

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
OCTOBER 10, 2012**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its meeting on October 10, 2012, 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 Zander Guy and Commissioner Daniel L. Briggs were present at the meeting.

Chairman Guy introduced Robert A. Hamilton as the ABC Deputy Director of Administration & Policy and John Ruth as the Director of ABC Education and Training.

**MINUTES OF SEPTEMBER 12, 2012**

Chairman Guy asked for a motion to waive the reading of the minutes of the September 12, 2012 meeting into the record. Commissioner Briggs made a motion to waive the reading of the minutes from the September 12, 2012 meeting. Motion Passed. Chairman Guy asked for a motion to approve the minutes of the September 12, 2012 meeting. Commissioner Briggs made a motion to approve the minutes from the September 12, 2012 meeting. Motion Passed.

**CONFLICTS OF INTEREST**

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

**I. HEARING CASES – 77**

Chief Counsel Fred Gregory stated attorney Jon Carr was present to speak on behalf of hearing case #17, Carolina Brewery. Mr. Carr stated that the business has been in operation since 2003 and has no prior violations. The employee that committed the violation has been terminated as they take these matters very seriously. The service staff and management have taken the ABC Commission training with Mr. Ruth. Mr. Carr asks for further consideration of the penalties.

Commissioner Briggs made a motion to reduce the penalty 25%. Motion passed.

Chief Counsel Gregory stated Ms. Laurie Gingen, the owner of hearing case #2, Chubby Buddha, was present to speak on behalf of the business.

Ms. Gingen stated that she was embarrassed to be present on behalf of her business. The employee had been trained through the ABC Commission and the entire staff has been retrained since the incident. Ms. Gingen stated they were a small business and asked for mercy. Assistant Counsel LoRita Pinnix stated this was an underage campaign conducted by the Brunswick County Sheriff's Office and the identification had not been checked.

After some discussion with Chairman Guy, Commissioner Briggs made a motion to reduce the penalty 25%. Motion passed.

Chief Counsel Gregory stated attorney Jon Carr was present to speak on behalf of hearing case #19, Crunkleton. Mr. Carr stated that the business had been open since 2008 and had no prior violations. The management and employees had completed training since the violation.

Commissioner Briggs made a motion to reduce the penalty 25%. Motion passed.

Chief Counsel Gregory stated Mr. Walter McFall, owner of hearing cases #35 and #36, T J's Beverage and Tobacco, was present to speak on behalf of his business.

Mr. McFall stated he was the president of the corporation that manages this business. With the economy, the business cannot survive with the penalties as stated on the Offers in Compromise. All employees have taken the courses through Alcohol Law Enforcement. Mr. McFall stated with the business open 18 hours a day, he cannot be present at all times no matter how much he tries to control the business. Mr. McFall stated the employee who made the sale has been found to have a visual impairment. Assistant Counsel K. Renee Cowick stated the underage sales were the third and fourth for the business during a short period of time and were committed by the same employee.

Commissioner Briggs made a motion to adjust the penalties to total \$8,500.00 fine or a 60-day suspension. Chairman Guy also agreed to continue the matter to the January 2013 ABC Commission meeting with new Offers in Compromise to allow Mr. McFall an opportunity to work on a solution. Motion passed.

Chief Counsel Gregory stated the next matter was hearing case #48, Icon Nightclub. Assistant Counsel Timothy Morse stated no one was present to speak on behalf of the business. However, the permittee had sent an email which Assistant Counsel Morse offered to the Commissioners, asking for some consideration regarding the penalty.

Commissioner Briggs made a motion to reduce the penalty 25% upon the completion of the ABC Commission's training class within 30 days. Motion passed.

Chief Counsel Gregory stated hearing case #55, Last Call, was the next matter. Chief Counsel Gregory stated that this matter was to be continued to the November ABC Commission Meeting.

Assistant Counsel Pinnix stated hearing case #77, Double Deuce Tavern, was on the September Commission Meeting agenda; however, the permittee, Tayra Adkins Steiner, asked for reconsideration. Ms. Steiner was not present, but had sent a letter of recommendation from local law enforcement.

Commissioner Briggs made a motion to reduce the penalty 25% upon the completion of the ABC Commission's training class within 30 days. Motion passed.

## **II. OTHER BUSINESS – ABC STORE LOCATION – MECKLENBURG COUNTY ABC BOARD – SIGNAGE APPROVAL – BALLANTYNE ABC STORE**

Administrator Michael Herring stated that during the May 9, 2012 ABC Commission Meeting, the Commission approved the relocation of the Ballantyne ABC Store on Lancaster Highway contingent upon Commission limitation and approval of all exterior signage. Mr. Herring provided a packet describing the proposed signage. Mr. Herring stated no objections have been received. Chairman Guy asked if anyone was present regarding this matter. No one was present.

Mr. Herring recommended that the Commission approve the Ballantyne ABC Store signage.

Commissioner Briggs made a motion to approve the signage. Motion Passed.

**III. OTHER BUSINESS – Adoption of Rules 04 NCAC 02S .0525 and 04 NCAC 02T .0714 and Proposed Amendment to 04 NCAC 02R .0102, 04 NCAC 02S .0228 and 04 NCAC 02S. 0237**

ABC Deputy Administrator Bob Hamilton recommended the Commission adopt the rules 04 NCAC 02S .0525 and 04 NCAC 02T .0714, as the changes are minor technical rule changes with no change to the intent of the rules.

Chairman Guy made a motion for approval of the changes to the rules. Motion Passed.

ABC Deputy Administrator Hamilton recommended the Commission approve the proposed rule changes to 04 NCAC 02R .0102, 04 NCAC 02S .0228 and 04 NCAC 02S. 0237, so they may be furthered in the approval process. Two are in reference to making the change to the website address. The third will have to be published and proceed through the rule making process in relation to educating and requiring the permittees to learn and understand the food standards regarding serving beverages.

Commissioner Briggs made a motion to approve the proposed amendments of the rules. Motion Passed.

Commissioner Briggs made a motion to approve the remaining offers in compromise, with the exception of the previously ratified cases. Motion Passed.

With no further business, the meeting adjourned.

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A.D. “Zander” GUY, JR., Chairman  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

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Caroline Y. Washburn, Legal Division