

ARKANSAS TOBACCO CONTROL MEETING MINUTES

AUGUST 5, 2010

The Arkansas Tobacco Control Board met on Thursday, August 5, 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, Ms. Carol Dyer, Mr. John Hauge, Mr. Steve Lightle, Mr. Danny Tate, Dr. Laura Sisterhen, with 1 – Member absent, Dr. Tommy Wagner, and 1 – Open Position.

Mr. Steve Lightle, the Chairman, began the meeting with a “Welcome” to those attending. He then asked for a motion to approve the July 8, 2010 board meeting minutes. A motion was made and approved 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. Lee Biggs III serving as the Hearing Officer, and Ms. Lydia Williams Heroman, the Court Reporter.

The Hearing Officer called on Mr. Roland Darrow, the Staff Attorney, to present the Default List dated August 5, 2010. Mr. Darrow read off the list with no one responding as being present. He asked the board to approve the list as presented and issue the maximum fine. A motion was made and approved to that effect with 6 – Yes votes, 1 – Member absent and 1 – Open position.

The following cases were called before the Board:

Case #2009-362

Neighborhood Grocery
West Memphis, AR

VIOLATION: §26-57-228

Purchasing from an unlicensed dealer, \$500 fine and 5 – day suspension of permit.

- §26-57-248(a) Possession of untaxed tobacco, \$16,575 fine and Destruction of Confiscated Product.
- §26-57-213 Failure to maintain invoices, \$500 fine and 5 – day suspension of permit.

The business location was represented by Mr. Robert Frances. Attorney, and Mr. Mohamed Abdi, the business owner.

After testimony was presented a motion was made to find Neighborhood Grocery in violation of §26-57-228 Purchasing from an unlicensed dealer, issue a fine of \$500 and 5 – day suspension of permit, in violation of §26-57-248(a) Possession of Untaxed Tobacco, levy a fine of \$16,575 and Destruction of Confiscated Product, and in violation of §26-57-213 Failure to maintain invoices, issue a \$500 fine and 5 – day suspension of permit with 6 - Yes votes, 1 – Member absent and 1 – Open position.

Case #2010-091 Petromark/White Oaks dba Go Gas
All non-border zone locations

VIOLATION: §4-75-708(a)&(b) Selling below minimum, \$100 fine per store location, total of \$2,200

Mr. Steve Turner, the company owner, was present to represent all business locations.

Testimony was presented and a motion was made to dismiss with no notation on their record with the agency. The motion was approved with 6 – Yes votes, 1 – Member absent and 1 – Open position.

Next on the agenda was a Consent Order for Snappy Mart of Turrell, AR, Case #2010-158. Mr. Darrow stated the violations were Rule 4.1 No Server Awareness forms, \$150 fine, in violation of §26-57-213 Failure to maintain invoices, \$500 fine and 5 – day suspension of permit, in violation of §26-57-248(a) Possession of untaxed tobacco, \$8,000 fine and Destruction of Confiscated Product, and in violation of §26-57-228 Purchasing from an unlicensed dealer, \$500 fine and 5 – day suspension of permit. A motion was made to approve the order as presented with 6- Yes votes, 1 – Member 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 July 8, 2010 through August 4, 2010” with 6 – Yes votes, 1 – Member absent and 1 – Open position.

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

Mr. Thomas called on Mr. Greg Sled, the Deputy Director, to give an update on enforcement activity. He stated 397 store locations had been checked in July with 28 violations for a 7.05% rate. No merchant training was scheduled for August. He gave an update on the FDA proposal. Our agency had a telephone interview and the FDA. After discussion, a revised agreement was provided on August 3rd. He was hoping to hear back within 2 weeks. The agreement with the Health Dept. had been finalized for the 2011 Fiscal Year. The 2011-2013 Biennial Budget was completed and turned into the Office of Budget on July 12, 2010.

The Chairman then asked if there were any “Court Updates”. Mr. Arnie Jochums, Assistant Attorney General, reported he was working on a Brief for McLane V Arkansas Tobacco Control Board.

Mr. Roland Darrow, Staff Attorney, stated there was no Court activity to report. An ad ran in the Arkansas Democrat-Gazette for a Public Hearing to be held at 10:00 a.m. on August 23, 2010 for Rule changes. The agency will advise the Legislative Rule Committee once the Hearing is held.

Page 4

The Chairman announced the next meeting date of September 2, 2010. All business of the Board had been conducted and the meeting adjourned.

Minutes prepared by

Janis L. Campbell
Janis L. Campbell

August 19, 2010