

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
October 11, 2023**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission (hereinafter “Commission”) meeting held at 400 East Tryon Road in Raleigh, North Carolina, on October 11, 2023, 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 AND ANNOUNCEMENTS

Chairman Hank Bauer called the October 11, 2023, Commission meeting to order and welcomed all who were attending. Chairman Bauer also welcomed Commissioner Norman Mitchell, Sr., Commissioner La’Tanta (L.T.) McCrimmon, Assistant General Counsel Renee Metz, Assistant General Counsel Kirstin Greene, Assistant Counsel Rachel Spears and Deputy Commissioner Mike DeSilva.

CONFLICTS OF INTEREST

In compliance with N.C.G.S. §138A-35, Chairman Bauer 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. There were no conflicts or appearances of a conflict.

Chairman Bauer asked if there were any requests to make changes to the agenda. Commissioner Mitchell said there were none.

Ms. Metz reported that item 17 on the agenda, had a pending criminal case and asked that it be removed from the October agenda and added to the November agenda. Commissioner McCrimmon moved to table item 17. Chairman Bauer seconded to table item 17 and move it to the next agenda. Chairman Bauer moved to table item 17. A vote was held, and the motion passed.

Chairman Bauer stated it would be a good time to adopt the agenda for October 11, 2023. Commissioner McCrimmon moved to adopt the October 11, 2023; agenda as amended. Commissioner Mitchell seconded. It was moved and seconded that the October 11, 2023, agenda be adopted as amended.

Chairman Bauer asked if there were any questions, discussions or debates. Both Commissioner Mitchell and Commissioner McCrimmon stated there were none. Chairman Bauer stated the question is on the motion to adopt the October 11, 2023, agenda as amended. A vote was held, and the motion passed.

MINUTES OF THE SEPTEMBER 12, 2023, COMMISSION MEETING

Chairman Bauer asked the Commissioners if they had received a copy of the minutes from the September 12, 2023, meeting. Both stated they had.

Commissioner Mitchell moved to waive the reading of the minutes of the September 12, 2023, meeting. Chairman Bauer seconded the motion. A vote was held, and the motion passed.

Commissioner McCrimmon moved to approve the minutes of the September 12, 2023, meeting. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

I. HEARING CASES AND OFFERS IN COMPROMISE – 104

Chairman Bauer recognized Assistant General Counsel Renee Mets regarding item one on the agenda, the hearing of the cases.

There were 104 cases on the agenda; two were contested and one was continued. There was no one in attendance who wished to speak. Ms. Metz announced the ALJ's decision for the contested case, Border Shell. The Chairman moved to impose the ALJ's decision for Border Shell. Commissioner McCrimmon seconded the motion. Chairman Bauer moved to adopt the ALJ's decision. A vote was held, and the motion passed.

Ms. Metz asked if there was any one to speak on behalf of the second contested case, Cerro Grande Mexican Restaurant. There was no one in attendance who wished to speak. Ms. Metz announced the ALJ's decision. Chairman Bauer moved to impose the ALJ's decision for Cerro Grande Mexican Restaurant. Commissioner Mitchell seconded. A vote was held, and the motion passed.

Ms. Metz presented the remaining 103 Offers in Compromise. Chairman Bauer moved to ratify the remaining Offers in Compromise. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

II. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b)-JOLO WINERY & VINEYARDS, LLC T/A JOLO WINERY & VINEYARDS; RAYSON WINERY & VINEYARDS, LLC; RAY FAMILY HOLDINGS, LLC; JOLO BRANDS, LLC; KRISTEN RAY; and J.W. RAY

Chairman Bauer called upon Assistant Counsel Rachel Spears for an exemption request. Miss Spears explained that this exemption was for owners Kristen Ray and J.W. Ray to purchase assets owned by the wineries. There was no one present to speak on behalf of the exemption request. Miss Spears explained the conditions under which owners could abide by the exemption request, if approved.

Chairman Bauer moved to approve the exemption. Commissioner McCrimmon seconded it. Chairman Bauer presented the motion. A vote was held, and the motion passed.

III. EXEMPTION REUEST PURSUANT TO N.C.G.S. §18b-116(b)-THE WELLS BREWING, LLC T/A WHITESIDE BREWING COMPANY; NC-I RIDGELINE, LLC T/A MONTE VISTA HOTEL; and CHARLES MATTHEWS BARNWELL

Chairman Bauer recognized Assistant Counsel Rachel Spears for an exemption request. Miss Spears explained that the exemption was for Charles Barnwell, who was seeking to get retail permits for NC-I Ridgeline, LLC, T/A Monte Vista Hotel. There was no one present to speak on behalf of the exemption

request. Miss Spears explained the conditions under which Mr. Barnwell could abide by the exemption, if approved. Commissioner McCrimmon moved to grant the exemption. Commissioner Mitchell seconded the motion. Chairman Bauer asked the Commissioners if there were any questions. No questions asked. Chairman Bauer presented the motion. A vote was held, and the motion passed.

IV. ABC STORE LOCATION-MOUNT PLEASANT ABC BOARD (8455 STATE HWY 49, MOUNT PLEASANT, NC)

Chairman Bauer called upon Deputy Commissioner Mike DeSilva to summarize the investigative report for a proposed ABC store location at 8455 State Hwy, Mount Pleasant, NC 28124, which is approximately 1.4 miles away from the current location.

Mr. DeSilva stated the store would be approximately 10,000 sq. ft., with 6,000 sq. ft. utilized for retail sales and the remaining square footage would be used as warehouse space.

Mr. DeSilva stated that as of September 19, 2023, the Board had not received any objections. There was no one present with any comments or concerns. Commissioner Mitchell moved to approve Mount Pleasant County ABC Board store location. Commissioner McCrimmon seconded.

Chairman Bauer moved to adopt the motion to approve the Mount Pleasant ABC store location. A vote was held, and the motion passed.

V. REQUEST FOR DECLARATORY RULING PURSUANT TO N.C.G.S. §150B-4 AND 14B NCAC SECTION.0700- “SPLIT CASE FEES” OR BOTTLE PICKING FEES”

Chairman Bauer called upon Assistant General Counsel Kirstin Greene to present the request for declaratory ruling. Ms. Greene recognized the legal representatives for the request. Attorney Hardy Lewis was present, representing the Petitioners and Attorney Kris Gardner was present, representing interested party North Carolina Beer & Wine Wholesalers Association.

Attorney for the Petitioners, Hardy Lewis presented his argument as did Attorney Kris Gardner. Ms. Greene announced the recommendation for fees, if request is approved.

Chairman Bauer asked the Commissioners if there were any questions or discussions. Hearing none, Chairman Bauer moves to allow wholesaler distributors to recover costs associated with bottle picking service. Commissioner Mitchell seconded. A vote was held, and the motion passed.

Ms. Metz, on behalf of the parties involved with the declaratory ruling asked the Commission for clarification of the Commission’s ruling. The ruling was clarified and announced in open session. Chairman Bauer moved wholesalers/distributors may recoup costs on the cases they split (per case), not a per bottle fee. The motion was moved, and Commissioner Mitchell seconded. A vote was held, and the motion passed.

