



## ARKANSAS TOBACCO CONTROL



Asa Hutchinson  
Governor

Steve Goode  
Director

### BOARD MEETING MINUTES AUGUST 6, 2015

The Arkansas Tobacco Control Board met on Thursday, August 6, 2015 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 119. There were 7 – Board members present. Those attending were Dr. Shabbir Dharamsey, Ms. Carol Dyer, Mr. John Hauge, Mr. Steve Lightle Chairman, Dr. J.J. Lacey Jr., Dr. Brad Mayfield and Mr. Sam Stathakis Jr. Those absent included Mr. Kevin Case.

Mr. Lightle began the meeting with a “Welcome” to those attending. He then introduced Mr. Greg Kirkpatrick serving as the Hearing Officer, Ms. Sarah Farris with the Attorney General’s Office and Mrs. Jana Perry serving as Court Reporter.

Mr. Lightle asked for a motion to approve the board meeting minutes from June 4th, 2015. Due to the absence of board member Kevin Case, the minutes were approved with 7 yes votes.

The there was no Default List for this month.

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

**CONSENT ORDERS**

**IN RE: ARAMARK CORECTIONAL SERVICES, LLC  
LITTLE ROCK, ARKANSAS  
PERMIT NO. 06358-02**

**CASE NO. 2014-626**

The respondents shall pay the settlement sum in the amount of \$591,300.00 pursuant to A.C.A. § 26-57-248 \$141,300.00 suspended pending successful completion of a two year probation wherein Respondent must not engage in the sale of Tobacco Products in the state of Arkansas and fail to remit the Arkansas Tobacco Excises taxes due on the Tobacco Products. In the event Respondent fails to comply with the Act during the two year probation period, the suspended \$141,300.00 will immediately become due and payable in addition to any other sums due and payable under the Act. The two-year probation period shall commence upon date of the approval of this Consent Order by the Board. Respondents shall remit one-half of the fine due under this Order within seven (7) business days of the effective date of this Order. Respondents shall remit the remaining one-half of the fine due under this Order on the first business day after January 1, 2016. In addition to this, Respondent agrees and acknowledges that the Tobacco Products confiscated by the state of Arkansas from Respondents shall be ordered destroyed upon the approval by the Board of this Consent Order. This Consent Order in no way relieves Respondents from liability for any tobacco excise tax assessment made by the Arkansas Department of Finance and Administration.

The Board shall retain jurisdiction of this matter for purposes of implementing and enforcing this Consent Order, and that Respondents' failure to comply with any provision herein shall constitute a violation of the Board's Order for which the Board may impose additional disciplinary action.

The motion was made to approve the consent order and passed with 7 yes votes.

**IN RE: SALEH ALJAAD and  
UNIVERSITY MARKET  
JONESBORO, ARKANSAS  
PERMIT NO. 04588-02**

**CASE NO. 2015-134**

On April 8, 2015, Respondents' business was the subject of a store inspection. During the course of that inspection, it was discovered that Respondents possessed and sold untaxed tobacco products and failed to maintain invoices on said tobacco products as required by law.

Respondents' actions are violations of Ark. Code Ann. § 26-57-245 and § 26-57-213 and are subject to punishment by the Board, pursuant to A.C.A. § 26-57-248 and § 26-57-256.

Respondents' are guilty of violating Ark. Code Ann. § 26-57-245 and § 26-57-213 and agree to be penalized as set forth below.

The Respondents are fined \$850.00 as a civil penalty for the violation of A.C.A. § 26-57-245, Respondents' Retail Cigarette and Tobacco Permit No. 04588-02 is ordered suspended for a period of 5 days and the confiscated product is ordered destroyed; Respondents are fined \$500.00 as a civil penalty for the violation of A.C.A. § 26-57-213 and Respondents' permit is ordered suspended for a period of 5 days. Suspensions shall run concurrently. The Director of Arkansas Tobacco Control shall notify Respondents of the exact dates of the permit suspension by subsequent notice

The Board shall retain jurisdiction of this matter for purposes of implementing and enforcing this Consent Order, and that Respondents' failure to comply with any provision herein shall constitute a violation of the Board's Order for which the Board may impose additional disciplinary action.

The motion was made to approve the consent order and passed with 7 yes votes.

**IN RE: ANIL GUPTA and** **CASE NO. 2015-0120**  
**PARAMOUNT SHOPS LLC. DBA BLEVINS QUICK MART**  
**BLEVINS, ARKANSAS**  
**PERMIT NO. 04458-02**

On March 24, 2015, a compliance check was performed on said business during at which time a tobacco product was sold to a minor.

