

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
AUGUST 11, 2021**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission (hereinafter “Commission”) Meeting held via teleconference at 400 East Tryon Road in Raleigh, North Carolina on August 11, 2021, beginning at 10:00 AM. The meeting was recorded, and a copy of the recording is on file at the Commission within the Legal Section.

ROLL CALL

Chairman A.D. Zander Guy, Jr. called the August 11, 2021 Commission Meeting to order and welcomed those who were joining the virtual meeting. Chairman Guy thanked the participants for their interest in the Commission and the duties it fulfills for the citizens of North Carolina.

Chairman Guy thanked the employees of the Commission for the fine job they are doing through the difficulties of the pandemic. Chairman Guy acknowledged the Commission is not yet where it wants to be, but they are working diligently. Chairman Guy announced the Commission Meetings would continue to be held virtually until otherwise notified.

Chairman Guy welcomed and commended Commissioner Karen L. Stout and Commissioner Norman A. Mitchell, Sr., stating they were a pleasure to work with. Chairman Guy explained, though they do not come into the Commission office frequently, they are communicating with the Chairman and the Commission staff daily making recommendations and helping the Commission.

MINUTES OF THE JULY 14, 2021 COMMISSION MEETING

Commissioner Stout made a motion to waive the reading of the minutes of the July 14, 2021 Commission Meeting into the record. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Commissioner Stout made a motion to approve the minutes of the July 14, 2021 Commission Meeting. Commissioner Mitchell seconded the motion. A vote was held, and the 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. Chairman Guy had reviewed the agenda stated he found no conflicts of interest. Commissioner Stout had reviewed the agenda and stated she found no conflicts of interest. Commissioner Mitchell had reviewed the agenda and stated he found no conflicts of interest.

I. HEARING CASES AND OFFERS IN COMPROMISE – 44

Chairman Guy recognized Assistant General Counsel Renee Metz regarding the cases on the agenda. Mrs. Metz stated agenda case number 1 was a contested case. Mrs. Metz explained the case was assigned to Assistant Counsel Rachel Spears and attorney Matthew Sylva had represented the permittee. Mrs. Metz stated the alleged offenses were four Executive Order violations and an after-hours violation. Mrs. Metz explained the Administrative Law Judge had issued an order for sanctions for failure to file a Prehearing Statement. Mrs. Metz stated the judge ordered a \$500.00 penalty which would be due by September 3, 2021, if the Commission so approved.

Commissioner Mitchell made a motion to follow the staff recommendation. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

Mrs. Metz asked if anyone was present regarding cases 2 through 44 and wished to address the Commission. Chairman Guy asked again, if anyone was present regarding cases 2 through 44 who wished to address the Commission. As there was no response, Mrs. Metz stated staff recommended the ratification of the remaining Offer in Compromise cases.

Commissioner Stout made a motion to ratify the remaining Offers in Compromise. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

II. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B – 1116(b) – TROLLEY BARN BREWERY, LLC AND LEGION BREWING COMPANY, LLC

Chairman Guy recognized Mrs. Metz regarding the exemption request. Mrs. Metz explained this request had been on previous agendas but had been deferred due to technical issues. Mrs. Metz stated the body of the order had not changed but now included the appropriate entities and the appropriate application or permit numbers. Mrs. Metz added, staff recommended approval of the Order of Exemption for technical changes.

Commissioner Mitchell made a motion to grant the exemption request. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B – 1116(b) – OLD AMERICAN FISH, INC. T/A AMERICAN FISH COMPANY; FRY “N” PAN, INC. T/A FRYING PAN; AND MARK BRISSON

Mrs. Metz explained the exemption request was for Old American Fish, Inc. and Fry “N” Pan, Inc. in Southport. Mrs. Metz added attorney Jennifer Morgan was on the call. Mrs. Morgan explained she was with Williams Mullen and represented Mark Brisson, Frying Pan and American Fish Company. Mrs. Morgan stated the exemption relates to Mr. Brisson’s ownership interest in the two entities. Mrs. Morgan explained Mr. Brisson wished to add a small brewery to the American Fish Company and both American Fish Company and Frying Pan were restaurants located on the Southport waterfront.

