

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
JANUARY 15, 2020**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission Meeting held at 400 East Tryon Road in Raleigh, North Carolina on January 15, 2020, beginning at 10:00 AM. The meeting was recorded, and the disc is on file at the NC ABC Commission within the Legal Division.

ROLL CALL

Chairman A.D. Zander Guy, Jr. called the January 2020 ABC Commission Meeting to order and greeted those in attendance, wishing everyone a Happy New Year.

Chairman Guy explained life is about relationships and thanked the Commission staff for their work and for the good customer service they provide. Chairman Guy stated there are 170 ABC Boards in North Carolina with approximately 2,900 employees. Chairman Guy explained it is often assumed these employees work for the State of North Carolina; however, they are employees of the ABC Boards. Chairman Guy stated when he was appointed as Chairman by Governor Cooper, during his first meeting with the ABC Boards he explained he represented the Governor and the citizens of North Carolina; but, also represented the ABC Boards.

Chairman Guy welcomed Niegel Sullivan, the General Manager of the Durham County ABC Board. Chairman Guy also welcomed and thanked all those in attendance.

Chairman Guy stated ALE is a strong partner, working hand-in-hand with the ABC Commission. Chairman Guy explained Deputy Director of Policy of the ABC Commission, Terrance Merriweather, was formerly the Branch Head of ALE. Chairman Guy credited Mr. Merriweather for enhancing the ABC Commission's relationship with ALE. Chairman Guy also welcomed Assistant Special Agent in Charge Angela Hayes of ALE.

Chairman Guy introduced Commissioner Norman A. Mitchell, Sr. of Charlotte and Commissioner Karen L. Stout of Black Mountain.

MINUTES OF THE DECEMBER 11, 2019 COMMISSION MEETING

Commissioner Mitchell made a motion to waive the reading of the minutes of the December 11, 2019 meeting into the record. Commissioner Stout seconded the motion. Motion Passed.

Commissioner Stout made a motion to approve the minutes of the December 11, 2019 meeting. Commissioner Mitchell seconded the motion. Motion Passed.

CONFLICTS OF INTEREST

As required by N.C.G.S. § 138A-35, Chairman Guy 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 Stout stated she reviewed the agenda and found no conflicts of interest. Commissioner Mitchell stated he reviewed the agenda and found no conflicts of interest. Chairman Guy stated he found no conflicts of interest.

I. CONTESTED CASES AND OFFERS IN COMPROMISE – 63

Chief Counsel Renee C. Metz stated there were no contested cases but asked that case number 14 be continued to the next Commission Meeting.

Commissioner Stout made a motion to follow the staff recommendation and continue case number 14. Commissioner Mitchell seconded the motion. Motion Passed.

Assistant Counsel Stacey Coley requested the Commission consider case number 6, Healy Wholesale Company. Ms. Coley explained the case was regarding a salesman and requested the Commission reduce the penalty from \$1,000.00 to \$800.00.

Commissioner Stout made a motion to follow the recommendation and reduce the penalty to \$800.00. Commissioner Mitchell seconded the motion. Motion Passed.

Mrs. Metz requested the Commission revisit case number 63, Davidson Wine Company, as the permittee was present to address the Commission. Lindsey Williams stated she had been in contact with ABC Commission attorneys and had signed the Offer in Compromise on behalf of Davidson Wine Company. Ms. Williams stated she was present to request the return of the wine previously seized, as neither she nor her attorney were able to attend the previous Commission Meeting.

Assistant Counsel Missy Welch explained Ms. Williams had completed training and the wine and labels had been approved by the ABC Commission. Mrs. Welch stated there was no objection to returning the wine to Davidson Wine Company.

Commissioner Stout asked Ms. Williams what plans were in place to ensure violations do not occur again. Ms. Williams stated Charlie Fuller of the NC ABC Commission Education Outreach Section had provided training to the staff. Mrs. Williams explained a 40-page policy and procedures handbook had been created for employees.

Ms. Williams explained she had spoken at great length with Mrs. Welch and understands the business concept is different for North Carolina. Mrs. Williams stated she would contact Mrs. Welch with any future questions regarding ABC laws.

Commissioner Stout agreed it was better to get more information up front rather than proceeding and making mistakes. Ms. Williams agreed and stated she would continue to work with Mrs. Welch and Mr. Fuller. Commissioner Stout stated this was best as second-hand information could be incorrect.

Commissioner Stout made a motion to allow the return of the previously seized wine. Commissioner Mitchell seconded the motion. Motion Passed. Chairman Guy requested Mrs. Welch continue to discuss this matter with ALE.

As no one else was present regarding a case, Mrs. Metz asked the Commission to ratify the remaining Offers in Compromise.

Commissioner Stout made a motion to ratify the remaining Offers in Compromise. Commissioner Mitchell seconded the motion. Motion Passed.

II. ABC STORE LOCATION – DURHAM COUNTY ABC BOARD

Chairman Guy recognized Administrator Agnes C. Stevens. Ms. Stevens stated on December 19, 2019, the Durham County ABC Board requested approval to build and operate an ABC Store at 5608 and 5612 NC Hwy 55 in Durham, North Carolina.

Ms. Stevens explained the property is zoned Commercial and allows for an ABC Store. Ms. Stevens added there are no personal or financial interests shared between the property owner and the Durham County ABC Board members. Ms. Stevens stated Audit Investigator Richard Thorsen conducted the investigation.

