

Liberty ABC Board

Performance Audit Report



Alcoholic Beverage Control Commission
400 East Tryon Road, Raleigh, NC 27610
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ABC
COMMISSION
NORTH CAROLINA

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ABC

COMMISSION
NORTH CAROLINA

Alcoholic Beverage Control

CHAIRMAN:

A. D. "Zander" Guy, Jr.

February 12, 2020

COMMISSIONERS:

Norman A. Mitchell, Sr.
Charlotte

Mr. Douglas Hardin
PO Box 1186
Liberty, NC 27298

Karen L. Stout
Black Mountain

Dear Chairman Hardin,

ADMINISTRATOR:

Agnes Stevens

On the following pages you will find the performance audit report conducted by the staff of the ABC Commission reviewing the operations of the Liberty ABC Board.

LOCATION:

400 East Tryon Road
Raleigh NC 27610

The report consists of an executive summary, an overview of the objective, purpose and scope, and a digest of your board's performance standards and related findings. Included in the findings are recommendations for action on the part of your board.

MAILING:

4307 Mail Service Center
Raleigh NC 27699-4307

I encourage you to review the report and let me know if you have any questions or require assistance in implementing any of the recommendations.

PHONE: (919) 779-0700

<http://abc.nc.gov/>

On behalf of the NC ABC Commission I thank you and your staff for your assistance and cooperation in conducting this review and in implementing the changes that will reduce expenses and increase profitability of your board.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Stevens".

Agnes Stevens
Administrator

cc: NC Association of ABC Boards

OBJECTIVE, PURPOSE, AND SCOPE

In addition to regular and special financial audits, G.S. 18B-705 (a) authorizes the N.C. ABC Commission to conduct performance audits of all local ABC boards in the state. Performance audits are examinations of existing operating policies, practices, controls, and activities to determine those areas in which there may be a need for improvement.

The audits are designed to ensure that all local ABC Boards comply with established performance standards pursuant to G.S. 18B-203 (a) (20). The audits' scope addresses compliance with ABC laws and rules, store appearance, operating efficiency, solvency, and customer service.

To achieve the objectives of the audit, auditors:

- Review applicable General Statutes, ABC Commission Rules, and Administrative Policies
- Review applicable reports and studies of ABC boards with similar size and geography
- Consult with specialists at the UNC School of Government
- Verify compliance with Commission and Board policies
- Verify results of previous performance audit recommendations
- Review organizational chart and job descriptions
- Review ABC board annual independent financial audits
- Visit the store(s)
- Interview key ABC board personnel.

The initial round of performance audits for the local ABC Boards concluded in 2016 and provided a comprehensive overview of the operations of the local boards. The follow-up round of performance audits now under way is designed to provide local boards with information that targets specific areas for improvement. Board activities that meet or exceed current performance standards are not included as areas recommended for corrective action and so are not included in the attached summary report and recommendations.

PROFIT PERCENTAGE TO SALES AND OPERATING COST RATIO

In FY2019, the Liberty ABC Board had a profit percentage to sales of 4.3%, a 1.3% increase over FY2018. The initial performance audit conducted in FY2013 concluded a profit percentage to sales of 2.68%. The NC ABC Commission profit percentage to sales standards for ABC Boards with gross sales less than \$2M is 5%.

The operating cost ratio for the Liberty ABC Board was 0.81 in FY2019. Liberty ABC Board's operating expenses remained steady between FY2018 and FY2019. The NC ABC Commission standard for ABC boards with one or two stores with mixed beverage sales is less than 0.73.

Thus, the Liberty ABC Board showed some improvement, but did not meet the profitability to sales and operating cost standard set by the NC ABC Commission. Below is a chart showing expenses and income from operations for the previous two years.

	FY2019	FY2018
Expenses excluding Depreciation	\$177,973	\$177,178
Income from Operations	\$38,614	\$25,433

BUDGET ANALYSIS

In reviewing the budget to actual analysis of FY2019 financial audit, sales revenue did not meet the budgeted projections. Overall expenditures were within budget projections for the same period. Amendments were not adopted and forwarded to the NC ABC Commission. The below chart shows the final budget projections to actual amounts and the variances.

