

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
July 12, 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 July 12, 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 July 12th, 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, General Counsel Stacey Carter-Coley and Director of Product and Pricing Greg Stallings, who was standing in for Deputy Commissioner Mike DeSilva.

Chairman Bauer announced June sales were up 11.8 % in dollar sales over June of 2022. Because our fiscal year ended on July 1, 2023, Chairman Bauer stated that we finished the year up 7.87 % in dollar sales, estimated contributions to the general fund were close to \$533,000,000.00, and total contributions were estimated at \$757,000,000.00. He thanked the boards and suppliers for their support this year and added not only do we do a great job in controlling the alcohol sales in NC, but we also generate a lot of money for the citizens of NC.

MINUTES OF THE JUNE 14, 2023, COMMISSION MEETING

Chairman Bauer requested a motion to waive the reading of the minutes of the June 14, 2023, Commission meeting into the record. Chairman Bauer made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Chairman Bauer made a motion to approve the minutes of the June 14, 2023, Commission meeting. Commissioner McCrimmon 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 or appearance of a conflict. Commissioner McCrimmon found no conflicts or appearance of a conflict. Commissioner Mitchell also stated he found no conflicts or appearance of a conflict.

I. HEARING CASES AND OFFERS IN COMPROMISE – 69

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

Mrs. Carter-Coley started off by introducing the newest staff member to the legal department, Marilyn Smalls. She was welcomed by all.

Mrs. Carter-Coley then addressed hearing case #1 on the agenda, a contested case for Greens Market located in Hickory, NC. This case involved a violation for allowing consumption on an off-premises only establishment. She stated the OAH judge ruled that there was clear and convincing evidence of a violation and imposed a \$500 penalty along with a 15-day suspension. Mrs. Carter-Coley requested the adoption of the decision of the OAH judge and requested the fine be due on August 4, 2023, and the suspension begin on August 11, 2023. Chairman Bauer asked the commissioners if they had any questions. There were no questions. Chairman Bauer made a motion to adopt staff's recommendation and impose the decision by the OAH judge. Commissioner McCrimmon seconded the motion. A vote was held, the motion passed.

Mrs. Carter-Coley presented the remaining 68 Offers in Compromise and asked if there was anyone present who wished to be heard regarding any of the cases on the agenda. She asked a second time and hearing no response, she stated staff recommended ratifying the remaining Offers in Compromise.

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

II. REQUEST TO REVISIT HEARING CASE #54 FROM THE JUNE 2023 AGENDA, SOBHI CORP. T/A STOP N SHOP 7TH STREET

Mrs. Carter-Coley then requested to revisit a Final Agency Decision from last month's agenda. The permittee signed the Offer in Compromise in error and was now requesting the Final Agency Decision to be rescinded. She stated staff was in support of this request to rescind as it would allow them the opportunity to reopen the case and precede on the amended violations. Mrs. Carter-Coley stated there were two representatives from this business. Permittee Hameed Algazali along with his son were both present. Mr. Algazali's son stated that his father started the LLC and dissolved the corporation without knowing they needed to apply for a new license. They received a violation that the corporation was dissolved. The day they received the violation, they came here to the ABC building and was told two things: 1) They could reapply for a new permit or 2) reinstate the corporation. Mr. Algazali stated he went the same day and requested the reinstatement of the corporation. He said that the process took longer after Covid, but the corporation was reinstated. Mr. Algazali and his son requested that they be allowed to continue with the same corporation and same owner, rather than completely cancelling their permits and applying for new ones.

Chairman Bauer thanked him for attending. Mrs. Carter-Coley stated that staff was in support of rescinding the FAD from last month's meeting and reinstating the case for further negotiation.

Chairman Bauer asked if the Commissioners had any questions. Hearing none, Chairman Bauer made a motion to approve the decision by staff. Commissioner Mitchell seconded the motion. A vote was held, the motion passed.

III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – GOMO, LLC T/A VOODOO BREWING CO.

Chairman Bauer again called upon General Counsel Stacey Carter-Coley to address the exemption request. Mrs. Carter-Coley yielded the floor to Assistant Counsel Rachel Spears to present this exemption request.

Ms. Spears stated this was a request for an exemption pursuant to N.C.G.S. §18B-1116 based on a commercial permittee's indirect financial interest in a retail establishment via a 19% ownership interest in the licensing company of this franchise. Ms. Spears stated Mr. Hardy Lewis was present to be heard on the matter. Mr. Hardy Lewis, a Raleigh lawyer, introduced himself as he was representing GoMo LLC. Mr. Lewis stated GoMo was a NC limited liability company that was based in Henderson County, but they were developing a restaurant in Buncombe County, outside of Asheville. He stated GoMo had a contract in place with a trademark licensing company out of Pennsylvania called Voodoo Licensing for GOMO in Arden to operate a restaurant called Voodoo Brewing. Mr. Lewis asked for the exemption due to a possible indirect supplier connection. He stated in Meadville, Pennsylvania there was a company called Voodoo Brewing Company which owned 19% interest in the Voodoo licensing company. The franchising agreement did not give the licensing or brewing company any say in what GOMO offers to its customers.

Due to the cross ownership at 19% between the franchising and brewing company, he decided it was best to bring it to the meeting to be sure all terms were met. Mr. Lewis stated he spoke with Ms. Metz and the recommendation was that he seek an exemption under the conditions that 1) there would be complete autonomy over the choice of brand offerings, 2) the purchase of any and all Voodoo Brewing products will be from an independent third-party NC permitted wholesaler, and 3) the offerings to the public by his client GoMo would be a cross section that would reflect market shares. He asked that the commission respectfully grant this exemption.