Respondents are in violation of A.C.A. § 527-227(a)(1), and are subject to punishment by the Board, pursuant to A.C.A. § 26-57-256 in that the business under permit 04458-02 sold a tobacco product to a minor for a fourth time in forty-eight months.

Pursuant to Ark Code Ann. § 527-227(a)(1), the respondents may be fined up to \$2,000.00 and suffer a permit suspension of 14 days. However, the Respondent was mailed an Offer of Settlement of \$1,000.00 fine and a 7 day permit suspension. He rejected the offer and asked for a leniency hearing where he admitted the violation occurred and asked for a lesser penalty.

The respondent appeared at the hearing to present to the board all of the measures and said steps that he stated had been taken after the third violation took place. His argument was that all of the employees had been to the

Arkansas Tobacco Control Merchant Training given by Mrs. Mandy Miller and yet this particular cashier still sold to a minor even after being trained not to. He said that they are trying and doing everything they can to make sure their employees understand the severity of selling to a minor. He stated that they are not in control of what their cashiers do after the training. That all they can do is provide the information and make sure they understand on a daily basis what is expected of them on their shift. Director Steve Goode then addressed Mr. Gupta and stated that he applauded his efforts but that he was concerned at the actual level of Mr. Gupta's efforts considering this was his fourth violation within 2 years at this particular store. Mr. Gupta then addressed Director Goode back and stated that he has done all he can do and that he even went a step further in having one of his employees record the training session that Mrs. Mandy Miller did so that he could make copies of it to give to his stores to help them in their employee training.

The board addressed Mr. Gupta and told him while they applaud his many efforts in making sure his employees did not sell to a minor, that there was not enough substantial information to prove that the corrective actions actually took place after the last violation.

Dr. Dharamsey then addressed Attorney Roland Darrow and ask if he could give them on a rating scale of 5 being less and 10 being high of how well Mr. Gupta's efforts were in keeping his store from any further violations. At that time Attorney Roland Darrow asked the board if he could ask that question of the Merchant Trainer Mandy Miller. They said yes and she was sworn in. The board then addressed the same question only to Mrs. Mandy Miller. She stated that she would give Mr. Gupta a 5 being average in his efforts.

The board then addressed Mr. Gupta and told him that an Offer of Settlement was sent stating the original penalty that could be given and the offer that was being made to him. They told him that he rejected the offer so there for by him doing so gave the board the right to impose the maximum penalty which is the original penalty given, \$2,000.00 and 14 day permit suspension. Mr. Gupta stated he was not contesting this and again asked that the board show leniency on him.

A motion was made by Dr. Dharamsey to fine Mr. Gupta with the \$2,000.00 and a 14 day permit suspension held in abeyance pending him enrolling in a Certified Training Program at which time the 14 day permit suspension would cease. After some deliberation by the board, Dr. Dharamsey removed his motion from the table. At that time the board decided to offer Mr. Gupta the option of taking the offer Dr. Dharamsey had made or taking the offer that was sent to him of \$1000.00 and a 7 day permit suspension. Mr. Gupta addressed the board and thanked them for the options but stated that Dr. Dharamsey's offer was not lenient but more severe. So he accepted the \$1000.00 fine and a

7 day permit suspension. Dr. Lacey then addressed Mr. Gupta to make sure that he clearly understood the offer that was made by Dr. Dharamesy and the board before he finalized his decision. Me. Gupta stated that he did understand and would still wish to accept the \$1000.00 fine and a 7 day permit suspension.

A motion was made to fine Mr. Gupta with \$1000.00 and a 7 day permit suspension. The motion passed with 7 yes votes.

Director Goode addressed the Board and requested the board review and issue a blanket approval of the new retail permits issued from June 4th through August 5th, 2015.

After review, a motion was made to approve the new retail permits. The motion passed with 7 yes votes.

Director Goode then addressed the Board and requested that a blanket approval of the accepted offers of settlement listed in the Accepted Offers of Settlement for Board Approval report dated August 6th, 2015 be issued.

After review, a motion was made to approve the accepted offers of settlement. The motion passed with 7 yes votes.

Deputy Director Sled gave a brief update on the Enforcement division activities and Deputy Director Larry Owens gave a brief on the activities in the FDA Division. He let the board know that FDA is still in the process of getting their agency ready for the new vapor law. He is not sure when it will actually take effect but they are in the early stages.

### **ADJOURNMENT**

In closing, Mr. Lightle announced the next Board Meeting will be September 3<sup>rd</sup>, 2015, and then the meeting was adjourned.

Minutes prepared by

*Christi Harper*

August 10, 2015

Christi Harper