

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
MARCH 17, 2010**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its meeting on March 17, 2010, 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, Commissioner J.D. Lyon and Commissioner Zander Guy were present at the meeting.

**MINUTES OF FEBRUARY 18, 2010, MEETING**

Chairman Williams asked if there was a motion to waive the reading of the minutes from the February 18, 2010 meeting into the record. Commissioner Guy made a motion to waive the reading of the minutes from the February 18, 2010 meeting. Seconded by Commissioner Lyon. So Ordered. Chairman Williams asked if there was a motion to approve the minutes from the February 18, 2010 meeting. Commissioner Lyon made a motion to approve the minutes from the February 18, 2010 meeting. Seconded by Commissioner Guy. So Ordered.

**CONFLICTS OF INTEREST**

As required by North Carolina General Statute 138A-15, Chairman Williams asked Commissioner Lyon and 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, Commissioner Lyon and Commissioner Guy stated that they found no conflicts of interest.

**I. HEARING CASES – 91**

Chairman Williams stated that the meeting would begin with the contested cases.

Chief Counsel Fred Gregory stated that the first case to be heard was #1, Happy Mart 4. Chief Counsel Gregory asked if there was anyone present to speak in regard of the business. There was no one present. K. Renee Cowick, Assistant Counsel, represented the Commission at the administrative hearing. Administrative Law Judge Melissa Owens Lassiter was assigned to the case and filed a Motion for Sanctions because the permittee failed to appear at the administrative hearing. Judge Lassiter recommended a 25-day suspension and a \$500.00 penalty.

Ms. Cowick stated that she did receive a voice mail message from the permittee regarding the recommended decision and the permittee was receiving their mail. She recommended that the Commission adopt the recommended decision of the administrative law judge.

Chairman Williams asked if there was a motion to accept the recommended decision of the administrative law judge. Commissioner Guy made a motion to accept the recommended decision. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that the next contested case to be heard was #2, Bar Mexico Lindo. Mr. Gregory asked if there was anyone present to speak in regard of the business. There was no one present.

LoRita K. Pinnix, Assistant Counsel, represented the Commission at the administrative hearing. The permittee's notice of hearing was returned unclaimed and the permittee failed to respond to the request to file a prehearing statement. Administrative Law Judge J. Randall May was assigned to the case and issued a recommended decision of ten day suspension and a \$500.00 penalty. Ms. Pinnix asked the Commission to adopt the recommended decision of the administrative law judge.

Chairman Williams asked if there was a motion to accept the recommended decision of the administrative law judge. Commissioner Guy made a motion to accept the recommended decision. Seconded by Commissioner Lyon. So Ordered.

Chief Counsel Gregory stated that Mr. Joher Rehman, manager of hearing case #61, Discount Food Mart, was present to speak on behalf of the business. Assistant Counsel, Timothy W. Morse stated that the business holds an off-premise permit. High Point ABC Officers were running a sting across the street from the business and observed a man leave the ABC Store with a bag and enter Discount Food Mart. The man passed the liquor to Mr. Rehman, who was behind the counter.

Mr. Rehman stated that he has a lot of customers that leave the ABC Store and then come into his store to purchase soft drinks and orange juice. He further stated that the customer came in and left his bag on the counter while he shopped and then told him that he needed a bigger bag. Then two officers entered the store.

After reviewing the violation report, the Chairman told Mr. Rehman that the violation report stated that he told the officers that the alcohol was his and that he asked the gentleman to purchase it for him before the store closed. Mr. Rehman stated that the customer admitted that the alcohol was his.

Chairman Williams asked for a motion. Commissioner Lyon made a motion to reduce the penalty from \$1,000.00 to \$500.00, upon the stipulation that the permittee and all the employees attend a RASP Training Class. Seconded by Commissioner Guy. So Ordered.

Chief Counsel Gregory stated that Ms. Joyce Maples, the owner, manager and accountant of hearing case #71, Pit Golf Links, was present to speak on behalf of her business. Mr. Morse stated that the original offer in compromise had a penalty of \$1,200.00. After reviewing the file he discovered that the business had held ABC permits since 1985 with no previous violations. He amended the offer in compromise by reducing the penalty from \$1,200.00 to \$600.00.

Ms. Maples stated that all the employees are required to attend alcohol education training. On the day of the violation, the employee was alone in the pro shop when a customer came into the snack bar. The phone rang, she put the call on hold and returned to the customer. The customer asked for a beer and she asked to see his identification. The employee misread the date on the identification and gave the customer the beer. When she returned to her phone conversation and realized that she had misread the date, she told the customer she couldn't sell him the beer, but the ALE Agent came to the counter and told her that she was ten seconds too late. Ms. Maples asked the Commission for a reduction in the penalty or to have the violation dismissed.

After conferring with the other Commissioners, Chairman Williams made a motion to reduce the penalty from \$600.00 to \$300.00 because the permittee has held ABC permits since 1985 with no violations. Seconded by Commissioner Lyon. So Ordered.

