulation that all the employees attend a RASP class within the next 45 days. Seconded by Chairman Fox. So Ordered.

Ms. Jia Gu, owner of First Offense case #8, Café Zen Sushi and Asian Bistro, was present to speak on behalf of her business. Ms. Gu stated the employee sold beer to an underage person. Ms. Gu stated she had been in the restaurant business for ten years and this was the first violation. Ms. Gu stated she would make sure this would never happen again.

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. Keith Kapp, attorney for hearing case #102, Six Forks Grocery, was present to speak on behalf of his client. Mr. Kapp stated the employee, who made the underage sale, went to court, denied liability and was discharged. Mr. Kapp stated that Six Forks Grocery had received several certificates from ALE when they were checking for sale to underage persons.

Chairman Fox made a motion to ratify the Offer in Compromise as is. Seconded by Commissioner Lyon. So Ordered.

Commissioner Joyner made a motion to approve the remaining Offers In Compromise with the exception of hearing case #17, Neuse Sport Shop, hearing case #29, Sweet and Savory, hearing case #99, Copa Rocka Cantina, hearing case #40, Hibernian Restaurant and Pub, hearing case #10, Anderson Conference Center, hearing case #94, Ribeye Joes and hearing case #102, Six Forks Grocery which had already been ratified. Seconded by Commissioner Lyon. So Ordered.

The following were add-on Hearing cases:

- #100 – Safari International Club
- #101 – China Garden
- #102 – Six Forks Grocery

## **II. FIRST OFFENSE CASES – 63 Listed**

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on April 12, 2007, pursuant to the Commission’s authorizing resolution dated November 8, 2002:

1. El Zarape – 8802-5 Reed Drive, Emerald Isle, NC 27894
2. Eckerd Drugs 8609 – 1372 North Main Street, Fuquay-Varina, NC 27526
3. Courtyard By Marriott – 6023 Park South Drive, Charlotte, NC 28210
4. Cokebury Food Mart – 1374 South Cokesbury Road, Henderson, NC 27537
5. Applebees Neighborhood Grill and Bar – 210 Premier Boulevard, Roanoke Rapids, NC 27870
6. Trido of Japan – 5914 University Parkway – Winston-Salem, NC 27105
7. Fairway One Stop 20 – 614 North Greensboro Road, High Point, NC 27265
8. Café Zen Sushi and Asian Bistro – 406 Blackwell Street, Suite 150, Durham, NC 27701
9. Kimbers – 230 West Main Street, Gibsonville, NC 27249
10. Logans Roadhouse – 200 Premier Boulevard, Roanoke Rapids, NC 27870
11. Los Paisas Restaurant – 5033-G South Boulevard, Charlotte, NC 28217
12. Qdoba Mexican Grill – 3101 Edwards Mill Road, Suite 102, Raleigh, NC 27612
13. Tryon House Restaurant – 215 East Exmore Street, Charlotte, NC 28817
14. Speedway B P Express – 4521 Morehead Road, Concord, NC 28075
15. Sundogs Sports Bar and Grille – 807-M Ocean Trail, Corolla, NC 27927
16. Reids Uptown Market – 225 East Sixth Street, Charlotte, NC 28202
17. Pop Shoppe 116 – 3512 Kivett Drive, Suite 160, High Point, NC 27260
18. Thanks A Bunch – 4 Olde Eastwood Village Blvd., Suite 201, Asheville, NC 28803
19. Texas Steakhouse and Saloon – 5025 Executive Blvd., Morehead City, NC 28557
20. 301 Market – 521 South McDaniel Street, Enfield, NC 27870
21. Ruby Tuesday 4199 – 1812 Julian Allbrooks Hwy., Roanoke Rapids, NC 27870
22. Wines and Wares – 1 North Marine Blvd., Jacksonville, NC 28540
23. Zambra – 85-A Walnut Street, Asheville, NC 28801
24. Qdoba Mexican Grill – 100 West Franklin Street, Chapel Hill, NC 27514
25. Raleigh Road Best – 615 Raleigh Road, Henderson, NC 27536
26. Fuji Japanese Steak House and Sushi Bar – 1201 South Croatan Hwy., Kill Devil Hills, NC 27948
27. Granada Farms Country Club – 10 River Drive, Granite Falls, NC 28630
28. Hasty Mart 56 – 1933 South Main Street, Wake Forest, NC 27588
29. Pizza Hut – 200 West Boulevard, Williamston, NC 27892
30. Pomodoros Café – 3940 Hwy. 150 West, Mooresville, NC 28115
31. Harris Teeter 179 – 19815 North Cove Road, Cornelius, NC 28031
32. Gourmet Kitchen Asian Bistro – 1600 Montford Drive, Charlotte, NC 28209
33. E P Mart 2 – 1217 North Raleigh Road, Rocky Mount, NC 27801
34. Compare Foods – 5610 East Independence Boulevard, Charlotte, NC 28212
35. Clubhouse Restaurant at Cleveland Square – 51 A-B Technology Drive, Garner, NC 27529
36. Circle K 6314 – 11700 New Leesville Blvd., Raleigh, NC 27613
37. Cashions Quick Stop 5 – 16600 Hwy. 73 West, Huntersville, NC 28078
38. Fantasias Disco – 534 Hwy. 70 SW, Hickory, NC 28602
39. New Bern Mini Mart – 1601 New Bern Avenue, Raleigh, NC 27610
40. Monterrey Mexican Restaurant 43 – 237 South Elliot Road, Chapel Hill, NC 27514
41. Olivers Lounge – 701 North Marine Blvd., Jacksonville, NC 28540
42. One Stop 8 – 1972 Haywood Road, Hendersonville, NC 28791
43. Uno Chicago Grill – 401 South Tryon Street, Suite 130, Charlotte, NC 28202

