

ARKANSAS TOBACCO CONTROL MEETING MINUTES

AUGUST 1, 2013

The Arkansas Tobacco Control Board met on Thursday, August 1, 2013 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 7 – Board members present. Those attending were Mr. Kevin Case, Ms. Carol Dyer, Mr. John Hauge, Dr. J.J. Lacey Jr., the Chairman, Mr. Lightle, Dr. Tommy Wagner and our new board member Mr. Sam Stathakis, Jr. We had 1 member absent – Dr. Laura Sisterhen.

Mr. Lightle began the meeting with a “Welcome” to those attending. He then introduced Ms. Elizabeth Singer serving as the Hearing Officer, and Ms. Lydia Heroman, as Court Reporter.

Mr. Lightle asked for a motion to approve the June 6, 2013 and July 4, 2013 board meeting minutes. The minutes were approved with 7 yes votes and 1 member absent.

Mr. Lightle asked if there was any “Old Business” to discuss which there wasn’t so we moved on to “New Business”.

The default list dated June 6th and July 4th were read aloud by the attorney, Mr. Darrow and both were approved with a blanket vote of 7 yes votes and 1 member absent.

The Hearing Officer then opened the Disciplinary Hearings and asked Mr. Roland Darrow, Staff Attorney, to present the following:

CONSENT ORDERS

Case #2013-16 Permit #1864-05 Lone’s #4 Little Rock, AR

Violations: §26-57-213 Failure to Maintain Invoices
§26-57-245 Possession of Untaxed Product

A consent order was presented to the board for fines levied of \$500 for failure to maintain invoices and \$14,800.00 plus revocation of permit & destruction of tobacco product confiscated for possession of untaxed product. Total fine of \$15,300.00

A motion was made to approve the Consent Order as presented with 7 yes votes and 1 member absent.

Case #2012-436 Permit #10846-04 A & A Food Store Tyronza

Violations: §26-57-213 Failure to Maintain Invoices
§26-57-245 Possession of Untaxed Product

A consent order was presented to the board for fines levied of \$500.00 plus 5 days suspension for failure to maintain invoices and \$1012.50 plus 10 days suspension with destruction of tobacco products confiscated for possession of untaxed product. A one year probation period was given and the 15 days of suspension will be held in abeyance pending successfully completing probation. Total fine of \$1512.50.

A motion was made to approve the Consent Order as presented with 7 yes votes and 1 member absent.

Case #2012-437 Permit #10847-03 A & A Store Bay, AR

Violations: §26-57-213 Failure to Maintain Invoices
§26-57-245 Possession of Untaxed Product

A consent order was presented to the board for fines levied of \$500 plus 5 days suspension for failure to maintain invoices and \$100.00 plus 10 days suspension with destruction of tobacco products confiscated for possession of untaxed product. A one year probation period was given and the 15 days of suspension will be held in abeyance pending successfully completing probation. Total fine of \$600.00

A motion was made to approve the Consent Order as presented with 7 yes votes and 1 member absent.

Case #2013-107 Permit #2690-04 EGY Management LLC Conway

Violations: §26-57-245 Possession of Untaxed Product
§26-57-228 Purchasing from unlicensed dealer
Rule 4.1 No Server Awareness Forms

A consent order was presented to the board for fines levied of \$7000.00 plus revocation of permit as of 8/15/13 and destruction of tobacco products confiscated for possession of untaxed product and \$500.00 for purchasing from an unlicensed dealer. A warning was issued for no server awareness forms. Total fine of \$7500.00

A motion was made to approve the Consent Order as presented with 7 yes votes and 1 member absent.

Case #2013-333 Permit #1466-04 Mo's Market Blytheville

Violations: §26-57-213 Failure to Maintain Invoices
§26-57-245 Possession of Untaxed Product

A consent order was presented to the board for fines levied of \$4000.00 plus destruction of confiscated tobacco product for possession of untaxed product and \$1000.00 for failure to maintain invoices. Total fine of \$5000.00

A motion was made to approve the Consent Order as presented with 7 yes votes and 1 member absent.

Case #2013-8 Permit #482-02 Downtown Express Mart Jonesboro

Violations: Rule 4.1 No Server Awareness Forms
§26-57-245 Possession of Untaxed Product
§26-57-228 Purchasing from unlicensed dealer

A consent order was presented to the board for fines levied of \$100.00 for no server awareness forms, \$44,987.50 plus 10 days suspension for possession of untaxed product and \$500.00 plus 10 days for purchasing from an unlicensed dealer. A two year probation period was given and \$40,587.50 plus 15 days of suspension will be held in abeyance pending successfully completing probation. Total fine of \$5000.00 plus 5 days suspension.

A motion was made to approve the Consent Order as presented with 7 yes votes and 1 member absent.