Ms. Maples asked the Commission if it was possible to change the suspension dates to a later date because that those dates were their busiest time. Chairman Williams told Ms. Maples the dates were set and could not be changed. She had the option to either pay the penalty or take the suspension.

Chief Counsel Gregory stated that Ms. Debbie Swain, owner hearing case #68, Kickers Bar and Grill was present to speak on behalf of the business.

Ms. Swain asked the Commission for a reduction in the penalty. Mr. Gregory stated that typically in cases like this where a punchboard is found and it's a first offense, a written warning is issued. A second offense is usually \$500.00.

Ms. Swain stated that she was helping a friend, who needed money, by leaving the punchboard on the bar.

Chairman Williams asked for a motion. After conferring with the Commissioners, the Chairman made a motion to issue a Written Warning. Seconded by Commissioner Guy. So Ordered.

Chief Counsel Gregory stated that Mr. Bill Brar, owner and Mr. Herman Chaudhry, director of food and beverage were present to speak to the Commission regarding hearing case #23, Doubletree Hotel Fayetteville. Ms. Cowick stated that initially there was poor management of the business, but after receiving training, the business has completely turned around.

Mr. Brar stated that he took control of the business three or four years ago. The only knowledge he had about the business was pertaining to the bar. Since that time, a couple of irresponsible employees and have been fired and Mr. Brar hired Mr. Chaudhry, who handles the food and beverage.

Mr. Chaudhry stated that all the employees have gone through training and they are required to frequently view the training information and attest to it.

Chairman Williams asked if there was a motion. Commissioner Lyon made a motion to reduce the penalty from \$700.00 to \$200.00, in recognition of the improvements. Seconded by Commissioner Guy. So Ordered.

Chief Counsel Gregory stated that Mr. Osama Mohammad Abu-Zayed, owner of hearing case #4, Rams Food Mart, was present to speak on behalf of the business.

Mr. Abu-Zayed stated that the person who bought the alcohol before 7:00 a.m. had caused problems for his employees and he doesn't sell alcohol before the required time.

Chairman Williams stated that given the previous violations and the information suggesting that the investigation was based on complaints, the Commission would not change the penalty in the signed offer in compromise.

Chief Counsel Gregory stated that the following hearing cases #52, University General Store and case #76, Sugarland, be continued to the April Commission meeting.

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

## **II. ABC STORE LOCATION – MECKLENBURG COUNTY ABC STORE**

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in Mecklenburg County. On January 21, 2010, the Commission received a letter from Calvin McDougal, the former Chief Executive Officer for the Mecklenburg County ABC Board, requesting approval to lease property for a new ABC Store in Charlotte, North Carolina. The property would be located within Morrocroft Village Shopping Center at 3904 Colony Road, Charlotte, North Carolina. On February 2, 2010, ALE Agent D.J. Hales began an investigation and found that the current site is 5,312 square feet.

The Morrocroft Village Shopping Center is owned by National Real Estate Management Corporation, at 1830 Craig Park Court, Suite 101, St. Louis, Missouri.

The investigation found there are no financial conflicts of interest between the property owners and the Mecklenburg County ABC Board.

The nearest church is Sharon United Methodist Church and is located .2 miles from the proposed location.

The nearest school is Charlotte Country Day School and is located 1.5 miles from the proposed location.

Pursuant to ABC Commission Rules, two Notices of Intent were properly posted on January 20, 2010, in compliance with the ABC Commission's 30-day requirement.

There were no objections to the location.

Mr. Herring recommended that the Commission approve the new location.

Commissioner Lyon made a motion to approve the ABC location. Seconded by Commissioner Guy.

## **III. ABC STORE LOCATION – WAYNESVILLE ABC BOARD**

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in Haywood County. On February 8, 2010, the Commission received an email from General Manager, Joy Rasmus, with the Waynesville ABC Board, requesting approval to open a second ABC Store in Waynesville, North Carolina. On February 10, 2010, Special Agent S. D. Myers began an investigation and found that the new store would be located at Dayco Street in Waynesville, North Carolina. The proposed location is approximately five miles from the ABC Store operating at 379 Walnut Street.

The property is currently zoned for commercial use. The proposed location is approximately 1.81 acres and the Waynesville ABC Board is negotiating to purchase the land.

The Waynesville ABC Board members submitted ABC Board Member Financial Disclosure Statements indicating that there is no ownership interest in the property.

The nearest church is Faith United Methodist Church and is located .2 miles from the proposed location.

The nearest school is Waynesville Middle School and is located 1.5 miles from the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent were properly posted on February 5, 2010, in compliance with the ABC Commission's 30-day requirement.

There were no objections to this location.

Mr. Herring recommended that the Commission approve the new location.

Commissioner Lyon made a motion to approve the location. Seconded by Commissioner Guy. So Ordered. Commissioner Lyon stated that he felt that the Financial Disclosure Statement should be with all ABC Store requests. Mr. Herring stated that he would ask that the Alcohol Law Enforcement to incorporate the statements in investigations.

With no further business, the meeting adjourned.

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

Respectfully submitted by

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Tiffany Goodson, Legal Division