

CHRONOLOGY OF EVENTS

On Wednesday, May 8, 2019, at approximately 2:15 p.m., I received an email from Heather Sauls, ABC Commission Product Approval employee. Sauls informed me she had previously approved UNKNOWN BREWING COMPANY's Elevator Lady malt beverage, on April 8, 2019. However, UNKNOWN BREWING COMPANY submitted a revised label depicting a caricature of North Carolina Commission of Labor Cherie Berry. Sauls stated she sent UNKNOWN BREWING COMPANY a disapproval letter stating the revised label was disapproved on May 2, 2019, due to representation of a living individual of public prominence. In the email, Sauls attached a newspaper article and the approved and disapproved labels.

I viewed the documents and found the Elevator Lady malt beverage label, depicting a caricature of Cherie Berry and a representation of an elevator safety document, was disapproved on April 29, 2019.

UNKNOWN BREWING COMPANY, located at 1327 South Mint Street, Charlotte, NC, is described as a brewery, malt beverage wholesaler, and a retail establishment. UNKNOWN BREWING COMPANY holds brewery, malt beverage wholesaler, and malt beverage special events commercial ABC permits. UNKNOWN BREWING COMPANY also holds malt beverage on-premise and unfortified wine on-premise retail ABC permits.

On Tuesday, May 14, 2019, at approximately 10:05 a.m., I received an email from ABC Commission Chief Legal Counsel, Renee Metz. Metz stated the UNKNOWN BREWING COMPANY's Elevator Lady malt beverage label, depicting a caricature of Cherie Berry and a representation of an elevator safety document, had not been approved by the ABC Commission.

At approximately 3:03 p.m., Special Agent C. Lowe and I arrived at UNKNOWN BREWING COMPANY to conduct an ABC inspection. Upon arriving at the establishment, SA Lowe and I entered through the retail side of the establishment. I displayed my ALE issued credentials, introduced SA Lowe and I as ALE Special Agents, and informed several employees we were there to conduct an ABC inspection.

SA Lowe and I started our inspection on the retail side of the establishment. While inspecting the retail side of the establishment, I located a malt beverage tap handle with "Peach Pangea" written on it. Using my ALE issued cell phone, I conducted a query for "UNKNOWN BREWING COMPANY" under the supplier section on the North Carolina ABC Commission's product search and reports webpage. I then viewed UNKNOWN BREWING COMPANY's approved products. I searched within the document for "peach". The only approved malt beverage with peach in the fanciful name or varietal/type was Booty Ride malt beverage which was described as a "Biere De Garde W Peaches".

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After determining Peach Pangea malt beverage was not approved for sale in North Carolina, I located a price board on the wall, located above the malt beverage draught taps. The price board indicated Peach Pangea malt beverage cost \$6.

I concluded my inspection on the retail side and conducted an inspection on the commercial side of UNKNOWN BREWING COMPANY.

While on the commercial side, SA Lowe and I entered into the cold storage area. We were accompanied by Lisa Shell, the owner's wife, and UNKNOWN BREWING COMPANY employee. While inspecting the cold storage area, I observed six (6) four (4) packs of 473-milliliter cans of Elevator Lady malt beverages. The four packs of Elevator Lady malt beverages included cans with labels displaying a caricature of Cherie Berry's face. There was a sheet of paper on top of the Elevator Lady malt beverages with "TRYON –BRAD NICHOLS DO NOT SELL" written on it.

I asked Lisa Shell to explain why there was a "do not sell" sign on top of the Elevator Lady malt beverages. Lisa Shell said it was a reminder for the staff not to sell the malt beverages to anyone else because they were being reserved for sale to Tryon Distributing. Lisa Shell said it was the last of the 473-milliliter cans of Elevator Lady malt beverages.

I informed Lisa Shell the label which displayed a caricature of Cherie Berry had been disapproved by the ABC Commission. I informed her the other label, which shows an outline of a female figure, and the keg collar was approved. Lisa Shell stated she thought the new label had been approved as well and retrieved a file which contained malt beverage and label approval letters from the ABC Commission.

While Lisa Shell looked through the file. I conducted an inspection of the office area. I opened a fold up door, located on a desk hutch, and found a partial 750-milliliter bottle of Jade 1901 Absinthe Superieure spirituous liquor. I asked Lisa Shell who the desk belonged to. She stated it belonged to the head brewer.

Lisa Shell retrieved an approval letter from the ABC Commission which showed the initial approval for Elevator Lady malt beverages with the keg collar and the label depicting an outline of a female figure. I informed Lisa Shell her husband, James Bradford "Brad" Shell, submitted a label revision for a label with a caricature of Cherie Berry. Informed her the ABC Commission disapproved the label revision on April 29, 2019. I showed Lisa Shell the two label submissions with the accompanying labels.

After speaking with Lisa Shell, I spoke with James Shell. I informed James Shell I was seizing the partial bottle of spirituous liquor and the six (6) four (4) packs of Elevator Lady malt beverages. I provided James Shell with a copy of my seized property report.

I told James Shell all alcoholic beverages and labels for alcoholic beverages sold in this State must first be approved by the ABC Commission before those alcoholic beverages are sold. I informed

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James Shell the revised label was disapproved by the ABC Commission on April 29, 2019. I also informed James Shell the Peach Pangea malt beverage had not yet been approved by the ABC Commission and could not be sold until it was approved. James Shell said he would immediately remove the taps and discontinue selling the Peach Pangea malt beverage until it was approved.

I also informed James Shell it was illegal to possess containers of spirituous liquor on the premises. James Shell stated the bottle of spirituous liquor had been gifted to them by a friend. I told James Shell he should have put the bottle in his vehicle and taken it home once it was gifted to him.

I told James Shell I would submit a violation report to the ABC Commission documenting the unauthorized possession of spirituous liquor and sell of unapproved malt beverages.

At approximately 3:43 p.m., SA Lowe and I exited UNKNOWN BREWING COMPANY.

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