

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
May 8, 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 May 8, 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 May 8, 2024, Commission meeting to order, introduced himself, and welcomed Commissioner La’Tanta (L.T.) McCrimmon, Commissioner David Sherlin, Deputy Commissioner Mike DeSilva, Legal staff, and General Counsel Stacey Carter-Coley.

Chairman Bauer apologized for the air conditioning being broken, stating it was 78°F in the hearing room.

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.

MAY 8, 2024, AGENDA

Chairman Bauer asked if there were any requests to make changes to the agenda. General Counsel Stacey Carter-Coley requested to remove item #57 from the hearing cases, to be set for another date, because the permittee requested to participate in training.

Chairman Bauer made a motion to follow the agenda as presented except for #57 in the offers in compromise. Commissioner Sherlin 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 the May 8, 2024. Commissioner McCrimmon made a motion to adopt the agenda as amended. Commissioner Sherlin seconded the motion. A vote was held, and the motion passed.

MINUTES OF THE APRIL 10, 2024, COMMISSION MEETING

Chairman Bauer asked if the Commissioners if they received a copy of the April 10, 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 Sherlin made a motion to waive the reading of the minutes of the April 10, 2024, meeting. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

Commissioner McCrimmon made a motion to approve the minutes of the April 10, 2024, meeting. Commissioner Sherlin seconded the motion. A vote was held, and the motion passed.

I. HEARING CASES AND OFFERS IN COMPROMISE – 107

Before getting started, Chairman Bauer praised the Legal team for all of their hard work. Commissioners McCrimmon and Sherlin echoed the sentiment. Mrs. Carter-Coley stated it was definitely a team effort and she appreciated them as well.

Mrs. Carter-Coley stated there were 107 cases remaining, after removing #57, for the Commission's consideration regarding acceptance of the Offers in Compromise.

Chairman Bauer made a motion to accept the 107 Offers in Compromise. Commissioner Sherlin seconded the motion. A vote was held, and the motion passed.

II. EXEMPTION REQUEST PURSUANT TO N.C.G.S §18B-1116(b) – SOUTHLINE BREWING CO, INC, T/A SOUTHLINE BREWING COMPANY, ITB INSIDE THE BELTLINE INC. T/A BIG MIKES BBQ, SAUCY SWINE INC., T/A BIG MIKES BBQ AND MICHAEL MARKHAM

Chairman Bauer recognized Assistant General Counsel Renee Metz regarding this exemption request. Mrs. Metz stated Attorney John Szymankiewicz was present on behalf of his client. She explained that this was a standard exemption request where as long as they sell to no more than three retail locations, stay under 5,000 barrels, and Mr. Markham is not the manager at the retail location in charge of ordering alcoholic beverages, that she would ask the Commission to adopt this exemption request. Mrs. Metz asked Mr. Szymankiewicz if he had anything to add and he said he did not.

Chairman Bauer made a motion to accept 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) – SUFFOLK PUNCH HOLDINGS, LLS; NOBLE SMOKE, LLC; BOSSY BEAUT'S CHICKEN SHACK II, LLC; BOSSY BEAUT'S CHICKEN SHACK 3, LLC; CHARLES RICKS; AND GLEN CHERRY

Mrs. Metz stated that this request was previously in front of the Commission in February, however, this permittee was at their max capacity of retail locations so the attorney had to go back to his client to reconsider. She summarized, at this time, the permittee would like to not sell any Suffolk Punch Brewery products at any of the Bossy Beaut's Chicken retail locations, only to Noble Smoke.

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

IV. EXEMPTION REQUEST PURSUANT TO N.C.G.S §18B-1116(b) – STEPHEN PYE, SEABOARD BREWING COMPANY, LLC AND TYRELL VENTURES LLC

Mrs. Metz stated that this exemption request was a little bit different. She explained that the taproom that appears to be associated with the brewery is located in a separate building and run by a completely different corporation - Silmet, LLC runs Seaboard Taproom, but is not associated with Seaboard Brewing Company, LLC. She stated that Silmet is included in this exemption request even though it technically does not apply. She stated there are additional retail locations that this exemption is necessary for: Southend Taproom (Seaboard) and Portrait Gallery Restaurant (Tyrell). Mrs. Metz recommended approval, with the standard conditions, including an agreement between the permittees that even though Silmet is not an affiliated location as in ownership, they would be one of the three retail locations where the products will be sold.

