

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
DECEMBER 18, 2008**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on December 18, 2008, 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 Douglas Fox and Commissioner John Lyon were present.

**MINUTES OF NOVEMBER 6, 2008, MEETING**

Chairman Fox made a motion to waive the reading of the minutes from the November 6, 2008, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the November 6, 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 - 82**

Chief Counsel Fred A. Gregory stated that contested case #1, Spanky's Sports Bar and Grill, was settled this morning and the Commission has a signed offer in compromise.

Chief Counsel Gregory stated that contested case #2, Par 3 Bistro, was heard by Administrative Law Judge Melissa Owens Lassiter in High Point, North Carolina on August 28, 2008. Judge Lassiter's recommended decision was to impose a five-day suspension and \$500.00 penalty. Mr. Gregory asked the Commission to accept the recommended decision of the administrative law judge. Chairman Fox made a motion to adopt the recommended decision. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Ms. Toral Modi, owner of 1<sup>st</sup> offense case #21, Falls Lake Mini Mart, was present to speak on behalf of her business. Ms. Modi's daughter spoke on behalf of her mother, because of a language barrier. She stated that they took an ABC class because of the violation in October. She further stated that she was asking the Commission for a reduction in the penalty.

Chairman Fox made a motion to reduce the penalty from \$1,400.00 to \$ 1,000.00 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 Ms. Rebecca Loera, owner of hearing case #26, Carniceria La Costena, was present to speak on behalf of her business. Ms. Loera stated that they have taken the RASP Class. She further stated that the large amount of alcohol that was found was for gifts for other people.

Chairman Fox stated that he was not inclined to reduce the penalty. He ratified the signed offer in compromise. Seconded by Commissioner Joyner. So Ordered

Chief Counsel Gregory stated that Mr. Randy Merritt, owner of 1<sup>st</sup> offense case #8, Seven Lakes Friendly Mart, was present to speak on behalf of his business. He stated that he and his employees have been trained and have taken an ABC Class.

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. Mark Rumley, owner of hearing case #32, Indigo Joes, was present to speak on behalf of his business. Mr. Rumley gave the Commission some background information regarding the violation.

Commissioner Lyon made a motion to reduce the penalty from \$1,000.00 to \$600.00 upon the stipulation that all employees attend a RASP Class within the next 45 days. Seconded by Chairman Fox. So Ordered.

Chief Counsel Gregory stated that Mr. Matt Ramsey, owner of hearing case #51, Wild Wing Café was present to speak on behalf of his business. Mr. Ramsey stated that he had talked to all his employees and they have taken the RASP Class.

Chairman Fox made a motion to reduce the penalty from \$3,500.00 to \$2,500.00, upon the stipulation that all the employees attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Marcus Fus-four, Corporate Vice President of hearing case #10, Drifters Country Saloon, was present to speak on behalf of the business. Mr. Fus-four gave the Commission some background information regarding the violation. He presented the Commission some information on the machine in question in regard to the violation.

Commissioner Lyon made a motion to waive the suspension and penalty, upon the stipulation that all the employees attend a RASP Class within the next 45 days. Seconded by Chairman Fox. So Ordered.

Chief Counsel Gregory stated that Mr. Lindsay Baker, Regional Manager of 1<sup>ST</sup> Offense Case #30, Wilco 104 was present to speak on behalf of the business. Mr. Baker told the Commission about the alcohol policy of the business and what is required of each employee. He stated that that Wilco takes alcohol sales very seriously. He further stated that they have taken a RASP Class with Ms. Jane Humble and are asking for a reduction in the penalty.

Chairman Fox made a motion to penalty from \$1,200.00 to \$600.00, 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. Alworth, owner of hearing case #29, Five Star International Market, was present to speak on behalf his business. He gave the Commission some background information regarding the violation. He asked the Commission for a reduction in the penalty.

Chairman Fox made a motion to reduce the penalty from \$2,400.00 to \$800.00, upon the stipulation that all the employees attend a RASP Class within the next 45 days. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Terry Bledsoe, was present to speak on behalf of hearing case #58, Tee Time Sports and Spirits. Mr. Bledsoe stated that the employees have taken a RASP Class with Jane Humble and asked the Commission for a reduction in the penalty.

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

Chairman Fox made a motion to approve the remaining Offers in Compromise excluding hearing cases #10, Drifters Country Saloon, #29, Five Star International Market, #32, Indigo Joes, #51, Wild Wing Café and #58, Tee Time Sports and Spirits. Seconded by Commissioner Lyon. So Ordered.