44. Armadillo Grill – 1529 North Main Street, High Point, NC 27262
45. Bali Hai – 811 Ninth Street, Suite 170, Durham, NC 27705
46. Mi Cabana Mexican Restaurant – 1153 Western Blvd., Jacksonville, NC 28546
47. Mellow Mushroom – 4100-A Carmel Road, Charlotte, NC 28226
48. Faulkners Store – 8155 Red Oak Blvd., Red Oak, NC 27868
49. Food Lion 507 – 2118 Roosevelt Blvd., Monroe, NC 28112
50. Barringtons – 7822 Fairview Road, Charlotte, NC 28226
51. Bacchus Wine and Cheese – 891 Albacore Street, Corolla, NC 27927
52. Compare Foods – 3112 Milton Road, Charlotte, NC 28215
53. Eckerd Drugs 8555 – 3798 Guess Road, Durham, NC 27705
54. El Cerro Grande – 341-60 South College Road, Wilmington, NC 28403
55. 3 O's Supermarket – 1521 North Raleigh Street, Rocky Mount, NC 28403
56. Star Mart – 1171 Sledge Road, Louisburg, NC 27549
57. 18 Seaboard – 18 Seaboard Avenue, Suite 100, Raleigh, NC 27604
58. Quality Mart – 5094 Baux Mountain Road, Winston-Salem, NC 27105
59. Paradise Valley Par 3 – 110 Barton Creek Drive, Charlotte, NC 28262
60. Wilco 106 – 4019 Reynolda Road, Winston-Salem, NC 27106
61. Wholly Guacamole Mexican Grille – 6307-K Burlington Road, Whisett, NC 27377
62. Mi Pueblo Mexican Restaurant – 3911 Tinsley Drive, High Point, NC 27265
63. J P Looneys – 3021 Spring Garden Street, Greensboro, NC 27403

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases with the exception of First Offense case #48, Faulkners Store and First Offense Case #16, Reids Uptown Market and First Offense Case #8, Café Zen Sushi and Asian Bistro, which had been earlier ratified. Seconded by Commissioner Joyner. So Ordered.

Commissioner Joyner made a motion to ratify First Offense case #54, El Cerro Grande. Seconded by Commissioner Lyon. So Ordered.

### **III. ABC STORE LOCATION – MECKLENBURG COUNTY ABC BOARD**

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in Mecklenburg County. On March 8, 2007, the Commission received a letter from Calvin McDougal, Chief Executive Officer for the Mecklenburg County ABC Board, requesting the opening of an additional store in Charlotte, North Carolina. On March 23, 2007, ALE Supervisor Richard Griffin began an investigation and found that the Mecklenburg County ABC Board wants to lease 4,020 square foot space for a five-year period. Sales at this location during the first year are projected at \$1.2 million and after the fifth year \$3.2 million. The proposed store location is 13024 Eastfield Road, Suite C-7, Huntersville, North Carolina.

