

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
NOVEMBER 7, 2003**

The following narrative and summary highlights actions taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on November 7, 2003. The meeting was tape-recorded and the tape is on file at the ABC Commission/Legal Division.

**ROLL CALL**

Acting Chair Ann Scott Fulton was present for the meeting, along with Commissioner Mike Joyner and Commissioner Ricky Wright.

**MINUTES OF OCTOBER 10, 2003 MEETING**

The Chairman asked Commission Member Mike Joyner and Commissioner Ricky Wright if they had any corrections or additions regarding the Commission minutes from the October 10, 2003, meeting. Neither Commissioner Joyner nor Commissioner Wright had any corrections or additions. The Chairman made a motion to approve and waive the reading of the minutes into the record. Seconded by Commissioner Joyner. So Ordered.

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order Number One, the Chairman asked Commissioner Joyner if there were any known 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 that he had no conflict of interest with regard to the cases. Commissioner Wright stated that he had to recuse himself from case #48, Thee Dollhouse. The Chairman stated she found no conflict of interest with regard to herself.

**I. HEARING CASES – 62 listed.**

Chief Deputy Counsel Fred A. Gregory stated that attorney, David T. Courie was present to speak on behalf of his client, Issuance case #1, Carolina Live and that assistant Counsel LoRita K. Pinnix represented this case for the ABC Commission. Ms. Pinnix stated that Mr. Fred Clark applied for an ABC permit in 2002 and was issued a temporary permit for several times over a nine-month period. The application was rejected for an ABC permits. Mr. Clark did petition the Office of Administrative Hearings for a hearing, which was held in Fayetteville, North Carolina at the end of July, beginning of August and was heard before Judge Melissa Owens Lassiter. Judge Lassiter heard the evidence and recommended that the permits be issued to Mr. Clark. Ms. Pinnix stated that

when Mr. Clark applied for the ABC permits; he was informed of the Rules and Statutes that he would have to abide by being an ABC permittee. She further stated that the agent that was assigned to that area was on leave for that nine-month period, so there were no violations, but when the agent returned, he conducted at least two undercover operations and was able to violate the business for two open to public violations. Ms. Pinnix stated that another agent went by the business one day and there was one person in the business and that person refused to let him into the building. The employee indicated that he knew whom the agent was, but wasn't going to allow him into the building, which resulted in the third violation; employee failure to cooperate violation. Mr. Courie stated that Judge Lassiter's decision was in favor of his client. Mr. Courie further stated that from conversation that he had with the ABC and from information that came out in the hearing, there was mixed signals coming from Fayetteville up to Raleigh as to what was or wasn't going on at this club and that a hearing would bring out and clear up all this information. He stated in regard to the ten or so residents that were referenced by Judge Lassiter, their conditions have changed. Judge Lassiter pointed out that it is not directly related to the running of Carolina Live as a club or the operation of Carolina Live as a permittee holder. He further stated that there has been tremendous growth in this area. The Chairman stated that she was not ready to make a final agency decision on this case. She further stated that the commission would discuss the case with the attorneys and would come out with a Final Agency Decision no later than December 12, 2003.

Chief Counsel Fred A. Gregory stated that Mr. Moe McKnight, Director of Loss Prevention was present to speak on behalf of stores #41, Lowes Foods 128, #44, Lowes Food Store 171, #45, Lowes Food Store 200 and #47 Lowes Foods 125. Mr. McKnight stated that he was hoping for a reduction in the active suspension. He further stated the process of the cashier from the time that she starts to finish. The first step in the process is the orientation process including the handbook, which states the expectations of the cashier, the cashier signs it, acknowledging that she understands the rules and regulations stated in the handbook. The next step is the computer-based training, where the cashier sits down at the computer and goes through the steps of being a cashier, requirements and what is expected of them. It also shows what is the consequence of not following the rules. The last step is the Alcoholic and Tobacco Sales Cashiers Acknowledgement Form. The Chairman asked if there was some way that a fail program could be programmed into the cashier register. Mr. McKnight stated that a date of birth has to be entered. Letters couldn't be entered. Mr. McKnight stated that they have found that some of the reasons why these violations are occurring are because the lines may be backed up or they don't care. Mr. McKnight stated that Lowes Foods along with Food Lion have agreed to be in the test case with The Division of Motor Vehicle, so that they can see if the ID's that the DMV have made would be able to scan correctly in the stores. Chief Deputy Counsel Fred Gregory stated that case #46, Lowes Foods 165 offer in compromise was incorrect. The penalty should be 30 days suspension may be avoided upon payment of \$2,000.00, with no active time. The Chairman asked

Mr. McKnight if he would be willing to sign a revised offer in compromise. Mr. McKnight stated that he would. The Chairman stated that case #46, Lowes Foods 165 would be carried over. The Chairman made a motion to ratify the remaining Lowes Foods Stores. Seconded by Commissioner Wright. So Ordered.

The Chairman made a motion to ratify case #48, Thee Dollhouse. Seconded by Commissioner Joyner. So Ordered.