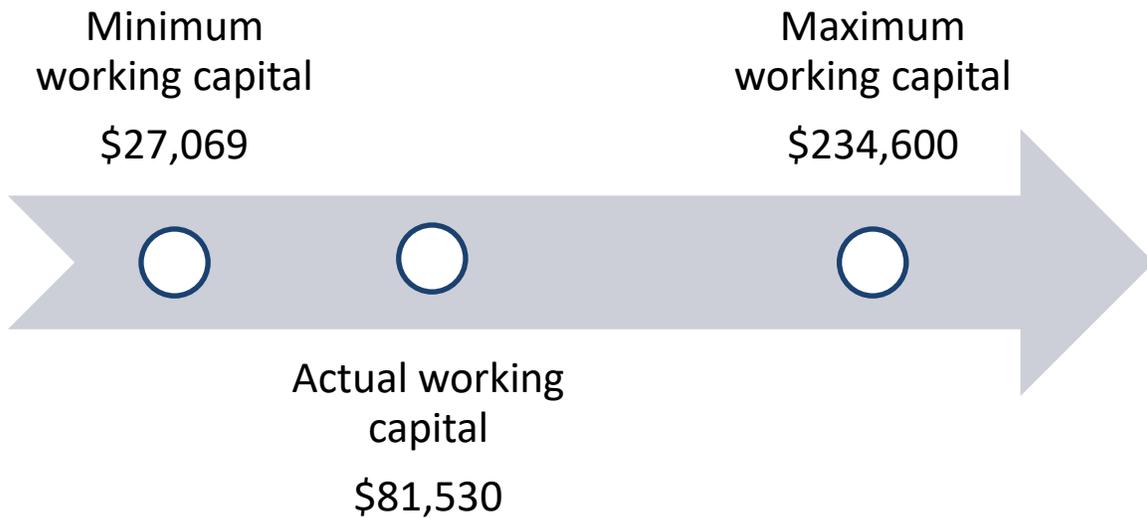
	FY2019 Budget Projections	FY2019 Actual	Variance \$	Variance %`
Sales (Retail and Mixed Beverage)	\$868,932	\$908,777	\$39,845	4.6%
Total Operating Expenses including Capital Outlay	\$185,500	\$178,487	\$7,013	3.9%

REQUIRED ACTION: *All ABC Boards are required to operate within a balanced budget. When sales do not meet budget projections, amend the budget to adjust for the decrease or loss. If budgeted expenditure line items are not balanced, adopt budget amendments to correct specific items or add omitted line items. G.S. 18B-702(h) states, "Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section...Amendments to the adopted budget shall also be provided to the appointing authority and the Commission."*

WORKING CAPITAL

G.S. 18B-805 (d) allows the board to set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. The NC ABC Commission has set a working capital standard for boards with gross sales greater than \$1.5M but less than \$50M an amount equal to three months of sales revenue.

Based upon the existing rules, the Liberty ABC Board is allowed to maintain a minimum working capital of \$27,069 and a maximum working capital of \$234,600, equivalent to four months' gross sales. The board retained an actual working capital of \$81,530 in FY2019.



DISTRIBUTIONS

G.S. 18B-805 (b) requires the board to pay from gross receipts all expenses, mixed beverage and bottle taxes. G.S. 18B-805 (c) requires the board to make a minimum quarterly distribution of the 3 ½% markup and .01/.05 cent bottle tax to the municipalities and county. Below is a chart of taxes paid to the NC Department of Revenue and the Town of Liberty.

G.S. 18B-805 (c) (2) and (3) requires the board to distribute quarterly at least five percent (5%) of profits to law enforcement and at least seven percent (7%) of profits toward alcohol education. S.L. 1973-972 sets a distribution schedule of the following:

- An additional three percent (3%) of profits may be spent towards alcohol education and rehabilitation
- Five percent (5%) to the Town Medical Clinic Maintenance Fund
- Remaining profits to the Town of Liberty General Fund

Revenues Less Taxes and Cost of Sales FY2019	
Sales (Retail and Mixed Beverage)	\$908,777
Excise Tax	\$200,812
Mixed Beverage Tax (Combined)	\$992
Rehabilitation Tax	\$3,172
Net Sales	\$703,801
Cost of Liquor Sold	\$483,652
Gross Profit	\$220,149

FY2019 Distribution Calculation	
Gross Profit (Taken from Above)	\$220,149
Total Operating Expenses	\$181,535
Income from Operations	\$38,614
Net Position before Distributions	\$38,705
3 ½ Minimum Distribution	Total Distribution - \$26,616
<ul style="list-style-type: none"> • Town Medical Clinic Maintenance Fund • Town of Liberty General Fund 	<ul style="list-style-type: none"> • \$1,331 to Town Medical Clinic Maintenance Fund • \$25,285 to Town of Liberty General Fund

A contract between the Town of Liberty Police Department and the ABC Board has been in effect since 2012 and requires the board to distribute five thousand dollars, \$5,000, annually, to be paid in quarterly installments. The amount can be adjusted as needed to equal the amount required by G.S. 18B-805 (c) (2). Referenced in the above chart, the Liberty ABC Board met the required 3 ½% minimum distribution and the law enforcement and alcohol education distribution requirement.

