

**NORTH CAROLINA
ALCOHOLIC BEVERAGE CONTROL COMMISSION
MINUTES for DECEMBER 14, 2001**

The following narrative and summary highlights actions taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on December 14, 2001. The meeting was tape-recorded and the tape is on file at the ABC Commission/Legal Division.

ROLL CALL

Acting Chair Ann Scott Fulton was present for the meeting, along with Commission Members Mike Joyner and Ricky Wright.

MINUTES OF NOVEMBER 9, 2001 MEETING

The Chairman asked both Commission members if they had any corrections or additions regarding the Commission agenda for the November 9, 2001, meeting. Neither Commission member had any corrections or additions. The Chairman made a motion to approve and waive the reading of the minutes into the record. Commissioner Wright moved the minutes be approved seconded by Commissioner Joyner. So ordered.

EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST

As required by Executive Order Number One, the Chairman asked Commissioners Joyner and Wright if there were any known 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. The Chairman stated she found no conflicts of interest with regard to herself. Commissioners Joyner and Wright stated they had reviewed the agenda; Commissioner Wright stated he wished to recuse himself from the amendment and assignment of the J. A. Jones contract. So ordered.

HEARING CASES - 67 listed.

I. OFFERS IN COMPROMISE

Chief Deputy Counsel Fred Gregory stated there was one contested case, and there was no one present to speak on behalf of the case listed on the agenda. The Chairman recommended the Commission uphold the Office of Administrative

Hearing's decision to reject the application, seconded by Commissioner Wright. So ordered.

Chief Deputy Counsel Gregory made comments regarding the following cases:

#57 – Carolina Coffee Shop – wanted leniency.

#66 – Sid's Showgirls needed to be continued.

#65 – Cherokee Hills Golf and Country Club – now has signed offer.

#10 – Pueblo Grande Mexican Restaurant – regarding mini bottle keychains, ALE should give warning and no suspension nor penalty.

Assistant Counsel Tim Morse made comments concerning the following cases:

#34 – Camelot Golf Center – Assistant Counsel Tim Morse asked that the Commission pay special attention to paragraph #2 on the offer in compromise, where it states that "Permittee neither admits nor denies the forgoing allegations." Mr. Morse stated that this was a case where people got intoxicated at a place, a person leaves the place, gets in a car, drives off the road, crosses the median and kills himself. Mr. Morse stated that there are civil implications, but not for the Commission and that this is a different type of language. We usually don't put this type of language in offers in compromise.

#42 – Little Market Basket 15 – Assistant Counsel Tim Morse stated that permittee had "no excuses", for this violation.

Assistant Counsel Pinnix made comments concerning the following cases:

#17 – Crazy Horse Saloon – The penalty maybe too lenient (Represented by Attorney William H. Potter). The Chairman made a motion to conduct a closed session to discuss the settlement with Assistant Counsel Pinnix. Everyone was excused for a ten-minute recess with the exception of all attorneys and Commission clerks. After a brief discussion, all were in agreement to accept the five-day suspension and \$1,500.00 monetary penalty. Commissioner Joyner moved to accept this offer, Seconded by Commissioner Wright. So ordered.

#27 – Polo Club – no active suspension was submitted to the Commission. The Chairman moved to reject said offer and resubmit for renegotiation; Commissioner Wright seconded and Commissioner Joyner approved.

#24 – 50/50 Club – The penalty falls within the penalty grid.

The Chairman had a question regarding the penalty in #12 – Scotland Stop N Shop –The sale was made by the permittee.

Neither the Chairman nor the Commission members had any questions or comments concerning any other cases as submitted. Commissioner Wright made a motion that all cases be approved and ratified with the exception of #34 and #55. Motion seconded by Commissioner Joyner. So ordered.

- II. ABC Store Location – Orange County. Administrator Michael Herring presented information regarding an ABC store relocation in Chapel Hill, NC. Mr. Herring stated that the 30-day posting had not been up for the full 30 days and asked that this matter be continued to the January 11, 2002, Commission meeting. So ordered.
- III. Request for Waiver Exemption – Dean Ogan and Kevin Summers – Attorney Jonathan Fine spoke on behalf of this waiver request. The Chairman made a motion to amend the Order for Exemption. Commissioner Wright made a motion to approve the exemption as amended. Seconded by Commissioner Joyner. So ordered.

Request for Waiver Exemption – Darrel Tolson – Assistant Administrator Alley advised there would be no business conducted by the retailer with wholesaler and recommended the Commission grant the exemption request. The Chairman stated she would draft an Order for this exemption. Commissioner Wright made a motion the exemption be granted. Seconded by Commissioner Joyner.

OTHER BUSINESS

The Chairman stated the Speaker, Governor and President Pro-Tem would consider the ABC Commission's nominees for the second ABC Study Commission.

The Chairman announced that the next Commission meeting would be held on January 11, 2002.

No other business, new or old, was heard. Commissioner Wright made a motion to adjourn this meeting. Seconded by Commissioner Joyner. So ordered.

WITH NO further business, the meeting adjourned.

Ann Scott Fulton, Acting Chair
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

Theresa D. Avery, Legal Division