

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
MAY 3, 2007**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on May 3, 2007, beginning at 10:05 a.m. 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 APRIL 12, 2007 MEETING

Chairman Fox made a motion to waive the reading of the minutes from the April 12, 2007, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the April 12, 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 no conflicts.

I. HEARING CASES – 78 Listed

Chief Counsel Fred Gregory stated that Mr. Dipak Shah, husband of the owner of Quick Mart, was present to ask for reconsideration for case #93 on April's agenda. Mr. Shah had been charged with possessing drug paraphernalia and he stated that he ordered the items from a magazine and did not know the items were illegal. Mr. Shah asked for reconsideration because he has two children in college and it would be a hardship to close the business.

Chairman Fox made a motion not to change the penalty previously imposed by the Commission. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a recommendation that ALE would be asked to periodically look at the business to see if they have any other issues or problems.

Mr. Larry McCollum, owner of First Offense case #19, McCollums General Merchandise, was present to speak on behalf of his business. Mr. McCollum stated he has had the business for about 24 years with no violations. Mr. McCollum stated the employee who sold alcohol to an underage person has been working there for about 15 years and her daughter came into the business to tell her that she was pregnant. The employee became excited and a customer came over, sat a beer on the counter with the money, the employee rang up the beer and then realized she should have carded the girl. Mr. McCollum asked the Commission to have leniency on the penalty.

Chairman Fox made a motion to eliminate the penalty upon the stipulation that all the employees attend a RASP class within 60 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Myron Lowry, son of the owner of hearing case #28, College Sun Do, was present to speak on behalf of the business. Mr. Lowry stated he had been at a friend's house drinking when the alarm went off at the

store. Mr. Lowry went to the store and the other employee had checked out everything. Mr. Lowry stated he had a beer with him and sat the can on the counter. Mr. Lowry stated there was no business taking place and the doors were locked. An ALE Agent knocked on the door around 2:30 a.m. and the Agent checked the store.

Chairman Fox made a motion to reduce the penalty to \$750.00 upon the stipulation that all the employees attend a RASP class within 60 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Michael Gatwood, owner of First Offense case #26, Michaels on 4th, was present to speak on behalf of his business. Mr. Gatwood stated he had been in the restaurant business for over 20 years. Mr. Gatwood stated that each employee is given an Alcohol Serving Policies form which is read, signed and filed in their personnel file. Mr. Gatwood stated the employee carded the underage person but needed to have her eyes checked. Mr. Gatwood stated he felt giving a beer to an underage person could have been avoided.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class within 60 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Tim Craig, owner of First Offense case #37, O'Cool's, was present to speak on behalf of his business. Mr. Craig stated a beer wholesaler was carrying out a promotion in the restaurant at the time of the violation. Before his employee arrived at the table, the beer representative had given the underage person a beer, so the underage person was not carded. When the server asked if anyone needed anything, the underage person ordered a glass of wine and the Agent ordered a glass of water. The server brought the wine to the underage person and the water to the Agent. Mr. Craig stated he terminated the employee after the violation.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class within 60 days. Seconded by Commissioner Lyon. So Ordered.

Chairman Fox made a motion to approve the remaining Offers in Compromise with the exception of hearing case #28, College Sun Do, which had already been ratified. Seconded by Commissioner Lyon. So Ordered.

Contested case #1, Millennium Productions, was continued until the next Commission Meeting.

The following cases were continued:

- #6 – Kangaroo Express 3023
- #25 – First Street Mart
- #42 – Hickory Lodge 1312
- #10F – Freddys Gas Station

The following were add-on Hearing cases:

- #72 – Food Lion 1365
- #73 – Food Lion 1213
- #74 – Fayetteville Hotel and Conference Center
- #75 – Mai Japanese Restaurant
- #76 – L J Sports Bar & Grill
- #77 – Whistle Stop Convenience
- #78 – Circle B 3

