



## ARKANSAS TOBACCO CONTROL



Asa Hutchinson  
Governor

Steve Goode  
Director

### BOARD MEETING MINUTES DECEMBER 3, 2015

The Arkansas Tobacco Control Board met on Thursday, December 3., 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 6 Board members present and 2 Board members absent. Those attending were Mr. Kevin Case Chairman, Mr. Steve Lightle, Dr. J.J. Lacey Jr., Dr. Brad Mayfield, Mr. Sam Stathakis Jr. and Mr. Jay Hickey. Board members absent were Ms. Carol Dyer and Dr. Shabbir Dharamsey.

Mr. Case began the meeting with a "Welcome" to those attending. He then introduced Mr. Greg Kirkpatrick serving as the Hearing Officer and Mrs. Nicole Hardwick serving as Court Reporter. Mr. Case then proceeded with the meeting.

Mr. Case asked for a motion to approve the board meeting minutes from November 5, 2015.

The minutes were approved with 6 yes votes and 2 absent members.

The default list dated December 3, 2015 was presented and read aloud by Attorney Roland Darrow.

This list was approved with 6 yes votes and 2 absent members.

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

**CONSENT ORDERS**

**IN RE: HARPREET SINGH and  
A AND S QUICK MART  
PINE BLUFF, ARKANSAS  
PERMIT NO. 07002-04**

**CASE NO. 2015-056**

On February 10, 2015, Respondents' business possessed untaxed tobacco products, respondents were found to have purchased said untaxed tobacco products from an unlicensed dealer, failed to maintain invoices as required by law and respondents were found to be advertising and to have sold Basic, Doral and Virginia Slims cigarettes below state minimum price.

Respondents' are guilty of violating Ark. Code Ann. § 26-57-245, § 26-57-228, § 26-57-213 and § 4-75-708.

The Respondents are fined \$500.00 as a civil penalty for the violation of A.C.A. § 26-57-245, Respondents' retail permit is ordered suspended for a period of 10 days and the confiscated product is ordered destroyed; Respondents are fined \$500.00 as a civil penalty for the violation of A.C.A. § 26-57-228 and Respondents' retail permit is ordered suspended for a period of 10 days; Respondents are fined \$500.00 as a civil penalty for the violation of A.C.A. § 26-57-213 and Respondents' retail permit is ordered suspended for a period of 5 days; and Respondents are fined \$100.00 for the violations of A.C.A. § 4-75-708. Total fine amount is \$1,600.00 and said suspensions are to be served 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 a Board's Order for which the Board may impose additional disciplinary action.

A motion was made to approve the consent order and was passed with 6 yes votes and 2 absent members.

**IN RE: TIMOTHY LEE and  
ORANGE, LLC DBA DISCOUNT TOBACCO OF FARMINGTON  
FARMINGTON, ARKANSAS  
PERMIT NO. 09758-01**

**CASE NO. 2015-226**

On July 21, 2015, Respondents' clerk sold a tobacco product to a minor for a second time within forty-eight months, in violation of A.C.A. § 5-27-227(a)(1).

Respondents being responsible for the actions of said clerk, 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.

The respondents shall be fined \$250.00 as a civil penalty and all employees of Orange, LLC in Farmington, Arkansas must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

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 a Board's Order for which the Board may impose additional disciplinary action.

A motion was made to approve the consent order and was passed with 6 yes votes and 2 absent members.

**IN RE: ARUN DOSHI and  
1600 MALVERN INC.  
MALVERN, ARKANSAS  
PERMIT NO. 03317-03**

**CASE NO. 2015-399**

On October 12, 2015, Respondents' clerk sold a tobacco product to a minor for a second time within forty-eight months, in violation of A.C.A. § 5-27-227(a)(1).

Respondents being responsible for the actions of said clerk, 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.

The respondents shall be fined \$250.00 as a civil penalty and all employees of 1600 Malvern Inc. in Malvern, Arkansas must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

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 a Board's Order for which the Board may impose additional disciplinary action.

A motion was made to approve the consent order and was passed with 6 yes votes and 2 absent members.

**IN RE: NOORUDDIN B. KHETANI and  
NRA LLC DBA COUNTRY CORNER  
CONWAY, ARKANSAS  
PERMIT NO. 08797-03**

**CASE NO. 2015-416**

On October 20, 2015, Respondents' clerk sold a tobacco product to a minor for a second time within forty-eight months, in violation of A.C.A. § 5-27-227(a)(1).

Respondents being responsible for the actions of said clerk, 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.

The respondents shall be fined \$250.00 as a civil penalty and all employees of Country Corner in Conway, Arkansas must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

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 a Board's Order for which the Board may impose additional disciplinary action.

A motion was made to approve the consent order and was passed with 6 yes votes and 2 absent members.

