

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
JANUARY 13, 2011**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its meeting on January 13, 2011, 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 Jonathan S. Williams and Commissioner Zander Guy were present at the meeting.

MINUTES OF DECEMBER 15, 2010

Chairman Williams asked for a motion to waive the reading of the minutes from the December 15, 2010 meeting into the record. Commissioner Guy made a motion to waive the reading of the minutes from the December 15, 2010 meeting. Seconded by Chairman Williams. So Ordered. Chairman Williams asked for a motion to approve the minutes from the December 15, 2010 meeting. Commissioner Guy made a motion to approve the minutes from the December 15, 2010 meeting. Seconded by Chairman Williams. So Ordered.

CONFLICTS OF INTEREST

As required by North Carolina General Statute 138A-35, Chairman Williams asked Commissioner Guy 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. Chairman Williams and Commissioner Guy both stated they found no conflicts of interest.

I. HEARING CASES – 33

Chief Counsel Fred Gregory stated that Mr. Vincent Arcieri, the owner and Mr. Drew Flynn, the manager of hearing case #6, Hell's Kitchen, was present to speak on behalf of the business.

Mr. Arcieri presented the Commission with notarized statements from employees recounting what happened and court documents as to the disposition of the case. He went on to state that his staff has attended a RASP Class.

Chairman Williams stated that the penalty had already been reduced from \$1,200.00 to \$900.00 because of the length of time permits were held and no prior violations. He went on to state that the permittee had the option of taking the case to the Office of Administrative Hearings and allow an Administrative Law Judge to hear the case. Chairman Williams stated that he would allow the permittee to withdraw his case. If that was not his decision then there would be no change in the penalty.

Assistant Counsel Renee Cowick stated that she would speak with the permittee privately. After haven spoken to the permittee, the case will be continued to the February 16, 2011 Commission meeting.

Chief Counsel Gregory stated that Mr. Parvez Bhuiyan, owner of hearing case #9, Red Dot Grocery, was present to speak on behalf of his business.

Mr. Bhuiyan stated that his clerk sold alcohol to an underage person and when the clerk went to court, the case was dismissed. He went on to state that he had a small business and the employee recieved alcohol training.

Chairman Williams asked Mr. Bhuiyan how many people he employed. Mr. Bhuiyan stated that he had three employees at the business.

Commissioner Guy asked Mr. Bhuiyan if the clerk who sold still worked at the business. Mr. Bhuiyan stated that the clerk was still employed at the business.

After conferring with Commissioner Guy, Chairman Williams made a motion to reduce the penalty from a 12-day suspension or \$1,200.00 penalty to a nine-day suspension or \$900.00 penalty, upon verification of RASP Class from the Education Division. Seconded by Commissioner Guy. So Ordered.

Chief Counsel Gregory stated that the next case to be heard was #22, Carolina Country Kitchen, from the December 15, 2010 Commission Meeting. This is a reconsideration case. Mr. Ricardo Monita, the owner, was present to speak on behalf of his business.

Mr. Ricardo Monita missed the December 15, 2010 Commission Meeting. After reviewing the violation, Chairman Williams made a motion to modify the previously ratified Final Agency Decision. Seconded by Commissioner Guy. So Ordered. Chairman Williams made a motion to reduce the penalty to from a 12-day suspension or \$1,200.00 penalty to a nine-day suspension or \$900.00 penalty, upon the stipulation that all the employees attend a RASP Class. Seconded by Commissioner Guy. So Ordered.

Chairman Williams made a motion to approve the remaining offers in compromise, with the exception of the previously ratified cases. Seconded by Commissioner Guy. So Ordered.

III. OTHER BUSINESS - PUBLIC HEARING FOR THE PROPOSED RULE CHANGES PUBLISHED IN VOLUME 25, ISSUE 12 OF THE NC REGISTER – 04 NCAC 02S AND 02T

Rules Coordinator Bob Hamilton stated that the Commission had received suggested alternative language from the North Carolina Beer and Wine Wholesalers.

Chairman Williams asked if there was anyone present to speak regarding the rules changes. There was no one present to speak.

Chairman Williams closed the public comment period.

With no further business, the meeting adjourned.

Jonathan S. Williams, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

Tiffany Goodson, Legal Division