

ARKANSAS TOBACCO CONTROL MEETING MINUTES

JULY 8, 2010

The Arkansas Tobacco Control Board met on Thursday, July 8, 2010 for its monthly meeting in the Main Street Mall building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 10:00 a.m. in Suite 401. There were 6 - Board members present – Mr. Kevin Case, Mr. John Hauge, Mr. Steve Lightle, Mr. Danny Tate, Dr. Laura Sisterhen and Dr. Tommy Wagner with 1 – Member absent, Ms. Carol Dyer, and 1 – Open Position. During the meeting Mr. Case had to leave early.

Mr. Steve Lightle, the Chairman, began the meeting with a “Welcome” to those attending. He then asked for a motion to approve the May 6, 2010 board meeting minutes. A motion was made and approved with 6 – Yes votes, 1 – Member absent and 1 – Open position. Next he asked for a motion to approve the June 3, 2010 board meeting minutes. A motion was made to approve and passed with 6 – Yes votes, 1 – Member absent and 1 – Open position.

There was no “Old Business” to consider so the Chairman moved on to “New Business” and the “Disciplinary Hearings”. Mr. Lightle introduced Mr. Greg Kirkpatrick, the Hearing Officer, and Ms. Lydia Williams, serving as Court Reporter.

The following cases were called before the Board:

Mr. Darrow, Staff Attorney, presented a Consent Order for Harrison Company with a fine of \$125,000. A motion was made to approve the order with 6 – Yes votes, 1 – Member absent and 1 – Open position.

A second Consent Order was presented for H.T. Hackney Company with a fine of \$25,000 and 4 – day suspension of permit. A motion was made to approve the order with 6 – Yes votes, 1 – Member absent and 1 – Open position.

Case #2010-201

Grindhouse
De Queen, AR

VIOLATION: §26-57-256(a)(6) Protest against renewal of permit
for FY2011

The business location was represented by Mr. Bill McCormack. Mr. John Hickel appeared to oppose the issuance of the permit.

A motion was made to wave the Publication of Notice under Rule 5.4. After discussion, the motion was denied with 6 – Yes votes, 1 – Member absent and 1 – Open position. The Hearing was postponed, allowing time for Publication of Notice, as required in Rule 5.4, before the next board meeting of August 5, 2010.

Case #2010-152

West Crossett Convenience Store
Crossett, AR

VIOLATION: §26-57-213 Failure to maintain invoices, \$500
fine and 5 – day suspension of
permit.

§26-57-228 Purchasing from unlicensed dealer,
\$500 fine and 5 – day suspension of
permit.

§26-57-248(a) Possession of untaxed tobacco,
\$2,925 fine and destruction of
confiscated product.

The business location was represented by Ms. Denice Saeed, Mr. Sarhun Saeed, Ms. Sabry Kassim and Mr. Steve Collins.

Testimony was presented and a motion was made to find West Crossett Convenience Store in violation of §26-57-213 Failure to maintain invoices, §26-57-228 Purchasing from an unlicensed dealer, and §26-57-248(a) Possession of untaxed tobacco and destruction of confiscated product. A motion was made to issue a fine of \$3,925.00, 5 – day suspension of permit and destruction of confiscated product with 4 – Yes votes, 1 – No vote, 2 – Members absent and 1 – Open position. The motion failed.

A second motion was made to find West Crossett Convenience Store in violation of §26-57-213 Failure to maintain invoices, §26-57-228 Purchasing from an unlicensed dealer, and §26-57-248(a) Possession of untaxed tobacco. A motion was made and approved to levy a \$3,925.00 fine, 7 – day suspension of permit and destruction of confiscated product with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Next on the agenda was Rules and Regulations, Section 17 – Tobacco Forfeiture. After discussion a motion was made and approved to initiate the rule making process with 5 – Yes votes, 2 – Members absent and 1 – Open position.

The Hearing Officer closed the Disciplinary Hearings and turned the meeting back over to the Chairman. Mr. Lightle then called on the Director, Mr. J.R. Thomas, who presented the “New Retail Permit” report. After review, a motion was made to approve the “New Retail Permits Issued” list dated May 6, 2010 through July 7, 2010” with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Mr. Thomas asked the Board to review the “Accepted Offers of Settlement for Board Approval” report dated July 8, 2010 and asked for approval. A motion was made to approve the “Accepted Offers of Settlement” report dated July 8, 2010 with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Mr. Thomas called on Mr. Greg Sled, the Deputy Director, to give an update on enforcement activity. He stated the year end compliance rate was 7.22% with 91.7% of the retail locations being checked as of June 30th . He gave an update on the FDA proposal. Our agency is in the

Southwest section of the country and competing with 10 other states. He expects to know if the agency's proposal is accepted in 2 to 3 weeks. The budget from the Department of Health has been cut 27% for FY2011.

The Chairman then asked if there were any "Court Updates". Mr. Arnie Jochums, Assistant Attorney General, reported he was working on the Board's reply brief and would file it in the near future with the Court regarding the recent decision by Judge Moody in favor of Arkansas Tobacco Control v McLane Company. Mr. Roland Darrow, Staff Attorney, had nothing to report this month.

The Chairman announced the next meeting date of August 5, 2010. All business of the Board had been conducted and the meeting adjourned.

Minutes prepared by

Janis L. Campbell
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July 20, 2010