The following cases were continued:

#39 – Lake Park Beverage

#46 – Lowes Foods 165

## **REMAINING OFFERS IN COMPROMISE**

The Chairman made a motion to ratify all offers in compromise except the ones that were either earlier ratified or continued. Seconded by Commissioner Joyner. So Ordered.

II. The following is a list of first offense violation cases, in which Orders were signed by the Chairman on November 7, 2003, pursuant to the Commission's authorizing resolution dated November 8, 2002:

Walt Arney Superette – 2101 Walt Arney Road, Lenior, NC 28645

Resco Mart – 800 Purser Drive, Raleigh, NC 27603

Short Stop Food Mart 40 – 2227 Bingham Drive, Fayetteville, NC 28304

Stallings Brothers – 11471 West Finch Avenue, Middlesex, NC 27557

South Elm Street Texaco – 2906 South Elm Street, Greensboro, NC 27406

South Scales Market – 1110 South Scales Street, Reidsville, NC 27320

Trade Mart 95 – 12305 Capital Boulevard, Wake Forest, NC 27587

Trade Mart 94 – 329 Roosevelt Avenue, Wake Forest, NC 27587

Tienda De Un Peso – 1369 SE Maynard Road, Cary, NC 27511

Trade Mart 57 – Queen Street and Hwy 17 South, Windsor, NC 27893

Variety Pic Up 14 – 5920 Lake Wheeler Road, Raleigh, NC 27603

Webbs Mini Mart- 807 Garner Road, Garner, NC 27529

Johns Curb Market – 2000 East Market Street, Greensboro, NC 27401

Davis IGA – 205 West Granville Street, Windsor, NC 27983

Drop In Food Store 2 – 208 East Main Street, Forest City, NC 28043

Drop In Food Store 3 – 516 Oak Street, Forest City, NC 28043

Drop In Food Store 5 – 536 South Broadway, Forest City, NC 28043

Duck Thru Mini Mart 3 – Hwy 561, Ahoskie, NC, 27910

Circle B 2 – 101 McPherson Church Road, Fayetteville, NC 28303

China Garden - 163 Timber Drive West, Garner, NC, 27529

Neomonde Bakery and Deli – 10235 Chapel Hill Road, Morrisville, NC 27560

Jing Shus Kitchen – 1146 SW Hickory Boulevard, Lenior, NC 28645  
Griffin 10 – 2770 North Wesleyan Boulevard, Rocky Mount, NC 27804  
Fuel Zone – 4747 Maxwell Road, Stedman, NC 28391  
D and B Deli and Sports Page – 2009 South Scales Street, Reidsville, NC 27320  
Conga Restaurant – 108 Factory Shops Road, Suite D, Morrisville, NC 27560  
Coastal Car Wash – 4922 Long Beach Road, Southport, NC 28461  
China Buffet – 160 Blowing Rock Boulevard, Lenior, NC 28645  
B T O Food Store 5 – Elliott Bridge Road & 401 North, Fayetteville, NC 28311  
Whites Fast Foods – 1421 English Road, High Point, NC 27260  
Trade Mart 3 – 1308 Pamalee Drive, Fayetteville, NC 28301  
Southern Convenience 651 – 111 South Broadway, Forest City, NC 28043  
Servco – 523 West Main Street, Forest City, NC 28043  
Servco – Hwy 17 at River Road, New Bern, NC 28562  
Schlotzskys Deli – 995 Airport Boulevard, Morrisville, NC 27560  
Aqua – 521 North College Street, Charlotte, NC 28202  
Express Way Mart – 202 South White Street, Whitakers, NC 27891  
Eckerd Drugs 3480 – 2311 Timber Drive, Garner, NC 27529  
Eckerd Drugs 8565 – 245 Timber Drive West, Garner, NC 27529  
Fresh Market – 4215 Providence Road, Charlotte, NC 27529  
Monterrey Mexican Rest 44 – 3028 Healy Drive, Winston-Salem, NC 27307  
Las Margaritas Mexican Rest. – 231 Timber Drive, Garner, NC 27529  
Pizza Hut 618034 – 130 Wilkesboro Boulevard SE, Lenior, NC 28645  
Roys Service Center – 609 South King Street, Winsdor, NC 27983  
Rays Grocery 5 – Route 3 White Oak Road, Garner, NC 27529

**III.** Administrator Michael Herring spoke regarding requests from the Spirits Industry for sponsorships of their products at sporting events and concerts. He also stated that he had received requests from distiller representatives to promote samples of their products at gathering with ABC permittee's where a special occasion when a special roll out of a particular product is going to take place. Mr. Herring recommended to the Commission that they allow the Chairman, the attorneys and himself to develop some guidelines and to address those requests.

The Chairman provided a J A Jones update regarding them filing for Chapter 11 status. She stated that it looks like they will be able to resolve their problem and should come out of it just fine.

No other business, new or old, was heard. The Chairman made a motion to adjourn the meeting. Seconded by Commissioner Joyner. So ordered.

With no further business, the meeting adjourned.

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Ann Scott Fulton, Acting Chair  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

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Tiffany C. Goodson, Legal Division