

## **ARKANSAS TOBACCO CONTROL MEETING MINUTES**

**AUGUST 2, 2012**

The Arkansas Tobacco Control Board met on Thursday, August 2, 2012 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. Steve Lightle, Dr. J.J. Lacey Jr., Mr. Danny Tate, Dr. Tommy Wagner and 2 - Members absent - Dr. Laura Sisterhen and Mr. John Hauge.

Mr. Steve Lightle, the Chairman, began the meeting with a "Welcome" to those attending. The Chairman introduced Mr. Mark Ohrenberger, Assistant Attorney General, who is replacing Mr. Arnie Jochums as our legal counsel from the Attorney General's Office. Mr. Lightle also introduced Ms. Debbie Rushing, Phillip Boles and Toney Bailey all from the Department of Health, Tobacco Prevention and Cessation section.

The Chairman then asked for a motion to approve the June 7, 2012 and the July 5, 2012 board meeting minutes. A motion was made and approved with 6 - Yes votes and 2 - Members absent.

Mr. Lightle then moved on to "New Business" and "Disciplinary Hearings", as there wasn't any "Old Business" to address. The Chairman introduced Mr. Greg Kirkpatrick serving as the Hearing Officer, and Mr. Denny Michaels, as Court Reporter.

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

### **Default List**

Mr. Roland Darrow, Staff Attorney, made a roll call of the names listed on the Default Judgments for Board Approval list dated August 2, 2012. No one answered as being present. Mr. Darrow asked the Board to approve the list as presented and issue the maximum fines on each case. A motion was made to that effect and approved with 6 - Yes votes and 2 - Members absent.

**Case #2012-116                      Tobacco Superstore #75                      Green Forest, AR**

**VIOLATION:                      §5-27-227(a)(1)                      Selling to a minor, 3<sup>rd</sup>  
Offense, \$400 & 2-day  
Suspension of permit, plus  
mandatory training.**

Mr. Larry Cobb was present to represent the business location.

A motion was made and approved to find Tobacco Superstore #75 in violation of §5-27-227(a)(1) Selling to a minor, levy a \$400 fine and 2 – day suspension of permit, plus mandatory training with 5 – Yes votes, 1 – Abstention, and 2 – Members absent.

**Case #2012-065                      Pike Avenue Convenience Store                      NLR, AR**

**VIOLATION:                      §26-57-235(d)(1)                      Cigarettes not in 20 or  
25 count pkgs, \$1,000  
fine and 10 – day  
suspension of permit.**

**§26-57-235(d)(2)                      Selling individual  
cigarettes, 3 counts  
(\$1,000 & 30 days per  
count) \$3,000 &  
90 – day suspension of  
permit.**

**Total of \$4,000 fine &  
100 – days suspension  
of permit.**

The business location was represented by Mr. Steve Chun, owner. He was aided by a Korean interpreter, Ms. Young Lee.

A motion was made to find Pike Avenue Convenience Store in violation of §26-57-235(d)(1) Cigarettes not in 20 or 25 count packages, levy a \$1,000 fine and 10 – day suspension of permit, in violation of §26-57-235(d)(2) Selling individual cigarettes, levy a \$3,000 fine and 90 – day suspension of permit for a total of a \$4,000 fine and 100 – day suspension of permit to be served consecutively and destruction of confiscated products. The motion passed with 6 – Yes votes and 2 – Members absent.

**Case #2012-111**

**Shell Gas Station**

**Little Rock, AR**

**VIOLATION:**

**§26-57-235(d)(2)**

**Selling individual cigarettes, 2 counts (\$1,000 & 30 days per count) \$2,000 & 60 – day suspension of permit.**

Shell Gas Station was represented by Mr. Keith Vaughn, Attorney, and the store owner Mr. Yop Ryan.

