

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
MAY 13, 2008**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on May 13, 2008, beginning at 10:00 AM. The meeting was recorded and the disk in on file at the ABC Commission in the Legal Division.

**ROLL CALL**

Chairman Douglas A. Fox and Commissioner Mike Joyner were present at the meeting. Commissioner John Lyon was not present.

**MINUTES OF APRIL 18, 2008, MEETING**

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

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order Number One, Chairman Fox asked Commissioner Joyner 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 Joyner stated he found no conflicts of interest. Chairman Fox stated that he had no conflicts.

**I. HEARING CASES - 80**

Chief Counsel Fred A. Gregory stated that Mrs. Dwyanette Washington, owner of contested case #1, C J's Lounge, was present to speak on behalf of her business. Mr. Timothy W. Morse, Assistant Counsel for the ABC Commission, represented the Commission. Mr. Morse gave the Commission background information as to why the case had been continued from administrative hearing dates several times. Mr. Morse stated that Administrative Law Judge Donald W. Overby consequently decided to revoke all ABC permits after repeatedly trying to reach Mrs. Washington via mail and finally via phone to no avail.

Mrs. Washington told the Commission that she had spoken with Mrs. Vicky Bullock with the Office of Administrative Hearings. Mrs. Bullock asked Mrs. Washington for a phone number where she could be reached at any time so that a conference call could be scheduled. Mrs. Washington stated that she never received a phone call from Mrs. Bullock.

Chairman Fox told Mrs. Washington that the Commission could not hear evidence that had not been introduced into the record. He went on to state that it was also her responsibility to keep up with her case which had been continued for over one year.

Chairman Fox made a motion to adopt the recommended decision of Administrative Law Judge Donald W. Overby. Seconded By Commissioner Joyner. So Ordered.

Ms. Shannon Poore, attorney for hearing case #9, Jax Sports Grill, was present to speak on behalf of her client Mr. Patel. Ms. Poore stated she was asking to reduce the fine or to lower the number of days of the suspension. She went on to state that this was the first violation and the criminal case was dismissed in Wake County Court.

Chairman Fox asked why there were 58 bottles without tax stamps. Mr. Patel stated that the bottles were left over from a Christmas party.

Chairman Fox asked Mr. Patel how many employees he had. Mr. Patel stated that he had 27 employees. Chairman Fox made a motion to reduce the penalty to \$2,400.00 with no active time upon the stipulation that Mr. Patel and his employees attend a RASP class within the next 45 days. Seconded by Commissioner Joyner. So Ordered.

Mr. Tim Stroupe, owner of hearing case #66, Campmart Citgo, was present to speak on behalf of his business. Mr. Stroupe stated that his employee, Mr. Snow, was an excellent employee, but was going through a divorce at the time of this occurrence. He went on to state that Mr. Snow checked the identification and proceeded to sell to the underage person. Mr. Stroupe further stated that Mr. Snow is still employed with the business. Mr. Snow and the remaining employees took the RASP class. This was Mr. Snow's second violation and additional violations from him or any other employees would not be tolerated.

Chairman Fox made a motion to reduce the penalty to \$1,600.00. Seconded by Commissioner Joyner. So Ordered.

Mrs. Reba Love Flores, owner of hearing case #43, Luis's General Store, was present to speak on behalf of her business. Mrs. Flores stated that J and J was the company that owned the video gaming machine and the machine was for amusement only. Customers could put money in the machine and receive a phone card, not money.

Chairman Fox asked Mrs. Flores how often was the money taken from the machine and how much money was taken. Mrs. Flores stated that Mr. Martin from J and J came about every two weeks and her half of the money came up to about \$400.00 to \$450.00.

Mrs. Flores' criminal court date was continued until June 2008.

Chairman Fox made a motion to continue this case to the July 8, 2008, commission meeting until after the criminal case is heard. He further instructed Mrs. Flores that if her criminal case gets continued, to let the Commission know via letter and phone call so that the Commission can continue her case until the criminal case is heard. Chairman Fox also asked Mrs. Flores to give Ms. Cowick, Assistant Counsel for the ABC Commission, a phone call in case she needed to be reached. Seconded by Commissioner Joyner. So Ordered.

