



ARKANSAS TOBACCO CONTROL



Asa Hutchinson
Governor

Steve Goode
Director

BOARD MEETING MINUTES JUNE 4, 2015

The Arkansas Tobacco Control Board met on Thursday, June 4, 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 8 – Board members present. Those attending were Mr. Kevin Case, 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.

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. Lydia Williams-Heroman serving as Court Reporter.

Mr. Lightle asked for a motion to approve the board meeting minutes from May 7th, 2015. Due to two of the Board members running late, the minutes were approved with 6 yes votes.

The there was no Default List for this month.

A change of ownership was submitted from USA Tobacco Distributing Inc./Prime Time International Inc. Due to filing chapter 11 bankruptcy effective June 1st. 2015, the new ownership for this business will be Prime Time International Distributing Inc. No objection being raised, the chairman declared the change of ownership notice as having been reviewed.

A new wholesale tobacco application was brought before the Board to approve. Fumo Novelties Inc. Submitted an application and supporting documentation to obtain a wholesale tobacco permit with the state of Arkansas. The Board reviewed the application and a motion was approved by the Board with 7 yes votes.

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

CONSENT ORDERS

**IN RE: JERRY GARLAND and
ASSOCIATED WHOLESALE GROCERS, INC.
SPRINGFIELD, MISSOURI
WHOLESALE CIGARETTE PERMIT NO. 30701-01**

CASE NO. 2015-057

From January 1, 2014 through February 9, 2015, Respondents' business was discovered to have stamped and sold Six Hundred and Sixty-One Cartons of Exeter brand cigarettes which were not on the Arkansas Attorney General's approved for sale list to Cash Saver in Heber Springs, Arkansas.

Respondents agree that the actions described in paragraph seven violate Arkansas Code Annotated § 26-57-1303(c)(1).

The Respondents are fined \$132,200.00 as a civil penalty and the wholesale cigarette permit no. 30701-01 is suspended for 14 days for the violation of A.C.A. § 26-57-1303(c)(1) with \$99,150.00 in fines and the 14 day permit suspension held in abeyance pending successful completion of a two year probation wherein Respondents must not sell cigarettes which are not on the Arkansas Attorney General's approved for sale directory in violation of A.C.A. § 26-57-1303(c)(1) else the suspended \$99,150.00 and the 14 day permit suspension will immediately be imposed, in addition to any penalty assessed for the subsequent violation of A.C.A. § 26-57-1303(c)(1). This Consent Order in no way relieves Respondents from liability for penalties assessed by the Arkansas Attorney General's Office.

The motion to approve the Consent Order passed with 8 yes votes.

**IN RE: CHARLIE PARKER and
DCCP INC. DBA TOBACCO SUPERSTORE #32
JONESBORO, ARKANSAS
PERMIT NO. 13175-01**

CASE NO. 2015-132

On April 8, 2015, Respondents' business was discovered to have purchased, possessed and sold untaxed tobacco products, without remitting the Arkansas Tobacco Excises taxes due on said tobacco products as required by law, having purchased the product from an unlicensed dealer.

Respondents agree that the actions described in paragraph seven violate Arkansas Code Annotated § 26-57-245 and § 26-57-228.

The Respondents are fined \$42,050.00 as a civil penalty, will suffer a 10 day permit suspension and destruction of the confiscated product for the violation of A.C.A. § 26-57-245 and are fined \$500.00 and will suffer a 10 day permit suspension for the violation of A.C.A. § 26-57-228 with \$21,025.00 and the 20 day suspension held in abeyance pending successful completion of a two year probation wherein Respondents must not violate A.C.A. § 26-57-245 or § 26-57-228 else the suspended \$21,025.00 will immediately become due and payable and the 20 day suspension will be immediately imposed, in addition to any penalty assessed for the subsequent violation of A.C.A. § 26-57-245 and/or § 26-57-228. The untaxed tobacco product confiscated from Respondents is hereby ordered destroyed. 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 motion to approve the Consent Order passed with 8 yes votes.