Case #2013-415 & 2013-147 Permit #11643-02 Happy Mart Forrest City

Violations: Rule 4.1 No Server Awareness Forms (1st & 2nd offense)
Rule 2.6 Permit not displayed properly
§26-57-213 Failure to Maintain Invoices
§26-57-245 Possession of Untaxed Product

A consent order was presented to the board for fines levied of a warning for first offense no server awareness forms and \$250.00 for the second offense. A warning for not having the permit displayed properly, \$500.00 plus 5 days for failure to maintain invoices and \$3500.00 plus 5 days and destruction of confiscated product for possession of untaxed tobacco product. Total fine of \$4250.00 plus 10 days suspension.

A motion was made to approve the Consent Order as presented with 6 yes votes, 1 member absent and 1 member abstaining.

Case #2013-60 Permit #11380-01 Star Two Wynne

Violations: §26-57-213 Failure to Maintain Invoices
§26-57-245 Possession of Untaxed Product
§26-57-228 Purchasing from unlicensed dealer

A consent order was presented to the board for fines levied \$500.00 plus 5 days suspension for failure to maintain invoices, \$15,112.50 plus 10 days and destruction of confiscated tobacco products for possession of untaxed product and \$500 plus 10 days for purchasing from an unlicensed dealer. A one year probation period was given and \$11,112.50 plus 10 days of suspension will be held in abeyance pending successfully completing probation. Total fine of \$5,000.00 plus 15 days suspension.

A motion was made to approve the Consent Order as presented with 6 yes votes, 1 member absent and 1 member abstaining.

FULL HEARINGS OR BOARD MANDATED

Case #2013-213 Permit #6283-02 Sultan, Inc. Cabot

Violations: §5-27-227 (a)(1) Sales to Minor (3rd offense)

Mr. Sufian Tarar – owner of Sultan, Inc. and Chodry Cheema were present to appear before the board in this matter.

After hearing testimony, a motion was made to find Sultan, Inc. in violation of §5-27-227 (a)(1) - selling tobacco to a minor for their 3rd offense. The board accepted the director recommendation of \$400.00 plus 2 days suspension including required merchant training for all employees. The motion was approved with 7 yes votes and 1 member absent.

Case #2013-264 Permit #6283-02 Sultan, Inc. Cabot

Violations: §5-27-227 (a)(1) Sales to Minor (4th offense)

Mr. Sufian Tarar – owner of Sultan, Inc. and Chodry Cheema were present to appear before the board in this matter.

After hearing testimony, a motion was made to find Sultan, Inc. in violation of §5-27-227 (a)(1) - selling tobacco to a minor for their 4th offense. The board levied the maximum penalty of \$2000.00 plus 7 days suspension. The motion was approved with 7 yes votes and 1 member absent.

Case #2013-143 Permit #10863-03

Speedway Grocery

Springdale

Violations: §5-27-227 (a)(1) Sales to Minor (3rd offense)

Mr. Baljit Kaur – owner of Speedway Grocery was present to appear before the board in this matter.

After hearing testimony, a motion was made to find Speedway Grocery in violation of §5-27-227 (a)(1) - selling tobacco to a minor for their 3rd offense. The board levied a penalty of \$400.00 and no suspension. The motion was approved with 6 yes votes, 1 no vote and 1 member absent.

The Disciplinary Hearings were concluded and Ms. Singer turned the meeting back over to the Chairman.

Mr. Lightle asked the Director, Mr. J.R. Thomas, to present his reports to the Board.

Mr. Thomas asked the Board to review the “New Retail Permits” report dated from June 5 through July 31, 2013 and approve as submitted. A motion was made to approve with 7 yes votes and 1 member absent.

The Director then asked the Board to review the “Accepted Offers of Settlement for Board Approval” reports dated July 4, 2013 and also the report dated August 1, 2013. A motion was made to approve both of the “Accepted Offers of Settlement” reports with 7 yes votes and 1 member absent.

Mr. Thomas then called on Deputy Director Greg Sled to give his update on enforcement activity. Mr. Sled stated during FY 2013 there were 5141 compliance checks completed with 453 violations which is a violation rate of 8.81%. There were 289 Routine Inspections completed and 57 Sales to Minor complaints were solved. FY 2014 we have completed 351 compliance checks with 36 violations which is a violation rate of 10.26%.

Deputy Director, Dr. Casey Carder introduced their new Administrative Assistant – Felicia Whittaker.

The Chairman asked for a Court Update. Mr. Mark Obrenberger, Assistant Attorney General, didn’t have anything to report.

The next meeting date will be September 5, 2013. All the board members were in agreement to adjourn.

Minutes prepared by

Pat Dykes

August 2, 2013