

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
NOVEMBER 6, 2008**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on November 6, 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 Fox and Commissioner John Lyon were present.

**MINUTES OF OCTOBER 15, 2008, MEETING**

Chairman Fox made a motion to waive the reading of the minutes from the October 15, 2008, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the October 15, 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 - 39**

Chief Counsel Fred A. Gregory stated that Mr. Tom Anton, owner of 1<sup>st</sup> Offense Case #1, Anton's, was present to speak on behalf of the business. Mr. Anton asked the Commission for some leniency in regard to the penalty. Mr. Anton stated that all the staff has been retrained. He further stated that 5% of the sales are alcohol and 95% of sales come from food.

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

Chief Counsel Gregory stated that Mr. Glen Gordon, owner of hearing case #21, Tomato Jakes Pizzeria, was present to speak on behalf of his business. Mr. Gordon stated that he had asked the officer for a copy of the report that he was submitting to the Commission. He stated that the officer told him that they don't supply copies of the reports. Mr. Gordon further stated that he and his staff have taken a RASP Class.

Commissioner Lyon made a motion to reduce the penalty from \$1,200.00 to \$800.00. Seconded by Chairman Fox. So Ordered.

Chief Counsel Gregory stated that Mr. V.M. Patel, owner of 1<sup>st</sup> Offense case # 12, Adams Place, was present to speak on behalf of his business. He stated his uncle was the clerk who sold to the underage person. His uncle has taken the education class. Everyone is now carded no matter the age.

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

Chief Counsel Gregory stated that Mr. Patrick Best, district manager of hearing case #7, Wilco 308, was present to speak on behalf of the business. Mr. Best asked the Commission for some leniency. He stated that they have a strict three step procedure in place; however the cashier did not follow the procedures. The clerk knew that the person was underage, but still sold. Mr. Best further stated that the clerk no longer works there. All the employees have taken the RASP Class.

Commissioner Lyon made a motion to reduce the penalty from \$1,200.00 to \$800.00. Seconded by Chairman Fox.

Chief Counsel Gregory stated that Mr. Ross Nyll, owner of hearing case #29, Muggs Bar and Grill, was present to speak on behalf of his business. Mr. Nyll brought a representative with him just in case of possible language barrier. The lady with him stated that Mr. Nyll and his wife run the business and are the only ones who serve alcohol. They have never had any violations and have taken the RASP Class. Mr. Nyll asked the Commission for some leniency.

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. Thomas Fornash, bar manager of hearing case #19, 101 Lounge and Café, was present to speak on behalf of the business. Mr. Fornash stated that they are now under new management. He further stated that they have new bar staff and have taken education classes with previous employers. He ended by saying that they were not disputing the violations but wanted the Commission to know what steps the business had taken to correct the situation.

Chairman Fox made a motion to ratify the signed offer in compromise as is. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. William Potter wanted to address the Commission regarding three hearing cases #34, Han Dee Hugos 61, #35, Han Dee Hugos 63 and #36, Han Dee Hugos 74. Mr. Potter stated that there was a question as to the appearance of the underage person that was used in the campaign.

Chairman Fox made a motion to approve the remaining Offers in Compromise excluding cases #21, Tomato Jakes Pizzeria and #29, Muggs Bar and Grill. Seconded by Commissioner Lyon. So Ordered.

**II. FIRST OFFENSE CASES - 14**

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on November 6, 2008, pursuant to the Commission’s authorizing resolution dated November 8, 2002:

1. Antons – 1628 Battleground Avenue, Greensboro, NC 27408
2. Crossroads Exxon – 5800 West Market Street, Greensboro, NC 27410
3. Duck Thru Foods Store 17 – 7603 South Virginia Dare Trail, Nags Head, NC 27959
4. Elizabeth Pizza – 3927 Battleground Avenue, Greensboro, NC 27410
5. El Celayense Supermarket – 2403 Neuse Boulevard, New Bern, NC 28560
6. Pop Shoppe 182 – 3930 Battleground Avenue, Greensboro, NC 27410
7. Sports Page – 1930 North Poplar Street, Suite 8, Southern Pines, NC 28387
8. Applebees Neighborhood Grill and Bar 19 – 3200 Battleground Avenue, Greensboro, NC 27408
9. Rock Ola Grille – 1600 Battleground Avenue, Greensboro, NC 27408
10. Rite Aid Store 11474 – 6231 Fairview Road, Charlotte, NC 28210
11. Wine Chateau – 1616-C Battleground Avenue, Greensboro, NC 27408
12. Adams Place – 1208 West Academy Street, Hwy 42 West, Fuquay-Varina, NC 27526
13. Pocket – 389 Merrimon Avenue, Asheville, NC 28801

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases excluding cases # 1, Antons and #12, Adams Place. Seconded by Commissioner Lyon. So Ordered.

**III. ABC STORE LOCATION – WAKE COUNTY ABC**

Administrator Michael Herring addressed the Commission concerning the proposed location of a new ABC Store located in Wake Forest, North Carolina. This matter was continued from the last meeting. The Town of Rolesville approved the rezoning of the property.

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