Mr. William Potter, attorney for hearing case #75, Velvet Lounge, was present to speak on behalf of his client. Mr. Potter stated that he was asking the Commission to change the start date of the suspension. He went on to state that the primary owner had been hospitalized for a period of time and when he returned to the business, his operating account was closed. He was unable to purchase liquor, so he went to an ABC store and purchased alcohol for the business. An employee in the ABC store recognized him and called Alcohol Law Enforcement; he was cited. The business has been closed since January 1, 2008.

Mr. Potter asked the Commission to begin the suspension date on April 15, 2008.

Chairman Fox made a motion to change the suspension date to April 15, 2008 and to give business credit for the time it was closed. Seconded by Commissioner Joyner. So Ordered.

Chairman Fox made a motion to approve the remaining Offers in Compromise, with the exception of contested case #1, C J's Lounge, hearing cases #9, Jacks Sports Grill, case #66, Campmart Citgo and case #75, Velvet Lounge, which had been ratified earlier. Seconded by Commissioner Joyner. So Ordered.

## **II. FIRST OFFENSE CASES - 21**

The following is a list of offense violation cases in which Final Agency Decisions were signed by the Chairman on May 13, 2008, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. C V S Pharmacy 3592 – 1702 East Innes Street, Salisbury, NC 28146
2. La Fogata – 3924 North Croatan Hwy, Kitty Hawk, NC 27949
3. Propst 11 – 3462 Springs Road NE, Hickory, NC 28601
4. Salsaritas – 304 South Sharon Amity Road, Charlotte, NC 28211
5. Rons – 3610 Mooresville Road, Salisbury NC 28144
6. Rickys Corner Shop – 1153 NC 561 West, Aulander, NC 27805
7. Ruby Tuesday 3155 – 5005 Fayetteville Road, Lumberton, NC 28358
8. Mr. G's Market of Wendell – 450 East Third Street, Wendell, NC 27591
9. Kountry Kwik Pik – 10762 Liles Road, Bailey, NC 27807
10. Kerr Drugs 435 – 2901 Wakefield Pines Drive, Raleigh, NC 27614
11. Sams Mart 13 – 735 Westinghouse Boulevard, Charlotte, NC 28273
12. A M F East Carolina Lanes 145 – 700 Red Banks Road, Greenville, NC 27834
13. Broken Eagle Eatery – 220 North Heritage Street, Kinston, NC 28501
14. Duck Thru Food Store 14 – 3000 East Tenth Street, Greenville, NC 27858
15. Frisco Shopping Center – 53610 Hwy 12, Frisco, NC 27936
16. Jack Astors Bar and Grill – 2300 Walnut Street, Cary, NC 27518
17. Hasty Mart 55 – 12305 Capital Boulevard, Wake Forest, NC 27588
18. Keeters Convenient Mart – 100 West Bryan Street, Enfield, NC 27823
19. La Tolteca Mexican Restaurant – 1326 East Tenth Street, Roanoke Rapids, NC 27870
20. Red Lobster 0441 – 5627 Albemarle Road, Charlotte, NC 28212
21. Sharkeys II – 134 Hwy 740, Albemarle, NC 28001

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases Seconded by Commissioner Joyner. So Ordered.

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

Administrator Michael Herring addressed the Commission concerning the proposed location of a new ABC Store location in Catawba County. Mr. Herring stated this would be carried forward to the next Commission meeting because there were some objections. The ABC Board would like more time to hear the objections from the citizens.

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

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in Lincoln County. On March 5, 2008, the Commission received a letter from Mr. Mike Owens, Chairman for the City of Lincolnton ABC Board, requesting approval to move the ABC store from the present location of 1230 E. Main Street, Lincolnton, NC, to Crossroads Center at E. Main Street, Lincolnton, NC. On February 14, 2007, ALE Supervisor Mark Senter began an investigation and found that the board plans to build a new store located at an undeveloped site located on Stanford Road in Lincolnton NC.

The proposed site is owned by Mr. William Heafner.

No conflicts of interest exist between the ABC Board members and the property owner.

The nearest church is Boger City Baptist Church and is 0.4 mile from the proposed location.

The nearest school is G. E. Massey Elementary School and is 0.7 mile from the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent was posted on February 11, 2008, in compliance with the ABC Commission's 30-day requirement. The ABC Commission has received no objections to this proposed location.

Mr. Herring recommended the ABC Commission approve the proposed location of the ABC Store.

Chairman Fox made a motion to approve the ABC Store 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