Note: The financial audit noted a 1991 law enforcement contract following a different distribution amount for enforcement services.

CORRECTIVE ACTION TAKEN: Management plans to update the law enforcement contract to follow the G.S. 18B requirement. Once updated, copies will be forwarded to the NC ABC Commission.

STORE APPEARANCE

1. The findings for the store's appearance are as follows:
 - The required Fetal Alcohol Syndrome poster is displayed as required by G.S. 18B-808.
 - A North Carolina product selection is available within its own section.
 - Although products are placed within designated categories, premium products are found at eye-level or top shelf, a shelf management system is minimal to the guidelines set by the NC ABC Commission and industry.
 - A consistent size flow shows a pattern from largest size on the right and smaller size on the left. New products and bestselling items are scattered within the store on end caps or where space allows.
 - Empty boxes are kept at the front of the store for easy access to the public.
2. While inspecting the store, a random sample of approximately fifty items was selected to determine if uniform pricing is accurate. Of those selected, two were incorrect.

REQUIRED ACTION: To ensure accuracy in product pricing, conduct frequent spot checks that incorporate physical counts and pricing.

STRONGLY RECOMMENDED: Consider utilizing resources that would create a shelf management system that is conducive to industry norms but considers sales history and trends.

STRONGLY RECOMMENDED: Remove empty boxes from the front of the store. Require customers to pick up boxes at the rear of the store or the side entrance.

CORRECTIVE ACTION TAKEN: Management has implemented procedures to ensure accurate pricing is located on the store shelves and within the inventory management system.

OPERATIONAL AND ADMINISTRATIVE COMPLIANCE

1. Board members are appointed by the Town of Liberty for three-year staggered appointment terms. Board members are required to complete ethics training provided by the NC ABC Commission within one year of appointment or reappointment. To date, two board member's appointment terms have expired.

REQUIRED ACTION: Confirm with the town the correct appointment or reappointment dates of all board members. Once confirmed, update the NC ABC Commission website to reflect the current terms. As a reminder, reappointed board members must complete ethics training within one year of appointment status.

CORRECTIVE ACTION TAKEN: The town has appointed new board members effective January 27, 2020. Once official appointments are available, management will update the NC ABC Commission's website.

2. Board meeting minutes were available. However, the ABC board has not been able to meet on a regular basis.

REQUIRED ACTION: Public board meetings are required to be held regularly. The Commission strongly recommends monthly meetings to provide effective management and financial oversight and make pertinent business decisions. Meeting notifications must follow the guidelines set by the general statutes.

CORRECTIVE ACTION TAKEN: The town has appointed new board members effective January 27, 2020. Once official appointments have been made, the board will follow the public meeting laws as outlined in the general statutes.

3. Law enforcement activity reports have not been submitted to the NC ABC Commission.

REQUIRED ACTION: Submit the missing activity reports to the NC ABC Commission as required by G.S. 18B-501 (f1). If a report has not been presented to the board, enter (0) until a report, if any, is given. G.S. 18B-501 (f1) states, "To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month...The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board."

CORRECTIVE ACTION TAKEN: Management has identified the current law enforcement personnel that would issue the law enforcement activity reports. Procedures have been updated to include timeliness of reports have been updated.

4. In the initial performance audit conducted in FY2014, the findings instructed the board to complete an employee manual. Once approved, the board is required to forward to the NC ABC Commission for approval. The finding is still outstanding as of the current performance audit to date; the board has not completed and approved an employee manual.

REQUIRED ACTION: *Adopt a personnel manual and/or policies that incorporate board practices. The ABC Commission encourages ABC boards to model personnel policies and procedures after those of the appointing authority. However, certain ABC procedures must be clearly presented in the employee manual.*

REQUIRED ACTION: *As a reminder, submit policies to the NC ABC Commission prior to adoption. NCAC 15A .1102 states, "A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least 15 days prior to the date on which it is proposed that those rules or amendments are to become effective."*

CORRECTIVE ACTION TAKEN: The board plans to update the employee manual to imitate the appointing authority's manual. Once updated and adopted, copies will be forwarded to the NC ABC Commission for review and approval.

