

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
JANUARY 13, 2009**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on January 13, 2009, 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 Douglas Fox and Commissioner John Lyon were present.

**MINUTES OF DECEMBER 18, 2008, MEETING**

Chairman Fox made a motion to waive the reading of the minutes from the December 18, 2008, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the December 18, 2008, meeting. Seconded by Commissioner Lyon. So Ordered.

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order Number 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 of interests.

**I. HEARING CASES - 78**

Chief Counsel Fred A. Gregory stated that Mr. Mahammad Bari, owner of hearing case #49, First Street Mart, was present to speak on behalf of his business. Mr. Bari apologized for the violation. He further stated that he was willing to pay a higher penalty in order not to lose his permits. Mr. Bari stated that he and three of his employees attended a RASP Class in November 2008.

Chairman Fox made a motion to generate another offer in compromise and to increase the penalty by \$2,000.00, with the total being \$7,000.00 with 5 days active suspension. Chairman Fox further stated that if the violation occurs again the permittee will lose his permits for the full 50 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Sam Khalaf, owner of 1<sup>st</sup> Offense case #13, Bass Food Mart, was present to speak on behalf of his business. Mr. Khalaf apologized for the violation and stated that the employee that sold to the underage person no longer works at the business. Chairman Fox asked Mr. Khalaf if he had taken any education classes. Mr. Khalaf stated that he took an ABC Class.

Chairman Fox made a motion to reduce the penalty from \$900.00 to \$600.00 upon the stipulation that all the employees attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Raymond Ramirez, owner of 1<sup>st</sup> Offense case #1, Compare Foods, was present to speak on behalf of his business. Mr. Ramirez stated that he had taken an education class and he couldn't remember if it was an ABC Class or an ALE Class. He stated that he had his temporary permits when the incident occurred.

Chairman Fox made a motion to reduce the penalty from \$1,200.00 to \$900.00 upon the stipulation that all the employees attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mrs. Hyang Sam Mun, owner of hearing case #48, Youngs Exxon, was present along with an employee, Mr. Christopher McGuire to speak on behalf of the business. Mr. McGuire stated that he had sold alcohol to the minor. The minor had been frequenting the store for weeks and during that period of time Mr. McGuire had been checking his identification but later stopped. The minor had purchased alcohol and had left the store but was later stopped by an Alcohol Law Enforcement Agent. The minor showed the Agent the identification, which was found to be fake and the Agent came back to the store and talked to Mr. McGuire about it. Chairman Fox read the violation report to Mr. McGuire stating that the minor stated to the Agent that he was a student at Guilford College and that this particular store was the store to go to for minors to purchase alcohol. Mrs. Mun and Mr. McGuire stated that they now card everyone no matter of the age. They further stated that they have taken the BARS Class and RASP Class.

Chairman Fox made a motion to reduce the penalty from \$2,400.00 to \$1,800.00. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Ross Nyll, owner of hearing case #59, Muggs Bar and Grill, was present to speak on behalf of his business. Mr. Nyll stated that he needed a bottle of dry vermouth, so he went to the ABC Store to purchase the alcohol and was told that they didn't sell dry vermouth in the ABC Store. He stated that he was told that he could purchase the dry vermouth from a grocery store. Mr. Nyll went to Harris Teeter and purchased one bottle of the alcohol and has only used a third of the bottle in five years.

Chairman Fox made a motion to issue a Written Warning. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Dirhem Alsaidi, was present to speak on behalf of hearing case #29, Express Shop. Mr. Alsaidi stated that he had some gambling machines at the business and they were confiscated. Chairman Fox asked Mr. Alsaidi who was the 16 year old that was left in charge. Mr. Alsaidi stated that the 16 year old was his son.

Chairman Fox made a motion to reduce the penalty from \$1,000.00 to \$600.00. Seconded by Commissioner Lyon.

Chief Counsel Gregory stated that Mr. Dan Swaim was present to speak on behalf of hearing case #2, Cimarron Steak House. Mr. Swaim gave the Commission some background information regarding the violations.

