

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
MARCH 9, 2016**

The following narrative and summary describes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road, Raleigh, North Carolina on March 9, 2016, 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 Commissioners Kevin M. Green and Michael C. Herring were present. Chairman Gardner called the meeting to order and welcomed visitors, including Shelly Willingham, a member of the NC House of Representatives.

**MINUTES OF FEBRUARY 10, 2016**

Chairman Gardner asked for a motion to waive the reading of the minutes of the February 10, 2016 meeting into the record. Commissioner Green made a motion to waive the reading of the minutes. Commissioner Herring seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the February 10, 2016 meeting. Commissioner Green made a motion to approve the minutes. Commissioner Herring 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 which might create the appearance of a conflict of interest with respect to any matters on the agenda. Commissioner Green stated he found no conflicts of interest. Commissioner Herring stated he found no conflicts of interest. Chairman Gardner stated he found no conflicts of interest.

**I. HEARING CASES – 68**

Chief Counsel Renee C. Metz stated hearing case number 13, Ultra Lounge, should be removed from the agenda as the case had been dismissed. Mrs. Metz stated hearing case number 32, Pantry Shop 5, should be held over for a future commission meeting as the allegations have changed and the penalty needs to be renegotiated.

Mrs. Metz stated hearing case number 68, Brasilia Churrasco Steakhouse, a previously heard case had been contested and appealed in Superior Court. The violation regarded audit reports and

the reports have since been submitted to the Audit Division. Mrs. Metz stated the penalty had been renegotiated and asked the case be added to the agenda.

Mrs. Metz asked, if there were no further questions, the remaining cases be ratified.

Commissioner Green asked, regarding hearing case number 17, Big Boys Market B P Gas Station, why the penalty for the 2015 sale to underage violation was less than the penalty for a 2014 sale to underage violation. Assistant Counsel Missy Welch stated perhaps it was that the penalty structure was under review by the Legal Division and the ABC Commission at that time. Ms. Welch stated she was not sure and the case could be reviewed and renegotiated. Mrs. Metz asked for a motion to remove case number 17 from the agenda.

Commissioner Green made a motion to remove hearing case 17 from the agenda for further review. Commissioner Herring seconded the motion. Motion Passed.

Commissioner Green made a motion to ratify the remaining offers in compromise with the dismissal of hearing case number 13 and the addition of hearing case number 68. Commissioner Herring seconded the motion. Motion Passed.

## **II. EXEMPTION REQUEST – N.C.G.S. § 18B-1116(b) – MICHAEL KREN**

Mrs. Metz provided an overview of the request and stated the attorney for Michael Kren was present to ask for an exemption. Mrs. Metz stated the Legal Division did not have an objection.

Attorney W. Michael Boyer, explained Mr. Kren owns a minority, non-managerial 15% equity interest of Fonta Flora Brewery in Morganton, North Carolina.

Mr. Kren is the sole member and has 100% ownership interest in Alpha Exports, LLC, a business exporting craft beer brands into foreign beer markets, beginning with Central and South America. Alpha Exports does not currently hold ABC permits, but will seek to obtain a malt beverage wholesaler permit from the NC ABC Commission.

Mr. Boyer stated Brew Publik Incorporated holds ABC retail permits, an off premise malt beverage permit and a malt beverage tasting permit. Mr. Kren currently holds no ownership in Brew Publik; however, upon the granting of this exemption, Mr. Kren will issue a convertible note with Brew Publik. His role would be as a creditor. Upon Brew Publik receiving Series A funding, Mr. Kren's principal and interest would convert to an equity stake. The prospective stake will not exceed a 2.35% minority, non-managerial interest.

Commissioner Herring made a motion to grant the exemption based upon the defined conditions. Commissioner Green seconded the motion. Motion Passed.

Chairman Gardner announced the next NC ABC Commission meeting will be held on Wednesday, April 13, 2016.

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

*Approved at the April 13, 2016 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