Ms. Stevens stated the nearest school, Pearisontown Elementary School, located at 4915 Barbee Road in Durham, is approximately 4.1 miles away. The nearest church, Peace Covenant Church of the Brethren located at 601 East NC-54 in Durham, is approximately 2.9 miles away. Ms. Stevens explained the nearest ABC Store is located approximately .5 miles away at 5202 NC-55 in Durham and will be closed and replaced by this proposed store. The next nearest ABC Store is located at 4005 Davis Drive in Durham approximately 5.4 miles away. It is also operated by the Durham County ABC Board.

Ms. Stevens stated the required sign announcing the ABC Board's intention to open an ABC Store was properly posted on December 10, 2019 and was witnessed by Mr. Thorsen to be in compliance on December 16, 2019. Ms. Stevens stated no objections have been received and staff recommends approval of this store. Ms. Stevens stated the General Manager, Niegel Sullivan, is present if there are any questions.

Commissioner Mitchell made a motion to approve the proposed location upon staff recommendation. Commissioner Stout seconded the motion. Motion Passed.

Mr. Sullivan thanked the Commission for the approval of the proposed store.

III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. § 18B-1116(b) – CRAFT REVOLUTION, LLC; SOUTHERN TIER BREWING COMPANY, LLC; VICTORY BREWING COMPANY, LLC; MAD SCIENTISTS BREWING PARTNERS, LLC; ARTISANAL BREWING VENTURES CHARLOTTE, LLC; AND, BOLD ROCK PARTNERS, LP (NEW)

Mrs. Metz stated the exemption requests by Craft Revolution, et al. were partially considered at the December Commission Meeting, but additional details needed to be worked out before discussing the exemption regarding Bold Rock. Mrs. Metz stated Kris Gardner of the Beer and Wine Wholesalers Association had discussions with Erin Mosley, attorney for the petitioners, regarding the exemption. Mrs. Metz added staff recommends approval of the request.

Ms. Mosley explained Craft Revolution is a parent company owning many breweries and had recently invested in Bold Rock, a cidery in Mills River. The ownership change of Bold Rock has resulted in new permits being obtained by the Mills River location, an unfortified winery permit for the cidery and unfortified wine and malt beverage on premise permits for the retail business. A Bold Rock distillery and a winery, both located in Virginia, are also wholly owned subsidiaries of Craft and intend to apply for approval to ship spirits into North Carolina and for a NC Nonresident vendor permit.

Ms. Mosely explained previously, Craft Revolution, which also owns Southern Distilling, acquired Artisanal Brewing Ventures which now holds brewery and retail permits and obtained an exemption for this concurrent ownership. With the purchase of Bold Rock, an additional exemption is necessary.

Ms. Mosely stated ABV and Bold Rock have agreed to certain conditions as recommended by ABC legal staff and suggested by Mr. Gardner. Neither ABV nor Bold Rock will open additional retail outlets in North Carolina. ABV will not exercise its wholesale distribution privilege, nor will Bold Rock. Bold Rock will not hold a mixed beverage permit, therefore will not sell the spirits of Southern Distilling or Bold Rock Distilling in its NC retail location.

ABV's retail location will limit the number of Southern Distilling and Bold Rock Distilling products it offers at its retail location. ABV will limit the number of Bold Rock Distilling products and Bold Rock products it offers at the ABV location and make sure it offers a selection of comparable products. ABV and Bold Rock will limit the number of their affiliated suppliers' products to not exceed reasonable market share. Craft suppliers will have no day-to-day operational control of the ordering of unfortified wine and malt beverage products. Such control will be with a General Manager who has no financial interest or affiliation with Bold Rock or any Craft Revolution suppliers. Bold Rock, as a NC wholesaler, will only wholesale Bold Rock winery products.

Ms. Mosely stated the terms and conditions of the July 11, 2018 and January 16, 2019 exemptions would be adhered to and any changes to locations would require additional exemptions.

As no one was present who wished to comment, Commissioner Mitchell made a motion to follow the staff recommendation. Commissioner Stout seconded the motion. Motion Passed.

IV. EXEMPTION REQUEST PURSUANT TO N.C.G.S. § 18B-1116(b) – MANIACAL BEER PROJECT, LLC; AVIATOR BREWING COMPANY, INC. d/b/a AVIATOR TAPHOUSE AND d/b/a AVIATOR BEERSHOP; GOLD LEAF DISTILLERY; AVIATOR SMOKEHOUSE, INC.; MARK DOBLE AND LIANNA DOBLE

As no one was present regarding the exemption request, Mrs. Metz explained this request is for an amendment to an exemption granted in 2017 for Aviator Brewing Company, the owners of a brewery and a retail establishment. The exemption allowed co-ownership with Gold Leaf Distillery. Mrs. Metz stated they now wish to add another brewery with shared ownership interests. Mrs. Metz explained they do not self-distribute and all alcoholic beverages will be sold through a distributor. Mrs. Metz stated staff recommends granting the exemption request amendment as it is a standard request and all conditions of the original exemption will apply.

Commissioner Mitchell made a motion to approve the exemption request. Commissioner Stout seconded the motion. Motion Passed.

V. OTHER BUSINESS

Chairman Guy confirmed with Ms. Stevens and Mrs. Metz there was no additional business and no one else was present to address the Commission. The meeting was adjourned.

Approved at the February 12, 2020 Commission Meeting

/S/ A.D. "Zander" Guy, Jr.
A.D. "Zander" Guy, Jr., Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

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