After hearing testimony, a motion was made to find Shell Gas Station in violation of §26-57-235(d)(2), Selling individual cigarettes, levy a \$2,000 fine and 60 – day suspension of permit, destruction of confiscated product and serve 60 days within 6 months from today’s date. The motion failed as there were 4 – Yes votes, 1 – No vote, 1 – Abstention, and 2 – Members absent.

A second motion was made and approved to find Shell Gas Station in violation of §26-57-235(d)(2) Selling individual cigarettes, levy a \$2,000 fine and 60 – day suspension of permit with 6 Yes votes and 2 – Members absent.

**Case #2012-101**

**Skyroad Gas**

**Little Rock, AR**

**VIOLATION:**

**§26-57-235(d)(2)**

**Selling individual  
cigarettes, 3 counts  
(\$1,000 & 30 days per  
count) \$3,000 fine &  
90 – day suspension of  
permit.**

Mr. Rajwinder Kaur was present to represent the business location.

A motion was made and approved to find Skyroad Gas in violation of §26-57-235(d)(2) Selling individual cigarettes, issue a \$3,000 fine and 90 – day suspension of permit to run consecutively and destruction of confiscated product with 6 – Yes votes and 2 – Members absent.

The Disciplinary Hearings were concluded and Mr. Kirkpatrick turned the meeting back over to the Chairman. Mr. Lightle continued by asking the Director, Mr. J.R. Thomas, to present his reports to the Board.

Mr. Thomas asked the Board to review the “New Retail Permit” report and approve as submitted. A motion was made to approve the “New Retail Permits Issued” list dated June 7, 2012 through August 1, 2012 as submitted” with 6 – Yes votes and 2 – Members absent.

The Director then asked the Board to review the “Accepted Offers of Settlement for Board Approval” report dated August 2, 2012 as submitted. A motion was made to approve the “Accepted Offers of Settlement” report dated August 2, 2012 with 6 – Yes votes and 2 – Members absent.

Mr. Thomas then called on Deputy Director Greg Sled to give his update on enforcement activity and merchant education. He introduced Ms. Jennifer Ray, who is a new Administrative Specialist with the agency.

Mr. Sled stated in Fiscal Year 2012 there were 3,430 compliance checks performed with an 8.19% violation rate. Out of 285 fines levied, there

was \$507,000 collected. Out of the \$507,000, \$232,212 was for untaxed tobacco and \$32,950 was for Sales to Minors violations. He also provided a graph to the Board comparing Fiscal Year 2011 and Fiscal Year 2012 Tobacco Sales to Minors. There would be merchant education classes held in the Barling & Fort Smith areas of the state on August 28, 2012.

The Department of Health has increased the funding for Fiscal Year 2013. They have approved the funding to hire 2 agents, whose positions had been cut 2 years ago due to budget cuts. They have also approved funding to replace 3 vehicles. The Sales to Minors compliance checks for Fiscal Year 2013 have increased to approximately 5,300. A Memorandum of Agreement has been signed.

Mr. J.R. Thomas expressed his appreciation to the Department of Health representatives for working with the agency.

The Director then asked for the FDA program report. Dr. Casey Carder reported during the last two months there have been 777 inspections. There has been an increase in undercover buys with the violation rate maintaining. Interviews are being conducted to replace field agents in Northwest and Central Arkansas. As of October 1, 2012, a new contract will begin with the FDA.

The Chairman asked for a Court Update. Mr. Mark Obrenberger, Assistant Attorney General, didn't have anything to report. He shared that he has been with the Attorney General's Office for 3 ½ years and was in private practice for 3 ½ years.

Mr. Darrow, Staff Attorney, reported the appeals for Bottle Mart Liquor in Texarkana, One Food Mart and Easy Mart both in Forrest City are under review. There is no activity on Clem Wholesale. The motion was denied for Superstop #412 in Blytheville.

The next meeting date will be September 6, 2012. A motion was made and approved to adjourn with 6 – Yes votes and 2 – Members absent.

Minutes prepared by

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Janis L. Campbell

August 29, 2012