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

V. REVIEW OF PUBLIC COMMENTS FOR 15C – FINAL DETERMINATION BY ABC COMMISSION

Chairman Bauer again recognized Assistant General Counsel Renee Metz.

Mrs. Metz stated, as discussed at the February 2024 Commission meeting, the General Assembly requires every state agency to perform a 10-year periodic review of their rules to determine whether they are necessary or unnecessary. She stated that, in February, the initial determination by the Commission was that all rules in Chapter 15C are necessary.

Mrs. Metz continued, stating there was a public comment period between February 23, 2024, to April 26, 2024. She revealed that we did not technically receive any public comments pursuant to statute, because there was no opposition, but we did hear from the North Carolina Beer & Wine Wholesalers Association who agreed with the Commission's assessment that the rules in 15C are necessary. Mrs. Metz concluded by asking the Commission to make a final determination that all rules in 15C are necessary.

Chairman Bauer moved that all rules in Chapter 15C are necessary. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

**VI. ABC STORE LOCATION – WAYNE COUNTY ABC BOARD
(2742 US Highway 70 West, Goldsboro, NC)**

Chairman Bauer recognized Deputy Commissioner Mike DeSilva to summarize the investigative report for the proposed location. Mr. DeSilva stated on January 31, 2024, the Wayne County ABC Board requested approval from the Commission to purchase property and build a new building to operate an ABC Store at 2742 US Highway 70 West, in Goldsboro, NC. This would be a relocation of the current store located at 2924D US Highway 70 West, in Goldsboro, NC. If approved, the Board intends to open the new store in June 2025 and close the existing store at that time.

Mr. DeSilva summarized the proposed location, zoning, property ownership, and building information. He stated that all ABC requirements had been met and there were no public comments or objections received

regarding the new location. Mr. DeSilva asked the Commission to consider the information shared and stated that General Manager Darnay Barefoot was present to answer any questions.

Chairman Bauer asked if the Commissioners had any questions. They both stated they did not.

Chairman Bauer made a motion to approve the Wayne County ABC store location. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

VII. SOUR GRAPES V. VINUM USA, INC. – MOTION TO RECONSIDER AND TO MAINTAIN STATUS QUO

Assistant General Counsel Renee Metz introduced this item. She stated this is a wine franchise case where there is disagreement over whether there was standing for the supplier to issue a termination letter to the wholesaler. She stated that there were some questions of interpretation of the letter in assigning Vinum as the brand agent who could then appoint a wholesaler. She explained that Vinum interpreted it one way and Product staff interpreted it a different way. Mrs. Metz stated the question is whether, at the time of the termination letter from Vinum to Sour Grapes, Vinum actually had ownership possession of the brands being terminated. Mrs. Metz concluded saying this issue has been going on for about a year. She stated there is a lawsuit filed with OAH as well as a pending federal case.

Mrs. Metz invited attorney Eric C. Williams of Allen Stahl & Kilbourne, PLLC to present arguments for the petitioner, Sour Grapes. Attorney Jennifer Morgan of Williams Mullen then presented arguments for Vinum. Once concluded, Mrs. Metz stated her opinion on behalf of ABC Legal stating that because there were no products, especially those at issue with Sour Grapes, that were registered with Vinum as the supplier until January of 2024, Vinum did not have standing in October of 2022 to terminate Sour Grapes.

Chairman Bauer stated that he believed that Vinum did not have proper standing and made a motion to reconsider and to maintain status quo. Commissioner McCrimmon seconded the motion. A vote was held, and the motion passed.

VIII. CLOSED SESSION

Chairman Bauer recognized General Counsel Stacey Carter-Coley, who asked the Commission, according to N.C.G.S. §143-318(a)(3), to move into closed session for the authorized purpose of discussing the existing litigation of LB&B v. NC DPS and the NC ABC Commission, filed in Wake County Superior Court.

CLOSED SESSION

IX. OTHER BUSINESS

Chairman Bauer reopened the session and asked if there was any other business.

General Counsel Stacey Carter-Coley and Deputy Commissioner Mike DeSilva stated they had no other business.

Chairman Bauer stated the next Commission meeting would be held Wednesday, June 5, 2024, beginning at 10:00 AM at the ABC Commission.

Chairman Bauer adjourned the May 8, 2024, commission meeting.

Minutes adopted at the June 5, 2024 Commission meeting.

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

Respectfully submitted by,

/S/ Jennifer Temple
Jennifer Temple for the Legal Section