

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
SEPTEMBER 17, 2014**

The following narrative and summary describes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road, Raleigh, North Carolina on September 17, 2014, beginning at 10:00 AM. The meeting was recorded and the disc is on file at the NC ABC Commission in the Legal Division.

ROLL CALL

Chairman James C. Gardner and Commissioner Joel L. Keith were present. Chairman Gardner called the meeting to order.

MINUTES OF AUGUST 13, 2014

Chairman Gardner asked for a motion to waive the reading of the minutes of the August 13, 2014 meeting into the record. Commissioner Keith made a motion to waive the reading of the minutes from the August 13, 2014 meeting. Chairman Gardner seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the August 13, 2014 meeting. Commissioner Keith made a motion to approve the minutes from the August 13, 2014 meeting. Chairman Gardner seconded the motion. Motion Passed.

CONFLICTS OF INTEREST

As required by N.C.G.S. § 138A-35, Chairman Gardner asked 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 Keith stated he found no conflicts of interest. Chairman Gardner stated he found no conflicts of interest.

I. HEARING CASES – 64

Chief Counsel K. Renee Cowick stated no one was present on behalf of hearing case number 1, Peppermint Rabbit. Assistant Counsel Tim Morse stated the permittee failed to file audit reports and also failed to file a prehearing statement for the Administrative Hearing. The Administrative Law Judge issued a decision of a one (1) year suspension of the permittee's Mixed Beverage Private Club permit.

Commissioner Keith made a motion to impose the penalty of the Administrative Law Judge's decision. Chairman Gardner seconded the motion. Motion Passed.

Mr. Morse stated regarding hearing case number 2, Smith's Convenient Store, the permittee failed to qualify for an off-premise fortified wine permit. The Permittee failed to file a prehearing statement for the Administrative Hearing. The Administrative Law Judge issued a decision of cancellation of the permittee's Off Premise Fortified Wine permit.

Commissioner Keith made a motion to impose the penalty of the Administrative Law Judge's decision. Chairman Gardner seconded the motion. Motion Passed.

Ms. Cowick stated Susan Young, wife of the permittee, was present on behalf of hearing case number 34, Cody III. Ms. Young stated they did not contest the charge of employee performing services while or

after consuming alcohol, but wished to provide additional information regarding the charge of failure to deface empty spirituous liquor containers. Ms. Young stated the bottles in question were in a cooler and still contained a small amount of liqueur. Mr. Morse stated the agent's report reflected the bottles were empty.

Chairman Gardner thanked Ms. Young for attending the ABC Commission meeting, but stated the penalty would remain as stated in the Offer in Compromise.

Ms. Cowick asked the Commission for reconsideration of hearing case number 64, Nash Market, previously decided at the August 2014 Commission Meeting. Mr. Morse stated he and the permittee's attorney had had issues with communications. As a result, the earlier offer in compromise was signed. Mr. Morse adjusted the penalty after a failure to review the documents properly and evidentiary problems were discovered.

Commissioner Keith made a motion to withdraw the Final Agency Decision issued at the August 2014 Commission Meeting and replace the Offer in Compromise with the adjusted offer reflecting a 15-day suspension or \$1,500.00 penalty. Chairman Gardner seconded the motion. Motion Passed.

Commissioner Keith made a motion to ratify the remaining offers in compromise. Chairman Gardner seconded the motion. Motion Passed.

Ms. Cowick stated Alcohol Law Enforcement had requested orders allowing the disposal of evidence seized during investigations of two businesses, Bodi and Due Bambini Pizza.

Commissioner Keith made a motion to grant the orders. Chairman Gardner seconded the motion. Motion Passed.

Deputy Administrator Robert Hamilton stated there was no other new business.

Chairman Gardner announced the next NC ABC Commission meeting will be held on Wednesday, October 15, 2014.

Commissioner Keith made a motion to adjourn. Chairman Gardner seconded the motion. With no further business, the meeting adjourned.

James C. Gardner, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

Caroline Y. Washburn for the Legal Division