

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
MAY 11, 2022**

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

Chairman Hank Bauer called the May 2022 Commission meeting to order and welcomed those who were participating. Chairman Bauer introduced himself; Commissioner Norman Mitchell, Sr. and Commissioner Karen Stout, who were both joining the meeting virtually; Deputy Commissioner Terrance Merriweather; and General Counsel Stacey Carter-Coley.

Chairman Bauer took a moment to thank the ABC Boards for a great April. He stated that they were up against big numbers from last year and still finished at a 6.1% increase in sales. Chairman Bauer commented that this did not happen by accident. He stated that he has been out in the market seeing stores being reset, remodeled and new stores being opening. He thanked the Boards for their investment back into the system. He announced this year’s sales were up 9.75% so far.

Chairman Bauer continued that he was excited about mandatory mixed beverage delivery which will begin July 1, 2022. He stated that, so far, only 10 Boards had applied for a hardship exemption. He commended the Boards for stepping up and committing to mixed beverage customers and to do the job we need to starting July 1, 2022. He repeated his thanks to the Boards for a great April and stated he was looking forward to kicking-off mandatory delivery beginning July 1, 2022.

MINUTES OF THE APRIL 13, 2022 COMMISSION MEETING

Chairman Bauer requested a motion to waive the reading of the minutes of the April 13, 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 April 13, 2022 Commission meeting. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

CONFLICTS OF INTEREST

As required by N.C.G.S. §138A-35, 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 Stout and Commissioner Mitchell also stated they found no conflicts.

I. HEARING CASES AND OFFERS IN COMPROMISE – 45

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

Mrs. Carter-Coley stated that there were no contested cases on the May agenda and presented 45 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 the May agenda. He repeated the inquiry twice more.

Hearing no response, Mrs. Carter-Coley stated that staff recommended the Commission ratify the offers in compromise as presented. Commissioner Stout made a motion to ratify the offers in compromise. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

II. AMENDED EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – MASON JAR TAVERN, INC. (GRANTED JUNE 2021)

Chairman Bauer recognized Mrs. Carter-Coley regarding item two, an amendment to an exemption granted at the June 2021 Commission meeting.

Mrs. Carter-Coley stated that after an earlier conversation between the parties and Commission staff, she recommended this matter be continued to the June Commission meeting agenda.

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) – CHRIS GROFF, KERRY POWELL, JD CONLEY, OAKLYN SPRINGS SERVICES, LLC AND OAKLYN SPRINGS BREWERY, INC.

Chairman Bauer stated item number three on the agenda was another exemption request and again recognized Mrs. Carter-Coley.

Mrs. Carter-Coley asked if there was a representative for the parties in attendance who would like to present the facts regarding this request.

Attorney John Szymankiewicz spoke for his clients stating this exemption request was to approve common ownership between two separate LLCs. He stated his clients opened a new retail location, in addition to their original brewery location, setting it up as a separate LLC due to tax and other business reasons. He asked that the new retail location be counted among the allowable retail outlets for the brewery.

Mrs. Carter-Coley stated that Legal Section had reviewed the petition and requested the exemption order include the following standard conditions: someone other than the individual petitioners shall be the day-to-day managers at the retail location; the number of products at the retail location shall not exceed the brewery's reasonable market share; and a good faith effort shall be made to offer a selection of other brewery's products at fair and reasonable prices competitive with any comparable malt beverage

produced by the brewery. Mrs. Carter-Coley concluded that staff recommended granting the exemption with these conditions.

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.

IV. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – LEGION BREWING COMPANY, LLC; TROLLEY BARN BREWERY, LLC; LEGION WEST MOREHEAD, LLC; LEGION CAPITAL TOWERS, LLC; LEGION BREWING HOLDINGS, LLC; PBNC, LLC; B&D LEGION HOLDINGS, LLC AND PHIL C. BUCHY IV

Chairman Bauer recognized Mrs. Carter-Coley regarding item number four on the agenda, another exemption request. Mrs. Carter-Coley asked if there was a representative in attendance for the requesting party, to please introduce themselves and present the facts in their request for the exemption.

Attorney John Szymankiewicz spoke, stating that he represented the parties in this matter as well. He summarized that this matter involved a third and fourth location, individually owned by separate LLCs, all with common ownership. He stated that there was a previous exemption on record for this situation. Mr. Szymankiewicz explained that the parties had recently reorganized their corporate structure inserting a holding company LLC in between the individual LLC ownerships. The now four locations are owned by a single holding company. The holding company has the same ownership structure as the previous four individual LLCs. The individuals in control or the individuals having ownership interest in the individual locations has not changed. The parties just added a separate holding company in between. Mr. Szymankiewicz requested that the Commission approve this exemption.

Mrs. Carter-Coley stated that Legal Section reviewed the petition and asked that the exemption order include the condition for day-to-day operations at the affiliated retail locations be conducted by someone other than the individual petitioner in addition to the other standard conditions of the previous order. Mrs. Carter-Coley concluded that staff recommended granting the exemption with these conditions.

