

ARKANSAS TOBACCO CONTROL MEETING MINUTES

DECEMBER 6, 2012

The Arkansas Tobacco Control Board met on Thursday, December 6, 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 with Dr. Tommy Wagner arriving after the meeting began. Those attending were Mr. Kevin Case, Mr. John Hauge, Mr. Steve Lightle, Dr. J.J. Lacey Jr., Mr. Danny Tate, and Dr. Tommy Wagner with 2 – Members absent - Ms. Carol Dyer and Dr. Laura Sisterhen.

Mr. Steve Lightle, the Chairman, began the meeting with a “Welcome” to those attending. The Chairman then asked for a motion to approve the November 1, 2012 board meeting minutes. The minutes were approved with 5 – Yes votes and 3 - Members absent.

Mr. Lightle then moved on to “New Business” as there wasn’t any “Old Business” to address. He introduced Mr. Greg Kirkpatrick serving as the Hearing Officer, and Ms. Lydia Williams Heroman, as Court Reporter.

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

Consent Order

Case #2012-104

M & M Mart, Inc.

North Little Rock, AR

A motion was made to approve the Consent Order as presented with 5 – Yes votes and 3 – Members absent.

Default List

Mr. Darrow read off the Default List dated December 6, 2012 asking if anyone was present from those business locations. Since there was no response, a motion was made and approved to accept the Default List as submitted with 5 - Yes votes and 3 – Members absent.

After hearing testimony, a motion was made to find Town & Country Food & Fuel in violation of §26-57-213 Failure to maintain invoices, impose a \$500 fine and 5 day suspension of permit, and in violation of §26-57-245 Possession of untaxed tobacco with destruction of confiscated product as the only penalty imposed. The motion was approved with 5 – Yes votes, 1 – Abstention and 2 – Members absent.

Case #2012-296

Mals LLC

Clarksville, AR

VIOLATION:

§5-27-227(a)(1)

Selling cigarettes to a minor, 4th Offense, No recommended penalty.

Mr. Rahul Kumar, the Store Manager , and his Attorney, Mr. Skip Davidson, were present to appear before the Board in this matter.

After hearing testimony, a motion was made to find Mals LLC in violation of §5-27-227(a)(1) Selling cigarettes to a minor, levy a \$2,000 fine and 7-day suspension of permit and Mr. Kumar is to attend the Merchant Education Training provided by this agency. The motion was approved with 6 – Yes votes and 2 – Members absent.

Case #2012-386

Tontitown Z Mart

Tontitown, AR

VIOLATION:

§5-27-227(a)(1)

Selling cigarettes to a minor, 4th Offense, No recommended penalty.

Mr. Mike and Toni Zulpo, the owners, were present to appear before the Board.

A motion was made and approved to find Tontitown Z Mart in violation of §5-27-227(a)(1) Selling to a minor, impose a \$2,000 fine and 2-day suspension of permit with 5 – Yes votes, 1 – Abstention, and 2 – Members absent.

Case #2012-188

Lones #4

Little Rock, AR

VIOLATION:

§26-57-235(d)(2)

**Selling single
cigarettes, \$1,000 fine
and 30-day suspension
of permit.**

Mr. Pravin Patel, the owner, represented the store location.

After hearing testimony, a motion was made to find Lones #4 in violation of §26-57-235(d)(2) Selling single cigarettes, levy a \$1,000 fine and 30-day suspension of permit. There was not a second; the motion failed.

A second motion was made to find Lones #4 in violation of §26-57-235(d)(2) Selling single cigarettes, levy a \$1,000 fine and 7- day suspension of permit. The motion failed as there was not a second to the motion.

A third motion was made to find Lones #4 in violation of §26-57-235(d)(2) Selling single cigarettes, levy a \$1,000 fine and no suspension of permit. The motion failed as there were 3 – Yes votes, 2 – No votes, 1 – Abstention and 2 – Members absent.

A fourth motion was made to find Lones #4 in violation of §26-57-235(d)(2) Selling single cigarettes, levy a \$1,000 fine and 30-day suspension of permit with a probation period of 1-year. If there are any single cigarette violations, the 30-day suspension will be served at that time. The motion was approved with 5 – Yes votes, 1 – Abstention and 2 – Members absent.

Case #2012-359

E-Z Mart #217

De Queen, AR

VIOLATION:

§5-27-227(a)(1)

Selling cigarettes to a minor, 3rd Offense, \$400 fine and 2 – day suspension of permit.

The business location was represented by Mr. George DeLoach and Ms. Becky Norris, District Supervisor.

A motion was made to find E-Z Mart in violation of §5-27-227(a)(1) Selling to a minor, impose a \$400 fine and 2 – day suspension of permit with no second. The motion failed.

A second motion was made to find E-Z Mart in violation of §5-27-227(a)(1) Selling to a minor, impose a \$500 fine and no suspension of permit. The motion was approved with 6 – Yes votes and 2 – Members absent.

Case #2012-315

Tiger Stop

Bentonville, AR

VIOLATION:

§5-27-227(a)(1)

Selling cigarettes to a minor, 3rd Offense, \$400 fine and 2 – day suspension of permit.

The owner, Mr. Mike McKenzie, was present to come before the Board.

A motion was made and approved to find Tiger Stop in violation of §5-27-227(a)(1) Selling to a minor, impose a \$500 fine and no suspension of permit with 6 – Yes votes and 2 – Members absent.

Use and Benefit Order

Mr. Darrow presented a "Use and Benefit Order" to the Board. A motion was made to approve the Use and Benefit Order as presented 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 November 1, 2012 through December 5, 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 December 6, 2012 as submitted. A motion was made to approve the "Accepted Offers of Settlement" report dated December 6, 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. Mr. Sled stated in November there were 230 checks with 23 violations for a rate compliance of 10%. On December 11th there would be merchant training in El Dorado, AR.

The Director then asked for the FDA program report. Dr. Casey Carder reported the FDA has reimbursed all back payments that were due. Since the last meeting, there were 192 cases with 27 potential violations. The violation rate is 8.43%.

The Chairman asked for a Court Update. Mr. Mark Obrenberger, Assistant Attorney General, didn't have anything to report. Mr. Darrow, Staff Attorney, reported the transcripts for three appeals have been

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filed with the Court. They are for I-30 Superstore, Roosevelt Superstore and Stop-N-Go all of Little Rock.

The next meeting date will be January 3, 2013. All the board members were in agreement to adjourn.

Minutes prepared by

Janis L. Campbell

December 7, 2012