**IN RE: BARRY F. LILLARD and  
HAWGS EXXON (LILLARD-MELTON JOINT VENTURE)  
BATESVILLE, ARKANSAS  
PERMIT NO. 09659-01**

**CASE NO. 2015-372**

On September 21, 2015, Respondents' clerk sold a tobacco product to a minor for a second time within forty-eight months, in violation of A.C.A. § 5-27-227(a)(1).

Respondents being responsible for the actions of said clerk, 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.

The respondents shall be fined \$250.00 as a civil penalty and all employees of Hawgs Exxon (Lillard-Melton Joint Venture) in Batesville, Arkansas must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

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 a Board's Order for which the Board may impose additional disciplinary action.

A motion was made to approve the consent order and was passed with 6 yes votes and 2 absent members.

### **FULL HEARING OR BOARD MANDATED HEARINGS**

#### **IN RE, JERRY RAY WALKER and VALLEY EXXON CADDO VALLEY, AR**

On August 26, 2015, a compliance check was performed on said business and during the course of that check, tobacco product was sold to a minor. The business operating under permit no. 04834-03 sold a tobacco product to a minor for the third time in forty-eight months. The Offer of Settlement that was sent out to the respondent in this matter was a \$500 fine, 3 day permit suspension and mandatory ATC Merchant Education Training within six months of the Board's approval of the Offer of Settlement.

Mr. Jerry Walker was present at the hearing. He was there not to contest the settlement offer but to ask advice from the Board in how he is to better his store and keep this situation from happening again.

Attorney Roland Darrow address the Board and presented the case. He stated that this was their 3<sup>rd</sup>. violation within 4 years. He called Mrs. Mandy Miller to testify that this store and clerk, who had sold to the minor and had been to the ATC Merchant Education Training class shortly before the violation accrued, did in fact receive the Offer of Settlement that was sent to them. The owner acknowledged he did receive it and understood what had happened.

Greg Kirkpatrick then opened the floor for Mr. Walker to state his case. Mr. Walker again said that he was not here to contest the offer that was presented to him. He was merely here to ask form the Board and the Director for assistance and help in keeping this problem from happening again. He stated that he has purchased a POS system that the cashiers were to be using. He said that if there were settings on it that would help him he was not aware of them.

Mr. Kirkpatrick address the defendant and let him know that if he had no further statement that he would have to turn it over to the board for a decision. Mr. Walker stated he had no other comments.

The Board was then address to make a motion in the case. At that time Steve Lightle, Jay Hickey and Director Steve Goode took the opportunity to openly give some advice to Mr. Walker about how he needed to better understand hi POS system and read up on it because there were functions he needed to be aware of. Also about things they have done with their own stores on a daily basis to keep their store clerks from selling that has been working for them.

The Board after hearing the suggestions mad a motion of a \$1,000 fine with no suspension and mandatory Merchant Education Training for all employees of Valley Exxon to be completed within six months of the Board hearing.

A motion was made to approve the consent order and was passed with 5 yes votes, 2 members absent and 1 abstention due to a conflict of interest.

## **WHOLESALE APPLICATIONS**

Two Wholesale Tobacco, Vapor Product and Alternative Nicotine Product applications that have met the requirements of Section 3 of the A.T.C.B. Rules were presented to the Board for approval and issuance. The application were for:

Casey's Marketing Company – Terre Haute IN,  
Valu Merchandisers Company Inc. – Memphis TN,

A motion was made to approve both applications and was passed with 6 yes votes and 2 absent members.

Chairman Kevin Case requested that the Board issue a blanket approval of the new permits issued from November 4<sup>th</sup>. through December 2<sup>nd</sup>. 2015. After the Board reviewed the list of permits, a motion was made to approve the new permits and was passed with 6 yes votes and 2 absent members.

Chairman Case then requested the Board grant a blanket approval of the accepted offers of settlement received by ATC prior to December 3<sup>rd</sup>. 2015. After review of the offers accepted list, a motion was made to approve the accepted offers of settlement on the list.

The motion passed with 6 yes votes and 2 absent members.

Deputy Director Sled gave a brief update on the Enforcement division activities and let the board know that there are two open positions they are trying to fill. They have very promising candidates that they have been interviewing. He hopes that both positions will be filled soon. He also addressed the Board to let them know that the agency was having a fare well retirement party for Jimmy Massie following the Board hearing and that they were all welcome to attend.

Deputy Director Larry Owens gave a brief update on the activities in the FDA Division and announced that the onsite audit report has not been received yet. It has been pushed to the back. He hopes to have the full report by the beginning of the New Year.

Director Goode then addressed the board to let them know about something that Altria is proposing to do here in the state. He said part of what they are proposing, having retailers give gasoline discounts for customers purchasing cigarettes, would violate the Combination Sale statute. He said he does not think nor feel this is a smart move, nor would do the state and local business any good. He is in opposition against this new movement. The board agreed and thanked Director Goode for letting them know.

**ADJOURNMENT**

In closing, Mr. Case announced the next Board Meeting will be January 7th, 2015, and then the meeting was adjourned.

Minutes prepared by

*Christi Harper*

December 15, 2015

Christi Harper