**IN RE: MUHAMMAD MALIK and
QADIR, INC. DBA METRO
HEBER SPRINGS, ARKANSAS
PERMIT NO. 03355-08**

CASE NO. 2015-128

On April 6, 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 Metro must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

The motion to approve the Consent Order passed with 8 yes votes.

**IN RE: AARON B. LITTLEFIELD III and
JAM INVESTMENTS, LLC DBA JAM MART #7
DANVILLE, ARKANSAS
PERMIT NO. 09367-02**

CASE NO. 2015-168

On April 29, 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 Jam Mart #7 must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

The motion to approve the Consent Order passed with 8 yes votes.

**IN RE: STEPHANIE SMITH and
SHANE SMITH ENTERPRISES, INC. DBA
TOBACCO OUTLET OF JACKSONVILLE #04
JACKSONVILLE, ARKANSAS
PERMIT NO. 09883-02**

CASE NO. 2015-081

On March 4, 2015, Respondents' business was discovered to have purchased, possessed and sold untaxed tobacco products, without remitting the Arkansas Tobacco Excises taxes due on said tobacco products as required by law, having purchased the products from an unlicensed dealer.

Respondents agree that the actions described in paragraph seven violate Arkansas Code Annotated § 26-57-245 and § 26-57-228.

The Respondents are fined \$1,325.00 as a civil penalty, will suffer a 5 day permit suspension and destruction of the confiscated product for the violation of A.C.A. § 26-57-245 and are fined \$500.00 and will suffer a 5 day permit suspension for the violation of A.C.A. § 26-57-228 with the 10 day suspension held in abeyance pending successful completion of a two year probation wherein Respondents must not commit any violation of Arkansas tobacco law or Rules, else the 10 day suspension will be immediately imposed, in addition to any penalty assessed for the subsequent violation. The untaxed tobacco product confiscated from Respondents is hereby ordered destroyed. 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 motion to approve the Consent Order passed with 8 yes votes.

**IN RE: STEPHANIE SMITH and
SHANE SMITH ENTERPRISES, INC. DBA
TOBACCO OUTLET OF MALVERN #7
MALVERN, ARKANSAS
PERMIT NO. 09000-03**

CASE NO. 2015-098

On March 11, 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 Tobacco Outlet of Malvern #7 must attend an ATC Merchant Education Training class within six (6) months of the date of this Order.

The motion to approve the Consent Order passed with 8 yes votes.

Director Goode addressed the Board and requested that a blanket approval of the new retail permits report dated from May 6th through June 3rd, 2015 be issued. After review, a motion was made to approve the new retail permits. The motion passed with 8 yes votes.

Director Goode then addressed the Board and requested that a blanket approval of the accepted offers of settlement for board approval reports dated June 4th, 2015 be issued. After review, a motion was made to approve the accepted offers of settlement. The motion passed with 8 yes votes.

Chairman Steve Lightle then addressed the Board and made a motion that the July 2nd Board meeting be cancelled due to the 4th of July Holiday weekend. All members agreed and the motion passed with 8 yes votes.

The Director stated that in accordance with Governor Asa Hutchins instructions to all state agencies to reduce office space to save money where possible, Arkansas Tobacco Control will be downsizing office its total office space. Changes and construction will only be taking place to the agency offices located on the 4th floor. These changes are pending the approval of the ABA for final confirmation. No start date has been set yet for the construction to take place. When a date has been set, Director Goode will notify the Board. He also

mentioned to the Board that we will be letting other agencies in the building have access to the Board meeting room so long as they make a reservation with the front desk. He stated that we have the space and would like to share it with others in the building that can benefit from it as well.

Attorney Roland Darrow addressed the Board to give a brief on the changes that have been made to all Wholesale and Manufacture permits as of the beginning of this year. Due to reorganizing the Tobacco Control system, we have given new permit numbers. Wholesalers starting at 30000-01 and Manufactures starting at 50000-01.

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.

ADJOURNMENT

In closing, Mr. Lightle announced the next Board Meeting will be August 6th, 2015, and then the meeting was adjourned.

Minutes prepared by

Christi Harper

June 11, 2015

Christi Harper