

ARKANSAS TOBACCO CONTROL MEETING MINUTES

SEPTEMBER 2, 2010

The Arkansas Tobacco Control Board met on Thursday, September 2, 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 5 - Board members present – Mr. Kevin Case, Mr. John Hauge, Mr. Steve Lightle, Dr. Laura Sisterhen and Dr. Tommy Wagner, with 2 – Members absent, Ms. Carol Dyer and Mr. Danny Tate 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 August 5, 2010 board meeting minutes. A motion was made and approved with 5 – Yes votes, 2 – Members absent and 1 – Open position.

The Chairman then moved on to “Old Business”. Mr. Roland Darrow, Staff Attorney, reminded the Board that at the July 8, 2010 meeting, the Board approved to start the rule making process on proposed changes to Section 17 – Tobacco Forfeiture. At the August 5, 2010 meeting he stated an ad was published in the Arkansas Democrat-Gazette for a Public Hearing to be held at 10:00 a.m. on August 23, 2010 for Rule changes . As a result of the Public Hearing, there were additional proposed changes to the Forfeiture Rule, Section 17 – Tobacco Forfeiture. The Board reviewed and discussed the additional proposed changes. After discussion, a motion was made and approved to accept the changes to Section 17 – Tobacco Forfeiture with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Now that the Board had approved these latest changes, this will now go to the State Rules Committee for review.

Next on the agenda was “New Business” and the “Disciplinary Hearings”. Mr. Lightle introduced Mr. Greg Kirkpatrick serving as the Hearing Officer, and Ms. Lydia Williams Heroman, the Court Reporter.

The Hearing Officer opened the Disciplinary Hearings by calling the following cases before the Board:

Case #2010-306

Grindhouse
De Queen, AR

VIOLATION: §26-57-228 Purchasing from an unlicensed
dealer, No recommended penalty

 §26-57-248(a) Possession of untaxed tobacco,
No recommended penalty

Case #2010-201

Grindhouse
De Queen, AR

VIOLATION: §26-57-256(a)(b) 3-Letters received protesting
issuance/renewal of retail cigarette
and tobacco permit.

These cases were represented by Mr. John Barnett, Attorney, and
Mr. Bill McCormack, owner of the business location.

Mr. Darrow discussed with the Board that an agreement had been
reached with Mr. McCormack to allow revocation of permit, accept a fine
of \$1,000 and Destruction of Confiscated Product.

A motion was made to accept the agreement reached with Grindhouse to
allow revocation of permit, any future permit applications for this
location will come before the Board for approval, issue a \$1,000 fine and
Destruction of Confiscated Product with 5 – Yes votes, 2 – Members
absent and 1 – Open position.

Case #2010-271

Express Way #656
El Dorado, AR

VIOLATION: §5-27-227(a)(1) Selling to a minor, 4th Offense,
No recommended penalty

Mr. Douglas Henricks, the company owner, was present to represent the store location.

Testimony was presented and a motion was made to find Express Way #656 in violation of §5-27-227(a)(1), Selling to a minor, levy a \$1,000 fine and 7-day suspension of permit with mandatory Arkansas Tobacco Control training for all Express Way store locations with 5 – Yes votes, 2 – Members absent and 1 – Open position.

No one was present to represent Lake Shore Stop & Shop of Marion, AR. The Board was in agreement to move on to regular business and allow time for a representative to arrive.

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 August 4, 2010 through September 1, 2010” with 5 – Yes votes, 2 – Members absent and 1 – Open position.

The Director asked the Board to review the “Accepted Offers of Settlement for Board Approval” report dated September 2, 2010 and asked for approval. A motion was made to approve the “Accepted Offers of Settlement” report dated September 2, 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 introduced Mr. Charlie Beall, who has 34 years of enforcement experience with the Arkansas State Police. He will be an Enforcement Agent with the Criminal Investigation Division of the agency. Mr. Sled stated there was a 7.69% violation rate this last month for Sales to Minors. There will be training at Lake DeGray on September 14 and Salem on September 16.

Mr. Sled also announced the agency was awarded the FDA grant for Arkansas Youth Access Regulation. This grant is for a year beginning August 30, 2010 and ending August 29, 2011. The agency will hire 5 to 6 additional employees. Three enforcement agents will perform 2,600 compliance checks. Violators will be fined directly from the FDA and will receive a notice in writing from them. The FDA will have a certified training program for the retail community in Arkansas. They also have a “no tolerance” position on Sales to Minors. Arkansas Tobacco Control will notify retailers in writing of this new compliance process.

The Chairman then asked if there were any “Court Updates”. Mr. Arnie Jochums, Assistant Attorney General, was not present. Mr. Darrow didn’t have anything to report.

Representatives for Case #2010-159 Lake Shore Stop & Shop were in attendance. The Chairman turned the meeting back over to the Hearing Officer to proceed with Disciplinary Hearings.

Mr. Kirkpatrick called the following case before the Board:

Case #2010-159

Lake Shore Stop & Shop
Marion, AR

VIOLATIONS:	§26-57-248(a)	Possession of untaxed tobacco, 2 nd Offense, \$8,275 fine and Destruction of Confiscated Product
	§26-57-213	Failure to maintain invoices, 3 rd Offense, \$2,500 and 30-day Suspension of permit
	§26-57-228	Purchasing from and unlicensed dealer, \$500 fine and 5-day Suspension of permit

The business location was represented by Mr. Eddie Wilburn, the owner and Mr. Dave Newby.

After all testimony was presented, a motion was made and approved to find Lake Shore Stop & Shop in violation of §26-57-248(a) Possession of untaxed tobacco, levy a fine of \$333.33, in violation of §26-57-213 Failure to maintain invoices, levy a fine of \$333.33, in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a fine of \$333.34 for a total fine of \$,1000, revocation of permit and Destruction of Confiscated Product. All future permit applications for this store location will come before the Board for approval 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 announced the next meeting date of October 7, 2010. All business of the Board had been conducted and the meeting adjourned.

Minutes prepared by

Janis L. Campbell

September 15, 2010