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.

V. ADVERTISING AGREEMENT APPROVAL – R. H. BARRINGER DISTRIBUTING COMPANY, INC. AND THE HOLLY SPRINGS SALAMANDERS FOR ADVERTISING AT TING STADIUM

Chairman Bauer recognized General Counsel Stacey Carter-Coley to present item five on the agenda, an advertising agreement approval.

Mrs. Carter-Coley stated that this matter was a request for an exemption for an advertising agreement between R. H. Barringer Distributing Company, Inc., the Holly Springs Salamanders baseball team, and Ting Stadium, the venue where the Salamanders play home games. She stated that there was a retail permittee within the stadium which led to the need for this exemption.

Mrs. Carter-Coley stated that staff recommended the exemption be granted with the standard conditions including: the concessionaire remain independent regarding decisions of which alcoholic beverages are

ordered and the placement of point-of-sale materials, no monies or fees paid by Barringer to the team and/or the stadium shall go to any retail permittee, and all advertising benefits must be specified in the agreement which must be submitted to the Commission within 30 days of execution and prior to any payments.

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.

**VI. ABC STORE LOCATION – GREENE COUNTY ABC BOARD
(420 KINGOLD BOULEVARD, SNOW HILL, NC)**

Chairman Bauer recognized Deputy Commissioner Terrance Merriweather to present item number six on the agenda, a request by the Greene County ABC Board for approval of a new store location.

Mr. Merriweather stated that staff requested additional time to complete the investigation regarding this location and asked that this matter be moved to the next Commission meeting.

Chairman Bauer made a motion to continue this matter to the June 2022 Commission meeting. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

**VII. ABC STORE LOCATION – GREENSBORO ABC BOARD
(307 PISGAH CHURCH ROAD, SUITE A-E, GREENSBORO, NC)**

Chairman Bauer again recognized Mr. Merriweather to present item seven on the agenda, a request by the Greensboro ABC Board for approval of a new store location.

Mr. Merriweather summarized that on April 4, 2022, the Greensboro ABC Board requested approval from the Commission to lease the property and operate an ABC store at 307 Pisgah Church Road in Greensboro, NC. He stated that ABCC Audit Team Leader Edwin Strickland coordinated with Greensboro ABC Board General Manager Nigel Sullivan to gather information for the investigation. Per Mr. Sullivan, the purpose of this location would be to close another location currently being operated approximately 500 feet away. The Board would like to open the new location in the first quarter of 2023.

Mr. Merriweather stated that the property was zoned Plan Unit Development (PUD) and Commercial which would allow for an ABC store. He continued stating the property was owned by Koury Corporation who's representative verified there is no shared interest between the property ownership and the Greensboro ABC Board. All board members have provided their financial disclosures as requested.

The building is approximately 7,200 square feet, of which the Board would like to use 60% for retail space and 40% for storage.

The nearest school is Canterbury School, located approximately one mile away at 5400 Old Lake Jeanette Road. The nearest church is Hillcrest Baptist Church, located 0.3 miles away at 3920 Baylor Street. The nearest ABC store is currently less than 500 feet away at 403 Pisgah Church Road which would be replaced if approved. The next nearest ABC Store is located approximately 3.3 miles away at 2417 Lawndale Drive and operated by the Greensboro ABC Board.

A public notice sign was posted at the location on March 31, 2022 as requested and was witnessed by ABCC Audit Team Leader Edwin Strickland on April 7, 2022. There were two objections to the location, but after reviewing the overall investigation, Mr. Merriweather stated that staff recommended approving the new location.

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.

VIII. RESOLUTION – DESIGNATION OF AUTHORITY PURSUANT TO N.C.G.S. §18B-203

Chairman Bauer recognized General Counsel Stacey Carter-Coley to present an updated resolution designating the authority of the of the Commission pursuant to North Carolina General Statutes.

Mrs. Carter-Coley explained that Article 2 of Chapter 18B prescribes the powers and duties of the Commission. She stated that the Commission has long since acknowledged the necessity of fulfilling its responsibilities in the most efficient manner possible and therefore has, in years past, adopted resolutions delegating certain duties and responsibilities to the Chairman. These duties and responsibilities may be exercised under the Chairman's supervision or delegated, in the Chairman's discretion, to staff members. Mrs. Carter-Coley stated that the last comparable resolution found by staff dated back to 1996 so there was clearly a need to update statutory and regulatory sites given the increased responsibilities the Commission has assumed. She presented a proposed resolution, drafted by Legal Section, for the full Commission's consideration for approval.

Chairman Bauer asked the Commissioners if they had any questions. They replied they did not. Commissioner Mitchell made a motion to adopt the resolution per staff recommendation. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

IX. OTHER BUSINESS

Chairman Bauer asked Mrs. Carter-Coley and Mr. Merriweather if there was any additional business. They expressed there was no additional business.

Chairman Bauer stated that the next ABC Commission meeting would be held virtually on Wednesday, June 8, 2022.

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

/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