Ms. Spears stated that the legal section staff reviewed the petition and recommended granting the exemption with the following conditions as laid out in the proposed order:

1. The licensing agreement between **Retailers** and **Licensing Company** shall not require **Retailers** to sell any malt beverage products produced by **Brewery**.
2. If **Retailers** choose to sell **Brewery's** products, the number of **Brewery's** malt beverage products offered for sale among the total selection of malt beverage products at **Retailers** shall not exceed **Brewery's** reasonable market share.
3. Furthermore, if **Retailers** choose to sell **Brewery's** products, those products must be purchased through an independent third-party wholesaler licensed in North Carolina.
4. **Retailers** shall offer a reasonable selection of other breweries' products for sale at fair and reasonable prices which are competitive with any comparable malt beverages produced by **Brewery**.

Charmain Bauer made the motion to adopt staff's recommendation. Commissioner McCrimmon seconded the motion. A vote was held, and the motion was passed.

IV. ABC STORE LOCATION – BOILING SPRING LAKES ABC BOARD (3148 GEORGE II HIGHWAY SOUTHEAST, SOUTHPORT, NC)

Chairman Bauer recognized Director of Product and Pricing Greg Stallings to present item four on the agenda. He stated this was a request for approval of a new ABC store location in Boiling Spring Lakes by the Boiling Spring Lakes ABC Board.

Mr. Stallings stated on May 3, 2023, the Boiling Spring Lakes ABC Board requested approval from the Commission to purchase and renovate an existing building to operate a new ABC store at 3148 George II Highway Southeast in Southport, NC. He reported the new store would replace the existing store located at 3130 George II Highway Southeast, Southport which was 295 feet away. The new store would provide increased retail and warehouse space and would better serve the community.

Mr. Stallings stated Commission Investigator Christine Leiby compiled the information for the investigative report, and Boiling Springs Lake ABC Board Chairman Eugene Floravante and General Manager Jaime Stevens provided the information therein.

Mr. Stallings stated Commission staff verified using the Brunswick County GIS website that the land is designated for commercial use. Gordon Hargrove, City Manager for the City of Boiling Spring Lakes, provided a letter stating the Commissioners and City staff agreed with the relocation of the ABC store.

Mr. Stallings stated the property was listed in the Register of Deeds as owned by Thomas A. Wilson and Sandra H. Wilson. He stated the Boiling Spring Lakes ABC Board signed an offer to purchase contract with Thomas Wilson and Sandra H. Wilson. The purchase price would be \$600,000.00 plus an additional \$300,000.00 in estimated renovation costs. He stated the purchase price and renovation costs would come from a bank loan and then would be paid back as a mortgage payment from the operation of the new store. If approved, the old store would close upon the opening of the new store. Mr. Stallings stated there was no shared personal or financial interests between property ownership and any of the board members. All board members provided financial disclosures as requested.

Mr. Stallings stated the proposed new location would consist of approximately 4886 square feet, of which 2980 square feet would be dedicated to the retail sales area and 1906 square feet would be dedicated to warehouse, storage, and restrooms space. The General Manager, Ms. Jaime Stevens, did not anticipate having a loading dock at the back of the designated warehouse area due to the configuration of the building. Mr. Stallings stated the Board would obtain a forklift and/or pallet jack for the location to allow more cost efficient and timely unloading.

Mr. Stallings described the area stating the nearest education building was Communities In Schools of Brunswick County, located approximately 0.3 miles away. South Brunswick Middle School was located approximately 1.8 miles away. He stated the nearest churches were New Creations Worship Center in Southport and First Baptist Church of Boiling Springs Lake, both approximately 0.2 miles away. He added

the nearest ABC store was located 295 feet away, which would close upon the opening of the new store. The next closest store was located approximately 7.9 miles away.

On May 2, 2023, a sign announcing the board's intentions of opening an ABC store was placed at the location. Commission Investigator Christine Leiby witnessed the sign and confirmed its compliance with ABC rules on May 25, 2023. There have been no comments or objections to the store.

Mr. Stallings concluded that according to N.C.G.S. §18B requirements, all elements had been satisfied. He stated staff recommended the Commission consider the information shared today.

Chairman Bauer asked if the Commissioners had any questions. They both stated they did not. Commissioner Mitchell stated he did have a comment. He stated this was the first time he had ever seen such a detailed report and thanked Mr. Stallings.

Chairman Bauer made a motion to adopt (or approve) staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

V. OTHER BUSINESS

Chairman Bauer asked Mrs. Carter-Coley and Mr. Stallings if there was any additional business to be heard. Mrs. Carter-Coley recommended the Commission approve the new proposed meeting dates of October 11, 2023; November 8, 2023; and December 13, 2023.

Chairman Bauer made a motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Chairman Bauer stated the next Commission meeting would be held Wednesday, August 16, 2023, beginning at 10am at the ABC Commission.

Chairman Bauer asked for a motion for adjournment of the July 12, 2023, meeting. Commissioner Mitchell seconded the motion. A vote was held, the motion passed. The meeting adjourned.

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

Respectfully submitted by,

/S/ Marie Harris
Marie Harris for the Legal Section