Chairman Fox made a motion to reduce from \$5,000.00 to \$1,200.00 with no active time. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mrs. Sharon Redwine, owner of 1<sup>st</sup> Offense Case #16, Redwine Food Mart, was present to speak on behalf of her business. Mrs. Redwine gave the Commission some background information regarding the violation. Mrs. Redwine stated that her business helps to support four families during hard times. She further stated that she felt that the fine was excessive.

Chairman Fox made a motion to reduce the penalty from \$1,200.00 to \$600.00. Seconded by Commissioner Lyon. So ordered.

Chief Counsel Gregory stated that Mr. Garrick Duay, co-owner of hearing case #73, Tavern on 2nd, was present to speak on behalf of the business. Mr. Duay gave the Commission some background information

regarding the violations and asked the Commission for a reduction in the penalty. He further stated that he and his employees took the RASP Class.

Chairman Fox made a motion to reduce the penalty from \$2,000.00 to \$1,000.00. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. William Potter, attorney for hearing case #78, City Limits Saloon, was present to speak on behalf of his client. This case was on the December 18, 2008 Commission Agenda. Mr. Potter was asking for re-consideration. He stated that he wasn't aware that the case had been on the December Agenda therefore he didn't contact his client. Mr. Potter gave some background information regarding the violations. He also summarized an email that was sent from the City Manager to local business owners stating that "Private Club Owners should treat all the hard working people with complete hospitality while they visit our Downtown, it would be frowned on to deny these people into your establishments." He stated that Mr. Post, the owner of the business was also present and wanted to address the Commission. Mr. Potter did not deny that this business did commit the violations.

Mr. Post stated that his business was under pressure from the City Council, County Commissioners and the Downtown Developers and they are all pushing for the repeal of the three-day membership requirement for private clubs. He stated that the law benefits him because he can keep people out of his business who he feels would cause problems.

Chairman Fox stated that he would like to see any emails regarding the pressure he is getting from the local government. Chairman Fox made a motion to issue a Written Warning. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that the following cases be continued to the next meeting: hearing cases #23, Kangaroo Express 164, #39, Club International, #76, Morehead City Country Club and 1<sup>st</sup> Offense case #29, Tradewinds Seafood and Oyster Company.

Chairman Fox made a motion to approve the remaining Offers in Compromise excluding hearing cases #2, Cimarron Steak House, #29, Express Shop, #48, Youngs Exxon, #49, First Street Mart, #59, Muggs Bar and Grill, #73, Tavern on 2<sup>nd</sup> and #78, City Limits Saloon. Seconded by Commissioner Lyon. So Ordered

The following future commission meeting dates have been set: March 24, 2009 and April 23, 2009.

## **II. FIRST OFFENSE CASES - 34**

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on January 13, 2009, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Compare Foods – 410 West Gannon Avenue, Zebulon, NC 27597
2. J H Adams Inn – 1108-A North Main Street, High Point, NC 27262
3. Kinston Food Mart – 611 East New Bern Road, Kinston, NC 28501
4. Food Lion 2531 – 118 West Main Street, Jamestown, NC 27282
5. Food Lion 353 – 2201 Pinehurst Drive, Aberdeen, NC 28315
6. Zue Convenience Store – 1873 Hwy 16, Denver, NC 28037
7. Sedgefield Family Fare – 4200 High Point Road, Greensboro, NC 27407
8. Triangle Food Mart – 1298 North Hwy 16, Denver, NC 28037
9. Quality Mart 37 – 4995 Country Club Road, Winston-Salem, NC 27104
10. One Stop Food Store 117 – 3812 Maiden Hwy. Lincolnton, NC 28092
11. Pizza Hut – 1454 East Main Street, Sylva, NC 28779