5. In the initial performance audit conducted in FY2014, the findings revealed that management had not paid distiller invoices within thirty days (30 days) of receipt. A sample of paid invoices revealed that liquor payments are not paid within the pay schedule (30 days) as required.

REQUIRED ACTION: All ABC Boards are required to pay distiller invoices within thirty days of receipt of liquor. Pay all liquor vendor invoices within thirty days of receipt. NCAC 02R .1407 (c) states, "Local boards shall remit full payment of the distiller's invoice within thirty (30) days of delivery of the liquor." It is the NC ABC Commission's policy to halt liquor shipments when payments are delinquent.

CORRECTIVE ACTION TAKEN: The board has hired a financial officer to perform all financial operations of the board. The finance officer is complying with all responsibilities as required by G.S. 18B. Past due invoices have been brought within the thirty-day threshold.

6. The initial performance audit stated that the board has hired an external finance officer to assist in preparing financial statements, monthly bookkeeping services, and other duties as required by the ABC statutes and rules. However, the audit fieldwork revealed that such services have not been provided by the external finance officer. The finance officer also serves as the financial auditor for the board. The finance officer must provide specific services as authorized by the general statute such as providing pre-authorization on purchased items, approving documentation through signing board checks. During the interview, it was confirmed that the general manager and a board member serve as the check signers for all payments of the board.

REQUIRED ACTION: All ABC Boards are required to appoint a finance officer other than the general manager to perform the duties set by the general statute. G.S. 18-702 (j) states, "...the local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board."

REQUIRED ACTION: As per the duties of the finance officer, the finance officer is required to perform duties as authorized in the general statute, not limited to the finding. The finance officer is also required to approve for payment by providing his/her signature on all checks. The board may authorize a deputy finance officer to perform these duties in the absence of the finance officer or for additional checks and balances. G.S. 18B-702 (k) states, "The finance officer for a local board shall:

1. Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
2. Disburse all funds of the local board in strict compliance with this Chapter, the budget, preaudit obligations, and disbursements as required by this section.
3. As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.
4. Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.
5. Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.
6. Supervise the investment of idle funds of the local board pursuant to subsection 9t) of this section.

The finance officer shall perform such other duties as may be assigned by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

In addition to the above statute, under section (q) states, "Each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman some other member of the board pursuant to subsection (o) of this section).

STRONGLY RECOMMENDED: Bid financial auditing services to other vendors to ensure services will be conducted according the general statute. Contracted services should be open for bid following the appointing authority guidelines or general statutes.

CORRECTIVE ACTION TAKEN: The board has hired a financial officer to perform all financial operations of the board. The finance officer is complying with all responsibilities as required by G.S. 18B. To further ensure the separation of duties are available, the finance officer and the chairman specifically are authorized check signers for all payments. In the absence of the chairman, other board members are authorized to sign the checks.

RESPONSE TO OPERATIONAL LIBERTY ABC BOARD AUDIT NOVEMBER 13th 2019

1. PROFIT PERCENTAGE TO SALES AND OPERATING COST RATIO

While improved from FY 2018, the financial irregularities, which was discovered during recent audit, would be a contributing factor to operating margins especially considering former manager admitted it began in October of 2013. Also, our newly appointed financial officer and contracted general manager discovered that current pricing nor new inventory had been updated into the store operating system. Both discovered also that our current software provider had been providing poor operating system functionality, was very time consuming to update, and poor customer service in resolving those same issues which may contributed to this issue along with prior store manager mismanagement. We have hired a new software and systems vendor recommended by our new general manager who will implement their systems as soon as possible. This should help improve the below average ratio's by allowing us to update inventory and current pricing immediately upon receipt and verification. In addition, more timely inventory and sales history would allow manager to purchase some of newer as well as different products which could enhance sales. Finally, getting better monthly financial data from financial officer will help board and store management determine on a monthly basis where operating cost savings may be derived as the above changes and implementations should contribute to revenues enhancements. A limiting factor could possibly be our store size in terms of sales versus fixed overhead factor required as compared to larger stores.

2. BUDGET ANALYSIS

While it is too late to correct this years' fiscal year end budget amendments required, board has been educated not only on the amendments requirements but also on the timeliness of the amendment process. By providing timely financial statements our financial officer will not only make our board aware of budget overages and underages, but she will also take responsibility for making those same budget amendments as needed. She will also notify the town of Liberty and the state ABC Commission on a timely basis of these amendments going forward.

