

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
September 18, 2024**

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 September 18, 2024, 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 September 18, 2024, Commission meeting to order, introduced himself, and welcomed Commissioner La’Tanta (L.T.) McCrimmon, Commissioner David Sherlin, Deputy Commissioner Mike DeSilva, and General Counsel Stacey Carter-Coley.

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 that might create the appearance of a conflict of interest concerning any matters on the agenda. There were no conflicts or appearances of a conflict.

SEPTEMBER 18, 2024, AGENDA

Chairman Bauer asked if there were any requests to make changes to the agenda. Assistant General Counsel Kirstin Greene stated that she would like to amend the agenda to add two line-items before *Other Business*. She stated that the new line-item (V) would be *LB&B vs. NC DPS and NC ABCC – Settlement Agreement Terms*. Line-item (VI) would be *Closed Session* to discuss confidential personnel matters and line-item (VII) would be *Other Business*. Commissioner Sherlin made a motion to approve the agenda as amended. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

Chairman Bauer stated it would be an appropriate time to adopt the agenda for September 18, 2024. Commissioner Sherlin made a motion to adopt the agenda as amended. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

MINUTES OF THE AUGUST 14, 2024, COMMISSION MEETING

Chairman Bauer asked the Commissioners if they received a copy of the August 14, 2024, Commission meeting minutes and had an opportunity to review them. They stated they had. Chairman Bauer stated he received a copy as well and reviewed it.

Commissioner McCrimmon made a motion to waive the reading of the minutes of the August 14, 2024, meeting. Commissioner Sherlin seconded the motion. A vote was held, and the motion passed.

Commissioner McCrimmon made a motion to approve the minutes of the August 14, 2024, meeting. Commissioner Sherlin seconded the motion. A vote was held, and the motion passed.

I. HEARING CASES AND OFFERS IN COMPROMISE – 76

General Counsel Stacey Carter-Coley asked if there was anyone present who would like to be heard regarding any of the 76 hearing cases on the agenda. There was no response.

Mrs. Carter-Coley stated the first case, MJ Dreams Inc T/A Bronco's Food Mart, was a contested case. She summarized the case as a failure to prosecute for the charges of failure to maintain invoices, failure to maintain records and sales tickets, and failure to keep the premises clean, lit, and accessible to law enforcement. She stated the judge ordered the permittee to pay a \$1,000 fine and serve a 20-day suspension. Mrs. Carter-Coley stated that staff recommended accepting the judge's Final Decision. Chairman Bauer made a motion to accept the judge's decision regarding MJ Dreams Inc. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed. Mrs. Carter-Coley added that the Commission would be imposing a payment deadline of October 11, 2024, and a suspension date beginning October 18, 2024.

Mrs. Carter-Coley stated the second case regarding Wilson Mini Mart, Inc. T/A Wilson Mini Mart, also a contested case, was a failure to prosecute for the possession of adulterants used with the intention to defraud a drug or alcohol screening test. She stated that staff recommended following the judge's Final Decision and Order of Dismissal imposing a \$500 fine and a 5-day active suspension, with a payment deadline of October 11, 2024, and a suspension date beginning October 18, 2024. Commissioner Sherlin moved to approve the judge's decision. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

Mrs. Carter-Coley presented the third and final contested case regarding Centerview Food Corporation T/A Yaya Mini Mart. She stated that staff recommended accepting the judge's Final Decision granting a Summary Judgment that permits be revoked due to the ineligibility of the permittee to hold permits for two years, imposing a revocation date of October 11, 2024. Commissioner McCrimmon made a motion to accept the judge's decision regarding Centerview Food Corporation. Chairman Bauer seconded the motion. A vote was held, and the motion passed.

General Counsel Stacey Carter-Coley presented the remaining 73 Offers in Compromise with staff's recommendation that the Commission accept those Offers in Compromise as written. Commissioner Sherlin made a motion to accept hearing case #4 through #76 as presented. 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) – OKLAWAHA BREWING COMPANY, LLC; BLUE RIDGE BEER GARDEN, LLC; AND JOSEPH DINAN

Assistant General Counsel Renee Metz summarized this cross-tier ownership request from Oklawaha Brewing Company and Blue Ridge Beer Garden, explaining that Oklawaha Brewing Company currently holds commercial and retail permits, and Blue Ridge Beer Garden, a retail location, currently holds temporary retail permits. She explained Mr. Joseph Dinan owned 100% of Oklawaha Brewing and one-third of Blue Ridge Beer Garden. She stated that Legal Section had reviewed the petition, and if the Commission was so inclined to grant the exemption, requested that all of the standard conditions be included: Mr. Dinan shall have no day-to-day operational control of Blue Ridge Beer Garden; Blue Ridge Beer Garden shall employ one or more general managers who shall have no financial interest in Petitioner

businesses except as an employee; said general managers have exclusive authority and control over the ordering of all malt beverage products for Blue Ridge Beer Garden; if said general managers opt to purchase Oklawaha's malt beverages, the number of Oklawaha's products offered for sale shall not exceed Oklawaha's reasonable market share; and Blue Ridge Beer Garden shall offer a reasonable selection of other breweries' products at fair and reasonable prices competitive with Oklawaha's malt beverages.

Chairman Bauer made a motion to approve this exemption request. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – MONDAY NIGHT VENTURES LLC T/A MONDAY NIGHT BREWING

Assistant General Counsel Renee Metz asked if there was anyone present regarding this exemption request. She explained the Petitioner's attorney was from Greensboro, and she did not know if he sent anyone in his stead.

