

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
NOVEMBER 13, 2013**

The following narrative and summary describes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road, Raleigh, North Carolina on November 13, 2013, beginning at 10:00 AM. The meeting was recorded and the disc is on file at the ABC Commission in the Legal Division.

ROLL CALL

Chairman James C. Gardner and Commissioners Joel L. Keith and Kevin M. Green were present at the meeting. Chairman Gardner called the meeting to order.

MINUTES OF OCTOBER 16, 2013

Chairman Gardner asked for a motion to waive the reading of the minutes of the October 16, 2013 meeting into the record. Commissioner Green made a motion to waive the reading of the minutes from the October 16, 2013 meeting. Commissioner Keith seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the October 16, 2013 meeting. Commissioner Green made a motion to approve the minutes from the October 16, 2013 meeting. Commissioner Keith seconded the motion. Motion Passed.

CONFLICTS OF INTEREST

As required by North Carolina General Statute 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 Green stated he had found no conflicts of interest. Commissioner Keith stated he had found no conflicts of interest. Chairman Gardner stated he had found no conflicts of interest.

I. HEARING CASES – 62

Deputy Agency Counsel K. Renee Cowick stated there were two contested cases. No one was present on behalf of hearing case number 1, Circle Mart. Assistant Counsel, Timothy Morse stated this was a sanctions case for a third offense Sale to Underage violation, as the permittee failed to file a prehearing statement. The Administrative Law Judge issued a decision requiring the permittee to serve a 30-day suspension and pay a \$1,000.00 penalty.

Commissioner Keith made a motion to accept the Administrative Law Judge's decision. Commissioner Green seconded the motion. Motion Passed.

Ms. Cowick stated hearing case number 2, Nitty Gritty Soul Café, was also a contested case and no one was present on behalf of the business. The permittee failed to file a prehearing statement. The Administrative Law Judge issued a decision requiring a revocation of the permittee's ABC permits.

Commissioner Keith made a motion to accept the Administrative Law Judge's decision. Commissioner Green seconded the motion. Motion Passed.

Ms. Cowick stated hearing case #62, Devils Ridge Golf Club, was on the agenda for reconsideration. Present on behalf of the permittee was attorney, Hardy Lewis, as well as a corporate representative from Atlanta, the new general manager, and the service director.

Mr. Lewis stated Devils Ridge Golf Club is owned by ClubCorp Golf of North Carolina, LLC which is part of ClubCorp Golf located in Dallas, Texas. Mr. Lewis stated he was not present to dispute the charges of the violation as ClubCorp accepted responsibility for the actions of its employees. Mr. Lewis stated the Offer in Compromise was signed by an employee in the Dallas corporate office. Mr. Lewis stated ClubCorp Golf stated he would have been engaged to represent the permittee; however, a member of their legal department simply signed the offer in compromise and returned it to the NC ABC Commission. Mr. Lewis was not aware of the violation until Devils Ridge Golf Club received the Final Agency Decision from the NC ABC Commission including the active suspension.

Mr. Lewis explained ClubCorp took immediate action by terminating the employment of the General Manager who ordered the head bartender and another bartender to purchase alcohol from the ABC Store with cash to sell or serve at Devils Ridge Golf Club.

Mr. Lewis stated, and Assistant Counsel LoRita Pinnix confirmed, if Mr. Lewis had been retained earlier, and with consideration of the actions taken, the penalty would have been negotiated. ClubCorp Golf was willing to pay a higher penalty in lieu of an active suspension.

Commissioner Green stated the NC ABC Commission appreciates the efforts of ClubCorp Golf and the obvious grave concern displayed in the manner in which they managed the situation. Ms. Pinnix agreed the monetary penalty in the offer would have been increased rather than adding an active suspension.

Commissioner Green made a motion to adjust the fine to \$5,000.00 and remove the active suspension from the penalty. Commissioner Keith seconded the motion. Motion passed.

Ms. Cowick stated hearing case #34 was to be continued to the December NC ABC Commission meeting agenda.

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

Administrator Michael C. Herring stated there was no additional business to be added to the agenda.

Chairman Gardner announced the next NC ABC Commission meeting will be held on Wednesday, December 11, 2013.

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

Approved at the December 11, 2013 Commission Meeting

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

Respectfully submitted by,

/S/ Caroline Y. Washburn
Caroline Y. Washburn for the Legal Section