

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
NOVEMBER 16, 2022**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission (hereinafter “Commission”) meeting held at 400 East Tryon Road in Raleigh, North Carolina, via teleconference, on November 16, 2022, 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 November 2022 Commission meeting to order and welcomed those who were attending. Chairman Bauer introduced himself; Commissioner Norman Mitchell, Sr., and Commissioner Karen Stout, who were both joining the meeting virtually; Deputy Commissioner Mike DeSilva; and General Counsel Stacey Carter-Coley.

Chairman Bauer wished everyone an early happy Thanksgiving and mentioned his upcoming one-year anniversary with the Commission. He took a moment to highlight some of the groups who supported him during his first year. He thanked the Board Association and General Managers for their support. He stated that the stores were well merchandised, and sales volume was very strong. He pointed out their unified goal of running the Commission like a business versus like a state agency so the Commission could return hundreds of millions of dollars back to the state every year. He thanked LB&B for their continued success of delivering significantly more product than the Commission was selling in the marketplace. He admitted that it’s been a challenge with the undersized warehouse and lack of technology. He thanked brokers and suppliers. Chairman Bauer stated when he started with the Commission, there was 60 million dollars’ worth of inventory in state warehouse, which equals about 400,000 cases. He said in the last two months, the warehouse held over 100 million dollars in inventory or a little over 900,000 cases. He thanked them for getting us the product we need to be successful in North Carolina.

MINUTES OF THE OCTOBER 12, 2022 COMMISSION MEETING

Chairman Bauer requested a motion to waive the reading of the minutes of the October 12, 2022 Commission meeting into the record. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Chairman Bauer requested a motion to approve the minutes of the October 12, 2022 Commission meeting. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

CONFLICTS OF INTEREST

In compliance with N.C.G.S. §138A-35, entitled Other Rules of Conduct, 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. Chairman Bauer stated he had reviewed the agenda and found no conflicts. Commissioner Mitchell and Commissioner Stout also stated they found no conflicts.

I. HEARING CASES AND OFFERS IN COMPROMISE – 79

Chairman Bauer recognized General Counsel Stacey Carter-Coley regarding item one on the agenda, the hearing of the cases.

Mrs. Carter-Coley requested number twenty (20) on the agenda, Burnt Mill Creek, be removed and continued to the next agenda to give the permittee an opportunity to complete training. She stated that a motion would be appropriate at this time. Commissioner Stout made a motion to remove this item from the agenda. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Mrs. Carter-Coley presented the remaining seventy-eight (78) offers in compromise for consideration.

Chairman Bauer asked if there was anyone who would like to address the Commission regarding any of the offers in compromise on November's agenda. He repeated the inquiry once more.

Anthony Moore spoke, asking if the offers in compromise included the new proposed store location on the agenda. Chairman Bauer replied that it did not.

Mrs. Carter-Coley stated that staff requested the Commission ratify the remaining seventy-eight (78) offers in compromise as presented. Commissioner Mitchell made a motion to approve staff's recommendation and ratify the seventy-eight (78) offers in compromise. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

II. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – CABARRUS BREWING COMPANY, LLC; PLANT 6 PROVISIONS, LLC; STEVEN STEINBACHER; SUB 25% HOLDING INDIVIDUALS AND ENTITY

For item two on the agenda, an exemption request, Chairman Bauer again called upon General Counsel Stacey Carter-Coley.

Mrs. Carter-Coley explained this request was for an exemption based on joint ownership by Steven Steinbacher of Cabarrus Brewing Company, which holds brewery (T/A Cabarrus Brewing Company), winery (T/A Gibson Mill Ciderworks), and retail permits (at the brewery, at Depot Deli, and a retail application to be submitted via Plant 6 Provisions T/A Market Bar). Mrs. Carter-Coley asked if there was anyone present who would like to speak regarding this request.