## **II. FIRST OFFENSE CASES - 32**

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on December 18, 2008, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Four Brothers Food Store 308 – 105 Wilkesboro Road, Taylorsville, NC 28681
2. Valentis Italian Restaurant – 411 US Hwy 1, Vass, NC 28394
3. J P Shelby – 1210 Fallston Road, Shelby, NC 28150
4. Legends Downtown Bar and Grill – 1113 Old US 1 South, Southern Pines, NC 28315
5. Pay Jays – 1826 US 1 North, Wise, NC 27594
6. Smoky Mountain Country Club – 1300 Conleys Creek Road, Whittier, NC 28789
7. Shelby Quick Mart – 1600 Fallston Road, Shelby, NC 28150
8. Seven Lakes Friendly Mart – 4219 Hwy 211, West End, NC 27376
9. Sakura Japanese Restaurant – 5945 Cliffdale Road – Suite 1109, Fayetteville, NC 28314
10. Tank and Tummy 14 – 176 Hwy 49 South, Asheboro, NC 27203
11. Wake Mart Exxon – 4100 North Cherry Street, Winston-Salem, NC 27105
12. Curveview 150 Express – 1001 Cherryville Road, Shelby, NC 28150
13. Café Cabana – 2609 High Point Road, Greensboro, NC 27403
14. Express Food Mart 1 – 38 Hankins Road, Marion, NC 28752
15. D L's Food Mart – 419 Jonestown Road, Winston-Salem, NC 27104
16. Food Lion 1343 – 2000 Chapel Hill Road, Durham, NC 27707
17. Food Lion 524 – 1316 Lees Chapel Road, Greensboro, NC 27455
18. Pop Shoppe – 1020 South Main Street, Lexington, NC 27292
19. Sir Pizza – 1916 North Main Street, High Point, NC 27262
20. Airport Express – 6020 Wilkinson Boulevard, Charlotte, NC 28208
21. Falls Lake Mini Mart – 2713 Durham Road, Wake Forest, NC 27587
22. Emzel Food Mart 3 – 842-C West Lee Street, Greensboro, NC 27403
23. Ingles Markets 118 – 1305 Fallston Road, Shelby, NC 28150
24. In N Out Convenience Store – 110 South Broad Street, Winston-Salem, NC 27101
25. Handy Mart 64 – 1031 Kingold Boulevard, Snow Hill, NC 28580
26. Harris Teeter 205 – 325 West Sixth Street, Charlotte, NC 28202
27. Kangaroo Express 3787 – 6400 Burlington Road, Whitsett, NC 27377
28. Quick Quality – 316 South Fayetteville Street, Asheboro, NC 27203
29. Xpress Mart 54 – 2415 Little Rock Road, Charlotte, NC 28214
30. Wilco 104 – 5434 University Parkway, Winston-Salem, NC 27105
31. Pantry 852 – 1698 East Marion Street, Shelby, NC 28151

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases excluding cases # 8, Seven Lakes Friendly Mart and #30, Wilco 104. Seconded by Commissioner Lyon. So Ordered.

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

Administrator Michael Herring addressed the Commission concerning the proposed relocation of an ABC Store located in Holly Springs, North Carolina. On November 14, 2008, the Commission received a request from Mr. Craig Pleasants, General Manager of the Wake County ABC Board asking for approval to open a

new ABC Store in Southpark Village Shopping Center, at the intersection of Highway 55 and Avent Ferry Road in Holly Springs, North Carolina. On November 17, 2008, Alcohol Law Enforcement Supervisor Jeff Lasater began an investigation and found that new location would be approximately 4500 to 5000 square feet and the new address would be 100 Village Walk Drive, Holly Springs, North Carolina.

There is no conflict of interest between the property owners and the Wake County ABC Board.

The nearest church is Holly Methodist Church and is approximately .6 miles from the proposed location and the nearest school is Holly Grove Elementary School and is approximately .7 miles from the proposed location.

Pursuant to the 30-day requirement in the ABC Commission Rules, Notice of Intent was properly posted on November 13, 2008.

No objections have been received by the Commission.

Mr. 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 – HIGHLANDS ABC**

Administrator Michael Herring addressed the Commission concerning the proposed relocation of an ABC Store located in Highlands, North Carolina. On November 7, 2008, the Commission received a request from the Highlands ABC Board asking for approval to relocate the ABC Store to 81 Highlands Plaza, Highlands, North Carolina. On November 7, 2008, Alcohol Law Enforcement Agent Brian S. Ogle began an investigation and found that the new location address will be 81 Highlands Plaza, Highlands, North Carolina 28741.

The property is owned by Mitchell Properties LLC and there is no conflict of interest between the property owners and the Highland ABC Board.

The nearest church is Highlands United Methodist Church and is approximately .3 miles from the proposed location and the nearest school is Highlands School and is approximately .5 miles from the proposed location.

Pursuant to the 30-day requirement in the ABC Commission Rules, Notice of Intent was properly posted on November 7, 2008.

No objections were received at the Commission.

Mr. 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 - CRAVEN COUNTY ABC**

Administrator Michael Herring addressed the Commission concerning the proposed relocation of an ABC Store located in Vanceboro, North Carolina. On November 14, 2008, the Commission received a request from Mrs. Donna Rouse, General Manager of the Craven County ABC Board, asking for approval to move their store #2, located at 7917 Main Street in Vanceboro, North Carolina, to another location. On November 17,

2008, Alcohol Law Enforcement Agent Chris Carawan began an investigation and found that the proposed location is located at 8001 Main Street, Vanceboro, North Carolina. The proposed property is currently owned by the Trustees of Mary Powell. The building will have a total of 1,950 square feet.

There is no conflict of interest between the property owners and the Craven County ABC Board.

The nearest church is Vanceboro Pentecostal Holiness Church and is approximately .4 miles from the proposed location and the nearest school is Vanceboro Farm Life Elementary School and is approximately .7 miles from the proposed location.

Pursuant to the 30-day requirement in the ABC Commission Rules, Notice of Intent was properly posted on November 14, 2008.

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