Hearing no reply, Mrs. Metz summarized that this was another cross-tier ownership request by Jonathan Baker, Jeffery Heck, and Joel Iverson. She stated that Monday Night Ventures LLC was a Georgia producer holding a North Carolina Nonresident Malt Beverage Vendor permit. She stated that Monday Night Ventures LLC T/A Monday Night Brewing was a North Carolina entity holding temporary Brewery, Distillery, Malt Beverage Wholesaler, Malt Beverage Special Event, Spirituous Liquor Tasting, Spirituous Liquor Special Event, On-Premises Malt Beverage, On-Premises Unfortified Wine, On-Premises Fortified Wine, and Mixed Beverages Restaurant permits. She explained that the Nonresident Malt Beverage Vendor permit, and the North Carolina retail permits were what made this exemption request necessary.

Mrs. Metz continued, stating that if the Commission was so inclined to grant this exemption, Legal Section asked that the conditions include that all malt beverage products produced by the Georgia producer shall only be shipped into North Carolina to independent third-party wholesalers. However, she stated, there were two caveats by statute: 1) Per N.C.G.S. §18B-1104(a)(4), Georgia products may be shipped to the North Carolina brewery if the products are for transshipment to another state and 2) Per N.C.G.S. §18B-1104(a)(7), Georgia products may be shipped to the North Carolina brewery if the products are for sale at the North Carolina brewery retail location. She simplified, stating that you could not ship the Georgia products to the North Carolina brewery unless they were staying there. Those products could not go to other retailers. She stated that if the products were going to a non-affiliated retailer, they would have to go through an independent North Carolina wholesaler.

Mrs. Metz concluded with the final two conditions: 1) The North Carolina brewery's Wholesaler permit is only for the purpose of selling to the brewery's retail location. All other retail locations will need to purchase from their assigned wholesalers; 2) All spirituous liquor products produced in North Carolina must comply with the distillery permit in N.C.G.S. §18B-1105 and with the bailment distribution system via the state warehouse.

Chairman Bauer made a motion to approve this exemption request. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

IV. REQUEST TO AMEND ORDER OF EXEMPTION PURSUANT TO N.C.G.S. §18B-1116(b) – SUFFOLK PUNCH HOLDINGS, LLC; NOBLE SMOKE, LLC; BOSSY BEAUT’S CHICKEN SHACK II, LLC; BOSSY BEAUT’S CHICKEN SHACK, LLC; HARRIET’S HAMBURGERS BB, LLC; GLEN D. CHERRY; AND CHARLES C. RICKS

Assistant General Counsel Renee Metz presented this request for an amendment to the exemption granted at the May 8, 2024, Commission meeting.

Mrs. Metz explained that the previous exemption request was to add Bossy Beaut’s Chicken Shack as a retail location. She stated that the owners now wanted to be involved with the ownership of Harriet’s Hamburgers, but they are not going to sell any of Suffolk Punch’s products at Harriet’s Hamburgers. Therefore, the sole purpose of the amendment would be to authorize the co-ownership with the condition that none of Suffolk Punch Holdings’ products be sold at any Harriet’s Hamburgers locations.

Chairman Bauer made a motion to approve this exemption request. Commissioner Sherlin seconded the motion. A vote was held, and the motion passed.

V. LB&B V. DPS AND ABCC (23 CVS 11378-910) – SETTLEMENT AGREEMENT TERMS

Assistant General Counsel Kirstin Greene stated pursuant to N.C.G.S. § 143-318.11(a)(3), the terms of a settlement agreement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time frame after a settlement is concluded.

Ms. Greene stated on August 23, 2024, LB&B entered a notice of voluntary dismissal with prejudice of its complaint for a declaratory judgment, breach of contract, and breach of the duty of good faith and fair dealing. She stated LB&B’s voluntary dismissal with prejudice was incident to a settlement agreement and mutual release entered by the parties and confirmed by Honorable Judge Keith Gregory on August 12, 2024.

Ms. Greene asked the Commission to consider making a motion to enter the terms of the settlement agreement and mutual release into the minutes of today’s meeting.

Commissioner Sherlin made a motion to enter the settlement terms into the minutes of the September 18, 2024, meeting. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

VI. CLOSED SESSION PURSUANT TO N.C.G.S. § 143-318.11(a)(6)

Assistant General Counsel Kirstin Greene requested the Commission move into closed session pursuant to N.C.G.S. § 143-318.11(a)(6). Chairman Bauer made a motion to move into closed session. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

VII. OTHER BUSINESS

Chairman Bauer asked if there was any other business.

Commissioner Sherlin made a motion to move the November 6, 2024, Commission meeting to November 13, 2024. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed. Staff noted the compliance dates for the November cases would be moved to December 6, 2024, for the payment deadline and suspensions would begin on December 13, 2024.

General Counsel Stacey Carter-Coley proposed meeting dates for the first quarter of 2025. She proposed January 15, 2025; February 12, 2025; and March 12, 2025. Commissioner Sherlin made a motion to adopt the first quarter 2025 meeting dates. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

Chairman Bauer asked if there was any other business. Hearing none, he adjourned the September 18, 2024, Commission meeting.

The next Commission meeting will be held Wednesday, October 16, 2024, beginning at 10:00 AM at the ABC Commission.

/S/ Hank Bauer

Hank Bauer, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

/S/ Jennifer Temple

Jennifer Temple for the Legal Section

Approved at the October 16, 2024, Commission meeting.