

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
JUNE 10, 2008**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on June 10, 2008, beginning at 10:24 AM. 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 D. Lyon, Jr., were present at the meeting. Commissioner Mike A. Joyner was not present.

MINUTES OF MAY 13, 2008, MEETING

Chairman Fox made a motion to waive the reading of the minutes from the May 13, 2008, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the May 13, 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 he found no conflicts of interest. Chairman Fox stated that he had to recuse himself from VII on the Agenda, Exemption Request for Wilmington Brewers, LLC, d/b/a Front Street Brewery. Since Commissioner Joyner was not present, the Request for Exemption would be carried over to the August Commission Meeting. Seconded by Commissioner Lyon. So Ordered.

Service Awards were presented to the following State Employees for their years of service with the ABC Commission:

Susan Cardell – 5 years of service, (not present)
Karen Gregory – 5 years of service, (not present)
Penny Stroud – 30 years of service, (present)
Vickie West – 30 years of service, (present)

I. HEARING CASES - 83

Chief Counsel Fred A. Gregory stated that there was a contested case #1, Graduate Food and Pub, and the respondent was not present. Assistant Counsel LoRita K. Pinnix represented the Commission at the hearing on February 5, 2008, in Charlotte, North Carolina.

Chairman Fox made a motion to adopt the Findings of Fact and Conclusions of Law of Administrative Law Judge Shannon R. Joseph for the revocation of the ABC permits. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that there was another contested case #2, Monte de Rey, and the respondent was not present. Assistant Counsel Pinnix represented the Commission at the hearing on March 27, 2008, in High Point, North Carolina.

Chairman Fox made a motion to adopt the Findings of Fact and Conclusions of Law, along with the Sanctions imposed by Administrative Law Judge Beecher R. Gray for the revocation of the ABC permits. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Ms. Robin Furman, manager of hearing case #25, Lowes Foods 200, was present to speak on behalf of the business. Ms. Furman stated that Lowes Foods has implemented procedures to prevent alcoholic beverage sales to minors; however, the cashier in question disregarded the training and sold to the minor. Ms. Furman outlined to the Commission the training procedures required of all the cashiers. She concluded by asking the Commission for a reduction in penalty.

Chairman Fox stated that the cashier did not ask the 16 year old minor for identification. Ms. Furman agreed that the cashier should have asked for identification. The cashier no longer works for Lowes Foods.

The Chairman asked Ms. Furman how many cashiers she had. Ms. Furman stated she has about 30 cashiers. Chairman Fox asked if the cashiers had taken any Alcohol Law Enforcement training classes or ABC training classes. Ms. Furman stated she had only been with Lowes Foods for about nine months, and she wasn't sure if they had taken any training.

Chairman Fox made a motion to reduce the penalty from \$1,200.00 to \$800.00, upon the stipulation that all the cashiers attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Ms. Philicia Thomas, manager of 1st Offense Case #23, Lowes Foods 192, was present to speak on behalf of the business. Ms. Thomas told the Commission about the training procedures required for all cashiers. The cashier in question disregarded the training and sold to the minor. She concluded by asking the Commission for a reduction in penalty.

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

Chief Counsel Gregory stated that Mr. Scott Partimer, district manager, and Mr. Ricky Blaine Beam, store manager of 1st Offense Case #8, CVS Pharmacy 7089, were present to speak on behalf of the business. Mr. Partimer gave the Commission background information regarding the violation. He stated that the cashier was given a final job warning and has attended an Alcohol Law Enforcement training class at her own expense. Mr. Partimer asked the Commission for a reduction in the penalty and to set up RASP Classes.

Chairman Fox made a motion to reduce the penalty from \$1,200.00 to \$800.00, upon the stipulation that the employees attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Ms. Raquel Siqueira and Ms. Rosana Silva, Co-Owners of 1st Offense Case #24, Piazza Italia, were present to speak on behalf of the business. Ms. Silva gave the Commission background information regarding the violation. They have taken the Alcohol Law Enforcement Class, and the employee no longer works at the restaurant. She further stated that she has already contacted the Education Department to schedule the RASP Class.

Chairman Fox made a motion to reduce the penalty from \$1,200.00 to \$800.00, upon the stipulation that the employees attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Mike Halim, husband of the owner of hearing case #21, Eddins Grocery, was present to speak on behalf of the business. Mr. Halim stated this was the second violation for the business, and he now runs the business himself with help from his brother. They cannot afford to hire anyone

else because they cannot afford to make any more mistakes. Mr. Halim promised that this would be the last violation. He asked the Commission for leniency.