12. Mikes Country Store – 1383 South US 17, Elizabeth City, NC 27909
13. Bass Food Mart – 363 Hargrave Road, Lexington, NC 27292
14. Vidalinda Grocery – 3957 Eastern Avenue, Rocky Mount, NC 27804
15. J Butlers High Point Road – 3030 High Point Road, Greensboro, NC 27403
16. Redwines Food Mart – 1700 Cotton Grove Road, Lexington, NC, 27292
17. Cameron 1<sup>st</sup> Stop – 627-A North Main Street, Kernersville, NC 27284
18. Accel – 299 Hwy 64 West, Lexington, NC 27295
19. Ericas Mini Mart – 1935 Gillespie Street, Fayetteville, NC 28301
20. Quality Food Mart – 1390 NW Maynard Road, Cary, NC 27511
21. One Stop Food Store 113 – 2912 West Hwy 150, Crouse, NC 28033
22. Whole Foods Market – 621 Broad Street, Durham, NC 27705
23. Spee Dee Mart 2 – 402 Park Avenue, Salisbury, NC 28144
24. Convenience Express – 3301 High Point Road, Greensboro, NC 27407
25. Stelia – 118 North Main Street, Salisbury, NC 28147
26. Loma Linda Market – 3207 US Hwy 301 South, Smithfield, NC 27577
27. El Parral Mexican Restaurant – 734 South Van Buren Road, Eden, NC 2728
28. Guayabitos Mexican Restaurant – 236 Hwy 19 South, Bryson, NC 28713
29. Tradewinds Seafood and Oyster Company – 1436-A East Main Street, Lincoln, NC 28092
30. Buffalo Wild Wings Grill and Bar – 2097 Skibo Road, Fayetteville, NC 28314
31. Quick Snack – 3750-B Battleground Avenue, Greensboro, NC 27410
32. J and S Independent – 1960 North Fayetteville Street, Asheboro, NC 27203
33. Charles Place 2 – 518 South Main Street, Randleman, NC 27317
34. Handy Mart 64 – 1031 Kingold Boulevard, Snow Hill, NC 28580

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases excluding cases # 1, Compare Foods, #13, Bass Food Mart and #16, Redwines Food Mart. Seconded by Commissioner Lyon. So Ordered.

### **III. ABC STORE LOCATION – CATAWBA COUNTY ABC**

Administrator Michael Herring addressed the Commission concerning the proposed location of a new ABC Store located in Terrell, North Carolina. On December 3, 2008, the Commission received a request from Mr. Jacob Ray Abernathy, Jr., General Manager of the Catawba County ABC Board asking for approval to open a new ABC Store. On December 5, 2008, Alcohol Law Enforcement Supervisor Mark J. Senter began an investigation and found the proposed location would be located in a single story strip mall and that the address of the new store would be 8606 NC Highway 150 East in Terrell, North Carolina.

Financial Disclosure Statements were signed by the Catawba County ABC Board members and there is no conflict of interest between the property owners and the Catawba County ABC Board.

The nearest church is Olde Country Church Full Gospel and is approximately .3 miles from the proposed location and the nearest school is Sherrill's Ford Elementary School and is approximately 3.6 miles from the proposed location.

Pursuant to the 30-day requirement in the ABC Commission Rules, Notice of Intent was properly posted on December 1, 2008.

No objections have been received by the Commission.

Mr. Herring recommended that the Commission approve the location.

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

#### **IV. ABC STORE LOCATION – GREENSBORO ABC**

Administrator Michael Herring addressed the Commission concerning the proposed location of a new ABC Store located in Greensboro, North Carolina. On December 5, 2008, the Commission received a request from the Greensboro ABC Board asking for approval to open a new the ABC Store. On December 11, 2008, Alcohol Law Enforcement Agent B. G. Haynes began an investigation and found that the new ABC Store will be located at Cardinal Village, a one-story strip mall and the address of the new store will be 2309 Fleming Road, Greensboro, North Carolina.

Financial Disclosure Statements were signed by the Greensboro ABC Board members and there is no conflict of interest between the property owners and the Greensboro ABC Board.

The nearest church is Greensboro Seventh Day Adventist Church and is approximately 2.3 miles from the proposed location and the nearest school is Guilford Middle School and is approximately 3.9 miles from the proposed location.

Pursuant to the 30-day requirement in the ABC Commission Rules, Notice of Intent was properly posted on December 5, 2008.

No objections were received at the Commission.

Mr. Herring recommended that the Commission approve the location.

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

With no further business, the meeting adjourned.

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Douglas A. Fox, Chairman  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

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Tiffany Goodson, Legal Division