II. FIRST OFFENSE CASES – 39 Listed

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on May 3, 2007, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Wilco 106 – 4019 Reynolda Road, Winston-Salem, NC 27106
2. Outback Steakhouse 3455 – 2735 Longpine Road, Burlington, NC 27215
3. O'Malleys on Main Pub and Grill – 83 Asheville Hwy, Sylva, NC 28779
4. One Stop Grocery – 510 East Franklin Boulevard, Gastonia, NC 28054
5. Brixx Wood Fired Pizza – 1424 Westover Terrace – Suite 10, Greensboro, NC 27408
6. Asiago Italian Restaurant – 1677 Westchester Drive – Suite 156, High Point, NC 27262
7. Hasty Mart 41 – 335 Hwy 70 East and I-95, Selma, NC 27576
8. Taylors Service and Grocery – 1610 NC 61, Whitsett, NC 27377
9. Pizza Hut of Pittsboro – 440 East Street, Pittsboro, NC 27312
10. Freddy's Gas Station – 5600 Atlantic Avenue, Raleigh, NC 27615
11. Carinis Italian Restaurant – 948 Roanoke Avenue, Roanoke Rapids, NC 27870
12. Clarks Mini Mart – 26605 US 264 Hwy East, Pantego, NC 27860
13. Bridge Grocery and Grill – 11199 NC 97 West, Rocky Mount, NC 27801
14. Ruby Tuesday 3724 – 1067 Western Boulevard – Jacksonville, NC 28546
15. Cinelli's Pizza – 1301 NW Maynard Road, Cary, NC 27511
16. Food Lion 353 – 2201 Pinehurst Drive, Aberdeen, NC 28315
17. Fire & Sticks Japanese Steakhouse & Sushi – 3917 Sedgebrook Street, High Point, NC 27265
18. Fast Break 1 – 5525 US Hwy 117, Wilson, NC 27893
19. McCollums General Merchandise – 10475 US 158, Reidsville, NC 27320
20. 2 Brothers 4 – 6188 Yadkinville Road, Pfafftown, NC 27040
21. New Hill Community Store – 3521 Old US Hwy 1, New Hill, NC 27562
22. Chockoyotte Country Club – 800 Country Club Road, Weldon, NC 27870
23. Green Burro – 106 West McGee Street 3rd Floor, Greensboro, NC 27401
24. Chapala Tienda – 1190-B Sweeten Creek Road, Asheville, NC 28803
25. Thien Phu – 3023 Central Avenue – Suite E, Charlotte, NC 28205
26. Michaels on 4th – 1410 4th Street Drive NW, Hickory, NC 28601
27. Fuddruckers 299 – 4411 West Wendover Avenue, Greensboro, NC 27407
28. Fuddruckers 338 – 100 Hanes Square Circle, Winston Salem, NC 27103
29. Fuel Doc 7 – 2130 Greenville Boulevard, Greenville, NC 27834
30. Dons Handy Mart – 911 East Church Street, Cherryville, NC 28021
31. Kerr Drug 308 – 3001 East Market Street, Greensboro, NC 27405
32. Kwik Trip – 3602-C East Wendover Avenue, Greensboro, NC 27405
33. Kwik Mart 104 and White Swan – 5179 NC Hwy 42 West, Garner, NC 27529
34. Wilco 1823 – 604 East Main Street – Murfreesboro, NC 27855
35. Wolf Creek Golf Club – 722 Wolf Island Road, Reidsville, NC 27320
36. Peak City Grill and Bar – 126 North Salem Street, Apex, NC 27502
37. O'Cools – 2801-3N Ward Boulevard, Wilson, NC 27893
38. Northside Superette – 124 Pinewood Road, Granite Falls, NC 28630
39. Craigs General Store – 5710 NC Hwy 751, Apex, NC 27502

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases with the exception of First Offense case #19, McCollums General Merchandise, First Offense case #26, Michaels on 4th and First Offense case #37, O'Cools, which had been earlier ratified. Seconded by Commissioner Lyon. So Ordered.

III. ABC STORE LOCATION – HALIFAX COUNTY ABC BOARD

Administrator Michael Herring addressed the Commission concerning the temporary relocation of an ABC Store in Halifax County. On March 30, 2007, the Commission received a letter from Joey McAllister, General Manager of the Halifax County ABC Board, requesting that the Weldon ABC Store, which is a counter store, be remodeled into a self-service store. The Halifax County ABC Board is requesting a temporary relocation to 311 ½ Washington Avenue, Weldon, North Carolina, during the renovation. It will take three to four months for the renovation and the rent will be \$250.00 a month. The current store location is 313 ½ Washington Avenue, Weldon, North Carolina. ALE Agent Eric Swain began an investigation and found that the site was suitable.

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

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

IV. OTHER BUSINESS -

A. Cherryville ABC Board

Administrator Michael Herring addressed the Commission concerning a request from the Cherryville ABC Board to lease property for a sign. Mr. Herring stated the Cherryville ABC Board would like to relocate the sign 75 yards off the premises. The ABC Store sits down a hill in the shopping center and Highway 150 runs beside the shopping center. Mr. Herring stated that hopefully this sign will draw business. This Board is struggling with about \$750,000.00 a year in sales and the profit percentage in sales is about 2.75%. Mr. Herring stated that this sign would be similar to having their name on the marquee of the shopping center.

Chairman Fox made a motion to approve the location of the sign subject to the lease. Seconded by Commissioner Lyon. So Ordered.

B. Commission Activity

Mr. Herring presented the Commission activity for the month of April, 2007. In April, the Permit Division was busy with renewals and registrations for permits. The Permit Division took in \$850,000.00 in one day and last year they took in 14 million dollars. In April, the Legal Division received 142 violations compared to 113 in April, 2006, which was a 20% increase. The Education/Training Division have been active and involved in prom presentations. The warehouse shipments were up year-to-date approximately 11%.

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