The property is owned by Cambridge Eastfield, LLC.

No conflicts of interest exist between the Mecklenburg County ABC Board and the property owner.

The nearest ABC Store to this location is Mecklenburg ABC Store #11 and is approximately five miles from the proposed location.

The nearest church is Harvest Community Church and is approximately .1 of a mile from the proposed location.

The nearest school is Countryside Montessori School and is approximately 1.8 miles from the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent was posted on March 8, 2007, in compliance with the ABC Commission's 30-day requirement. Mr. Herring stated there were a couple of e-mails received by the Mecklenburg County ABC Board. One was in favor of the store opening and the other came from the Barbara Meadows Homeowners' Association in which the President did not want an ABC Store in the neighborhood. Also, a citizen felt that an ABC Store in the area would attract people and shouldn't be there next to a childcare, salon and pet grooming facility.

Mr. Herring recommended the ABC Commission approve this request for a new ABC Store.

Commissioner Joyner made a motion to approve the new ABC Store location. Seconded by Commissioner Lyon. So Ordered.

#### **IV. ABC STORE LOCATION – ORANGE COUNTY ABC BOARD**

Administrator Michael Herring addressed the Commission concerning the proposed relocation of an ABC Store in Orange County. On February 21, 2007, Dan Sykes, General Manager of the Orange County ABC Board, requested Commission approval to temporarily relocate their ABC Store. On February 23, 2007, ALE Supervisor Jeff Lasater began an investigation and found that the ABC Board wanted to renovate the store located at 223 South Elliott Road in Chapel Hill. The current location is 5,100 square feet. The ABC Board wants to move to another location at the same shopping center. The location is 241 South Elliott Road, Chapel Hill, North Carolina. The temporary location has 3,900 square feet. They plan to move out by September 1, 2007.

The nearest church or school was not mentioned because the location of the site had already been approved.

Pursuant to ABC Commission Rules, Notice of Intent had been posted since February 23, 2007, in compliance with the ABC Commission's 30-day requirement. No objections have been received.

Mr. Herring recommended the ABC Commission approve this temporary relocation of the ABC Store.

Commissioner Lyon made a motion to approve the temporary relocation of an ABC Store. Seconded by Commissioner Joyner. So Ordered.

#### **V. OTHER BUSINESS -**

##### **A. ABC Store Locations**

Administrator Michael Herring addressed the Commission concerning ABC Store locations on the Agenda last month that were continued. The ABC Store locations had problems with their investigations.

Mr. Herring stated item VI. on the Agenda was a request from the Lincolnton ABC Board and should be continued.

Mr. Herring stated item V. on the Agenda was a request from the Triad Municipal ABC Board but the Commission has not received a current contract for the property. Mr. Herring stated he spoke with Jim Waddell, the General Manager, and the contract would be coming. Mr. Herring requested that the approval be continued to the next meeting.

Mr. Herring stated item VII. on the Agenda was a request from the Belville ABC Board but the Board has not entered into a final lease agreement. Mr. Herring asked the Commission to continue this item one more month.

Mr. Herring stated item VIII. on the Agenda was a request from the Rockingham ABC Board. Last month the Commission requested that a lease be adopted by the Board before approval. The lease was adopted and Mr. Herring stated he sent the approval letter to the Rockingham ABC Board.

**B. ABC Warehouse Expansion**

Mr. Herring addressed the Commission on the warehouse expansion project which had been discussed at the February, 2007, meeting. Mr. Herring stated the expansion study was approved for Pease Architects-Engineers in Charlotte, North Carolina and they have four proposals. Mr. Herring showed the Commission pictures of the proposal he thought was the most feasible. The proposal shows a high-rise area which is 52 feet wide and 90 feet high. This will not interrupt the current operation. The automated system would cost around five million dollars and the total project budget is projected at 12 million dollars. Mr. Herring explained the conveyor system and stated the conveyor system would double capacity and growth.

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