Attorney Hardy Lewis of Blanchard, Miller, Lewis & Isley, P.A. spoke on behalf of the petitioner. He stated he was there to request consideration for an order granting his client's petition for cross tier ownership under N.C.G.S. §18B-1116(b). He stated Mr. Steinbacher and his group were a part of a development in Concord called Gibson Mill. He explained that it was an adapted reuse project of a 19th century textile mill. Mr. Lewis stated that his client's group had several things going on in the development. They have a brewery with a tap room, a small deli restaurant, and Gibson Mill Ciderworks. Mr. Lewis continued stating under Plant 6 Provisions his client has contracted with the facility to operate the alcohol concession at the food hall to serve to people at various restaurants within that area. He explained that this ownership outside the Cabarrus Brewing Company umbrella required an exemption under N.C.G.S. §18B-1116(b). Mr. Lewis mentioned, according to the statute, Plant 6 Provisions would not be allowed to offer Cabarrus Brewing Company products at the food hall, which was frustrating. He stated there were no red flags in terms of the tied house issue because the petitioner would not be allowed to sell their products at the Market Bar. Mr. Lewis respectfully asked for his client's continued participation in this venture and this petition be granted.

Mrs. Carter-Coley stated staff reviewed the petition and recommended approval with the conditions of (1) Plant 6 Provisions would not sell any of Cabarrus Brewing Company's malt beverage products at Market Bar, (2) Plant 6 Provisions would have one or more general managers, who were not petitioners, who would manage day-to-day operational control and the ordering of wine products and (3) Plant 6 Provisions would offer a reasonable selection of non-Gibson Mill Ciderworks' products. She concluded by stating staff recommended granting the exemption based on these and other standard conditions imposed on previous petitioners.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Commissioner Mitchell made a motion to approve staff's recommendation. 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) – GHOSTFACE BREWING, LLC; SLICES AND PINTS, LLC DBA/ DAVIDSON PIZZA COMPANY; GHOSTFACE BREWING, LLC DBA/ SCRATCH KITCHEN BY GHOSTFACE BREWING; AND MICHAEL CUDDY

Chairman Bauer recognized General Counsel Stacey Carter-Coley to present item three on the agenda, another exemption request.

Mrs. Carter-Coley explained this was a joint ownership exemption request including Ghostface Brewing, LLC (retail, commercial); Scratch Kitchen by Ghostface Brewing (retail), Slices & Pints (retail application to be filed); and Michael Cuddy. She asked if there was anyone present who would like to speak on behalf of the petitioners.

Attorney John Szymankiewicz spoke on behalf of Ghostface Brewing and Michael Cuddy. He explained Ghostface Brewing, LLC had two locations – a brewery/retail location along with another retail location doing business as Scratch Kitchen by Ghostface Brewing. He stated his client was looking to open a third location under a different LLC. He stated the new corporation would not be wholly owned by Ghostface Brewing, LLC, but rather would have common ownership with two owners of Ghostface Brewing, LLC. Mr. Szymankiewicz requested the Commission grant the request to allow Slices & Pints to count as one of the allowable retail outlets under Ghostface Brewing moving forward.

Mrs. Carter-Coley stated that Legal Section staff reviewed the petition and recommended granting the exemption with the following conditions of (1) Scratch Kitchen and Slices & Pints would have one or more general managers, who were not petitioners, who would manage day-to-day operational control and the ordering of malt beverage products, and (2) Scratch Kitchen and Slices & Pints would offer a reasonable selection of non-Ghostface Brewing products. Mrs. Carter-Coley stated staff recommended granting the exemption based on these and other standard conditions imposed on previous petitioners.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Commissioner Stout made a motion to adopt staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

IV. EMPLOYEE EXEMPTION PURSUANT TO N.C.G.S. §18B-201(a)

Chairman Bauer recognized Mrs. Carter-Coley regarding number four on the agenda, an employee exemption request. Mrs. Carter-Coley yielded the floor to Assistant General Counsel Renee Metz.

Mrs. Metz explained this request was an employment exemption request from Edwin Strickland, employed within the Audit Section of the Commission. She stated there was a prohibition in N.C.G.S. §18B-201(a) preventing any commissioners or employees from having any sort of financial interest in any location which upholds an ABC permit. She summarized that Mr. Strickland was a member of the Loyal Order of Moose Greensboro Lodge 685 and they have asked Mr. Strickland to step into the voluntary role of chaplain due to the unexpected resignation of the prior chaplain. She stated this exemption would allow Mr. Strickland to vote as a member of the board, but he would have absolutely no control or part of day-to-day activities or service or sales of alcoholic beverages.