3. OPERATING CAPITAL

In Compliance based on fiscal year end audit.

4. DISTRIBUTIONS

In compliance with exception of the 1991 law enforcement contract needing to be updated to current distribution formula. Nancy Gooch, our general manager, is currently in process of getting the contract updated between our police Chief David Semrad and newly appointed ABC officer William Summers.

5. STORE APPEARANCE

Product pricing should become accurate and updated on timely basis with change to new software vendor. Contracted general manager will train employees to conduct frequent spot checks in relation to physical inventory and pricing of that inventory.

Contracted general manager will make and has already made some changes deemed necessary for this market based on history and sales trends to shelf management system of this store.

General manager has instructed store employees to move empty boxes to warehouse portion of store

as soon as possible once inventory has been placed on shelves. Board has also put in place a cardboard recycling container outside the store for disposal of boxes by employees of store. Some customers still pick up boxes but that will be limited in future and should be done at back or side entrance of the store if at all. Manager will also make sure floors stay cleaned and shelves dusted.

6. OPERATIONAL AND ADMINISTRATIVE COMPLIANCE

With new board being appointed confirmation dates will be current (1-27-2020) and ethics training plus any other recommended training needed will become current.

Board schedules regular monthly meetings at pre-set schedule on the second Wednesday of each month at 3:30 PM. If a quorum of board members is not met at meetings each month, either (1) new meeting date with 48 hr. minimum notice of change will be posted, or (2) meeting will be cancelled and combined with next monthly scheduled meeting with minutes noting change for missed month. We would expect this to happen rarely but was not documented in the past when it did happen.

New ABC officer notification made by Town of Liberty manager. Williams Summers has been notified by town manager to send monthly law enforcement report to ABC store office each month by 5th of the month which will be reviewed at each month's board meeting. Local Board will submit to town of Liberty and ABC commission as required by statute. Nancy Gooch, our general manager, will get new contract executed with specific information that is to be provided by Mr. Summers.

New personnel manual to be modeled after the appointing authorities' (Town of Liberty) manual which is currently being updated per our town manager William Doerfer, as well as model sent to board by state ABC commission. While it is still a work in progress, William, Nancy Gooch, Faye Ward, and board will have a basic manual with procedures in place for changes and making sure we send copies of changes and rules to state commission before making actual changes.

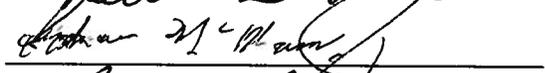
Liquor invoices HAVE been brought current (1-17-2020) after the financial mismanagement discovered in the recent audit due to the hiring of a financial officer to perform all financial operations of the board. This also separates the normal financial functions provided by the finance officer from the yearly services provided by the auditor as well as separating duties from the general manager as had been done previously. The contracted finance officer, Faye Ward, is complying with responsibilities as outlined in G.S. 18B-702 (k). Also note that two (2) signatures are required on each check disbursed with one (1) being the finance officer and the other being the local board chairman. In chairman's absence another board member documented by bank records and resolutions is authorized to sign with finance officer.

Local board is now in process of seeking bids from other vendors for the financial auditing services.

Respectfully submitted:

Date: 1-22-2020

 Board Chairman

 Board Member

 Board Member

GOALS OF LIBERTY ABC BOARD TO PREVENT UNSATISFACTORY OPERATIONAL AUDIT

- 1. Implementations of corrections and policies as required by the audit.**
- 2. Timely follow-up at least quarterly to be sure policies and procedures are being followed.**
- 3. Ask more questions of general manager and finance officer and get recommendations where operational improvements can be made and implemented. Require auditor to come to board meeting when fiscal year- end audit ready and go over audit and raise any concerns that need addressing now or in future.**
- 4. Keep appointing authority abreast of any policy changes that may affect store operations or revenue streams. Send meeting minutes, financial statements, and other information as may be required by town manager and/or town commissioners.**
- 5. Be more visible at store both to store employees and store management. Listen and learn. Implement open door policy between employees and board members which would encourage store employees to discuss any operational irregularities they may observe.**
- 6. Always ask where we can help or be of assistance; be the " eyes and ears" of the community.**
- 7. Set up compliance calendar to be sure board is notified of deadlines for policy and procedural changes to be made both to the appointing authority and state ABC Commission.**