Mrs. Morgan stated the brewery would be small and it was estimated to produce ten barrels the first year. Mrs. Morgan explained Mr. Brisson had agreed to the conditions the Commission requested, including hiring an independent general manager for the two entities to handle the alcohol ordering. Mrs. Morgan stated she had discussed the request with Commission counsel.

Chairman Guy thanked Mrs. Morgan and asked if anyone had questions, and there were none.

Commissioner Stout made a motion to follow the staff recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

IV. OTHER BUSINESS

Chairman Guy explained the new warehouse contract had taken effect on July 1, 2021 and, as with any new project, there were bugs to be corrected. Chairman Guy stated the parties involved had met regarding the concerns. Chairman Guy stated he knew the difficulties would be corrected but the ABC Boards have been suffering due to the issues.

Chairman Guy stated he recommended the Commission reduce the bailment charge from \$2.75 to \$1.50 retroactively beginning on July 1, 2021 and continue for 120 days. Chairman Guy explained the bailment charge provided the funds that support the warehouse and it is paid by the Boards per case. Chairman Guy stated there had been an increase to the bailment to become effective August 1, 2021. Chairman Guy explained, as the Boards have not yet been billed for the bailment fees for the month of July, the reduction could be effective July 1, 2021. Chairman Guy requested a motion.

Commissioner Mitchell made a motion to accept the recommendation and reduce the bailment fee for 120 days beginning July 1, 2021. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

Chairman Guy again recognized Mrs. Metz. As a follow-up to the bailment reduction, Mrs. Metz explained there were two contract amendments for the Commission to approve as recommendations to the Department of Public Safety. DPS was the signatory of the contract with the vendor. Mrs. Metz added the warehouse contractor has offered to reduce some fees.

Mrs. Metz stated the first amendment would be for a four-month period, July 1, 2021 through October 31, 2021, and would provide a reduction of the per load price from \$2,350.00 to \$2,150.00. Mrs. Metz explained, on November 1, 2021, the price would revert to \$2,350.00.

Mrs. Metz stated the second amendment would provide the Boards, which have been approved to pick up their own alcohol orders from the Commission warehouse, also referred to as Hot Shot loads, a fee reduction to \$2,000.00. Mrs. Metz explained the reduction would make up for the actual use of the vendor's trucks and fuel. Mrs. Metz added the amendments were recommendations to be forwarded to DPS as contract amendments.

Chairman Guy stated, rather than address the amendment recommendations separately, the Commission would consider them together. Chairman Guy asked if there were any questions. Commissioner Mitchell requested Mrs. Metz reread the recommended amendments, and she did so. Chairman Guy explained there was still an expense for the preparation of each load, for both picking

and wrapping the spirituous liquor cases. Chairman Guy stated the vendor recognized things had not been going as smoothly as planned and wished to offer some relief to the local Boards.

Commissioner Stout made a motion to accept the recommendations regarding the amendments. Chairman Guy added the recommendation was for DPS, and DPS would have the final authority. Commissioner Mitchell seconded the motion and added he thought it was very fair. A vote was held, and the motion passed.

Chairman Guy asked Mrs. Metz and Deputy Commissioner Terrance Merriweather if there was any additional business, and they stated there was not. Chairman Guy thanked everyone for participating and stated the Commission appreciated their interest. Chairman Guy added, he may see some of the participants at the summer ABC Board Meeting and looked forward to speaking with them. Chairman Guy also thanked Director Bryan House of ALE for the fine job ALE was doing while working with the Commission regarding the alcohol-related businesses in North Carolina. Chairman Guy announced the August Commission Meeting adjourned.

Approved at the September 22, 2021 Commission Meeting

/S/ NORMAN A. MITCHELL, SR.
Norman A. Mitchell, Sr., Commissioner
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

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