Chairman Fox made a motion to ratify the case for the amount in the Offer in Compromise. Seconded by Commissioner Lyon. So Ordered.

Chairman Fox made a motion to approve the remaining Offers in Compromise, with the exception of hearing case #21, Eddins Grocery, which had been ratified earlier. Seconded by Commissioner Lyon. So Ordered.

II. FIRST OFFENSE CASES – 41

1. Carrabbas Italian Grill – 4821 Capital Boulevard, Raleigh, NC 27616
2. China Garden Restaurant – 1216 South Glenburnie Road, New Bern, NC 28561
3. Food Lion 465 – 3535 South Church Street, Burlington, NC 27215
4. Food Lion 748 – 4709 Tuckaseegee Road, Charlotte, NC 28208
5. Whalebone Exxon – 7309 South Virginia Dare Trail, Nags Head, NC 27959
6. Joy Food Store – 2109 North Roxboro Road, Durham, NC 27704
7. CVS Pharmacy 3880 – 309 East Cornwallis Drive, Greensboro, NC 27408
8. CVS Pharmacy 7089 – 231 North Graham Street, Charlotte, NC 28202
9. Wendover Family Fare 444 – 4839 Piedmont Parkway, Jamestown, NC 27282
10. Petro Express 3931 – 3800 Wilkinson Boulevard, Charlotte, NC 28214
11. Organic Marketplace – 1012 South New Hope Road, Gastonia, NC 28054
12. La Carreta Mexican Restaurant – 100 Merrimon Avenue, Asheville, NC 28802
13. Food Lion 2580 – 301 East Washington Street, La Grange, NC 28551
14. Frank and Bo’s Convenience Store – 715 North Bridge Street, Elkin, NC 28621
15. Hilltop Grocery – 21170 Hwy 17, Hampstead, NC 28443
16. Lone Star Steakhouse and Saloon – 215 Bendix Drive, Salisbury, NC 28146
17. Lulus on Main – 612 West Main Street, Sylva, NC 28779
18. Teresas Country Mart and Grill – 2616 Bruce Strickland Road, Bell Arthur, NC 27811
19. Kangaroo Express 3853 – 1800 North Croatan Hwy, Kill Devil Hills, NC 27948
20. Petro Express 3956 – 1627 East Main Street, Lincolnton, NC 28092
21. Sea Cove Seafood N Restaurant – 1058 York Road, Kings Mountain, NC 28086
22. Tylers Restaurant and Taproom – 102 East Main Street, Carrboro, NC 27510
23. Lowes Foods 192 – 2900 Millbrook Road, Raleigh, NC 27604
24. Piazza Italia – 905 West Main Street, Suite 18-A, Durham, NC 27701
25. New York Pizza – 337 South Tate Street, Greensboro, NC 27403
26. Murphy USA – 1110 Cotton Grove Road, Lexington, NC 27292
27. Dunhill Hotel – 237 North Tryon Street, Charlotte, NC 28202
28. Food Lion 817 – 935 Hwy 70 East, New Bern, NC 28560
29. Holiday Inn – 1944 Cedar Creek Road, Fayetteville, NC 28301
30. Kerr Drug Store 317 – 1587 Skeet Club Road, High Point, NC 27265
31. Kitchen and Company – 800 Fairview Road, Suite B-1, Asheville, NC 28803
32. Austins Bar and Grill – 3011 High Point Road, Greensboro, NC 27403
33. Woolly McDuff’s Neighborhood Grille – 1709 Hwy 401 South, Laurinburg, NC 28352
34. Times Turn Around Food Store 31 – 2600 Little Rock Road, Charlotte, NC 28214
35. Zippys – 3794-B West Wilson Street, Farmville, NC 27828
36. Ratcliffe on the Green – 435 South Tryon Street, Suite 100, Charlotte, NC 28202
37. Southern Food Mart – 1274 Hurdle Mills Road, Roxboro, NC 27573
38. Pisgah Lanes – 37 Rosman Hwy, Brevard, NC 28712
39. Hwy 86 Amoco Food Shop – 114 Hwy 86 North, Hillsborough, NC 27278
40. El Paisano Bar – 734 1st Avenue SW, Hickory, NC 28602

41. Nick and Nates Pizzeria – 556 West Main Street, Sylva, NC 28779

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases with the exception of First Offense cases #8 CVS Pharmacy 7089, #23 Lowes Foods 192, and #24 Piazza Italia which had been ratified earlier. Seconded by Commissioner Lyon. So Ordered.