Based on the allowance in N.C.G.S. §18B-201(a), Mrs. Metz stated the financial or potential financial interest for Mr. Strickland was so remote or insignificant that it was unlikely to affect his official actions as an auditor within the Commission. Mrs. Metz asked the Chairman and Commissioners for consideration for granting the exemption allowing Mr. Strickland to be chaplain for the Greensboro Lodge 685.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Commissioner Stout made a motion to accept staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

**V. ABC STORE LOCATION – WARSAW ABC BOARD
(2715 WEST NC 24 HIGHWAY, WARSAW, NC)**

Chairman Bauer recognized Deputy Commissioner Mike DeSilva to present item five on the agenda, a request for approval of a new ABC store location by the Warsaw ABC Board.

Mr. DeSilva announced the Commission was conducting further due diligence regarding this request and anticipated completing its work and being ready to present the information obtained at the next Commission meeting. Mr. DeSilva asked if there was anyone who would like to comment.

Nicole Mobley addressed the Commission regarding letters of petition submitted to the Board. She aired her concern that an ABC store at this proposed location would potentially drive up fatalities and accidents. She also mentioned, to her knowledge, there was not a public hearing notice in the paper. She requested the Commissioners review the emails, information, letters, and signatures which were submitted. She concluded by stating there was already another ABC store in the area that would remain open. She recommended the Commission deny this proposed store location.

Donald Myers, who lives close to the proposed area, spoke stating the proposed location was on the side of Interstate I-40 in a rest area. He stated the traveling public made up 90-95% of the public in this area. He stated that he recently read the death rate from alcohol related accidents was higher this year and repeated he was opposed to the store in an area where 90-95% of the traffic consisted of the traveling public.

Deputy Commissioner DeSilva confirmed receipt of documents mentioned by Ms. Mobley and Mr. Myers and thanked them for their comments. Mr. DeSilva repeated the Commission's decision to conduct further investigation and recommended a motion to continue this issue to the next meeting date.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Chairman Bauer requested a motion. Commissioner Stout made a motion to continue until further investigation can be done. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

VI. WAREHOUSE CONTRACT REVIEW REQUEST

Chairman Bauer stated that item six was a request to review the warehouse contract with LB&B Associates, Inc. (hereinafter "LB&B"). He asked Deputy Commissioner Mike DeSilva to present this item.

Mr. DeSilva stated staff needed more time regarding the warehouse contract requests from LB&B. He stated the Commission was working with LB&B leadership and LB&B legal to answer questions and obtain further details. Mr. DeSilva stated he anticipated being ready to present this request to the Commission at its next meeting.

Anthony Moore, property owner near proposed Warsaw ABC store location, interjected citing technical difficulty during the previous agenda item. Chairman Bauer stated that the item was continued and welcomed Mr. Moore to speak at the next Commission meeting. Mr. Moore apologized for the interruption.

Deputy Commissioner DeSilva repeated his request for a continuance regarding the warehouse contract issue.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Chairman Bauer requested a motion. Commissioner Stout made a motion to continue this issue until the next Commission meeting. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

VII. OTHER BUSINESS

Chairman Bauer asked Mrs. Carter-Coley and Mr. DeSilva if there was any additional business.

Mrs. Carter-Coley requested Commission meeting dates for February through April of 2023. She proposed February 8, 2023 at 10:00 AM; March 15, 2023 at 10:00 AM; and April 12, 2023 at 10:00 AM.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Chairman Bauer requested a motion. Commissioner Mitchell made a motion to adopt staff's recommendation. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

Chairman Bauer announced that the next ABC Commission meeting would be held virtually on Wednesday, December 14, 2022.

Chairman Bauer requested a motion to adjourn the November 2022 Commission meeting. Commissioner Mitchell made a motion for adjournment. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

Approved at the December 14, 2022 Commission Meeting.

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

Respectfully submitted by,

 /S/ Jennifer L. Temple
Jennifer L. Temple for the Legal Section