III. ABC STORE LOCATION – GREENSBORO ABC STORE (STORE #5)

Administrator Michael Herring addressed the Commission concerning the proposed ABC store location in Greensboro, North Carolina. On May 9, 2008, the Commission received a letter from Ms. Katie Alley, General Manager of the Greensboro ABC Board. On May 14, 2008, ALE Supervisor Alan Fields began an investigation and found that the Greensboro ABC Board plans to relocate the current ABC Store located at 104 Muirs Chapel in Greensboro, North Carolina, to 4639 D Muirs Chapel Road in Greensboro, North Carolina.

The proposed location is approximately 5,000 square feet. The yearly rental will be approximately \$45,000.00. The property is owned by Westmarket Associates 2006, LLC, a Delaware Limited Liability Company. There is no conflict of interest between the property owners and the Greensboro ABC Board.

The nearest church is Kingdom Hall Jehovah's Witness and is approximately .3 miles from the proposed location. The nearest school is Morehead Elementary School and is approximately .6 miles from the proposed location.

Notice of Intent was properly posted on May 9, 2008, in compliance with the ABC Commission's 30-day requirement.

No objections have been received by the ABC Commission.

Administrator 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 – VANCE COUNTY ABC

Administrator Herring addressed the Commission concerning the proposed ABC store location in Henderson, North Carolina. On April 30, 2008, the Commission received a letter from Mr. David Parham, Administrator for the Vance County ABC Board. On May 9, 2008, ALE Agent Tony Mills began an investigation and found that the Vance County ABC Board wants to open an ABC Store on Breckford Drive located in Henderson, North Carolina. The location is undeveloped and has not been assigned a permanent address.

The proposed location is approximately 5,000 square feet. The purchase price is \$200,000.00. The property is currently owned by James W. Crawford. There is no conflict of interest between the owners of the property and members of the Vance County ABC Board.

The nearest church is Greater Grace Community Church and is approximately .4 miles from the proposed location. The nearest school is Vance Charter School and is approximately .4 miles from the proposed location.

Notice of Intent was properly posted on May 2, 2008, in compliance with the ABC Commission's 30-day requirement.

No objections have been received by the ABC Commission.

Administrator Herring recommended that the Commission approve the location.

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

V. ABC STORE LOCATION – HALIFAX COUNTY (ENFIELD ABC STORE)

Administrator Herring addressed the Commission concerning the proposed ABC store location in Enfield, North Carolina. On May 7, 2008, the Commission received a letter from Mr. Joseph A. McAllister, General Manager of the Halifax County ABC Board. On May 9, 2008, ALE Supervisor G. Pat Forbis began an investigation and found that the Halifax County ABC Board would like to relocate their present conventional style store to a self-service operation. The proposed property location is a vacant lot that fronts McDaniel Street (US 301) and is bordered by another vacant lot and a Dollar General Store. The lot has not been assigned a permanent address yet.

The property is currently owned by Ronald W. Wood. The purchase price is \$40,000.00. There is no conflict of interest between the property owners and the Halifax County ABC Board.

The nearest church is St. Paul Baptist Church and is approximately .2 miles north of the proposed location. The nearest school is Inborden Elementary and Enfield Middle School and is 3.3 miles from the proposed location.

Notice of Intent was properly posted on May 7, 2008, in compliance with the ABC Commission's 30-day requirement.

No objections have been received by the ABC Commission.

Administrator Herring recommended that the Commission approve the location.

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

VI. REQUEST FOR EXEMPTION FROM §18B-1116(b) – TEAM COLLINS, LLC, d/b/a HUSKE HARDWARE HOUSE

Chief Counsel Gregory stated that Mr. David Courie, attorney, was present to speak on behalf of his clients. Mr. Courie gave the Commission background information regarding how his clients, James and Tonia Collins, purchased an existing restaurant, now known as The Blue Moon Café. They are the sole owners of that restaurant. The Collins formed a company known as Team Collins, LLC. The Collins, along with investors, bought Huske Hardware House. The two businesses are a few blocks apart. Mr. Courie asked the Commission for an exemption.

Chief Counsel Gregory asked Mrs. Collins how many gallons they expected to brew. Mrs. Collins stated that the prior owners brewed about 350 barrels annually.

Chairman Fox asked if the Collins were interested in setting up a new corporate structure. Mr. Courie stated that he had looked into it but was unable to come up with anything.

Chief Counsel Gregory suggested that the matter be continued to the July meeting.

Chairman Fox made a motion to continue the request to the July Commission meeting. Seconded by Commissioner Lyon. So Ordered.

With no further business, the meeting adjourned.

Douglas A. Fox, Chairman
NC Alcoholic Beverage Control Commission

Respectfully submitted by

Tiffany Goodson, Legal Division