

ARKANSAS TOBACCO CONTROL MEETING MINUTES

JUNE 6, 2013

The Arkansas Tobacco Control Board met on Thursday, June 6, 2013 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 5 – Board members present. Those attending were Ms. Carol Dyer, Mr. John Hauge, Dr. J.J. Lacey Jr., Mr. Danny Tate, and the Chairman, Mr. Lightle, with 3 members absent – Mr. Kevin Case, Dr. Laura Sisterhen & Dr. Tommy Wagner.

Mr. Lightle began the meeting with a “Welcome” to those attending. He then asked for a motion to approve the May 2, 2013 board meeting minutes. The minutes were approved with 5 yes votes and 3 members absent.

Mr. Lightle asked if there was any “Old Business” to discuss which there wasn’t so we moved on to “New Business”. He introduced Mr. Greg Kirkpatrick serving as the Hearing Officer, and Ms. Lydia Heroman, as Court Reporter.

The Hearing Officer asked about the default list that Mr. Darrow verified that we did have which was read aloud and approved with a blanket vote with 5 yes votes & 3 members absent.

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

Consent Orders

Case #2012-93

Jerry’s One Stop

Hope, AR

A motion was made to approve the Consent Order as presented with 5 yes votes and 3 members absent.

Case #2012-130 through 139

Discount Tobacco of Arkansas, Inc.

A motion was made to approve the Consent Order as presented with 5 yes votes and 3 members absent.

Case #2013-10

University Market

Jonesboro, AR

VIOLATIONS:	Rule 4.1	No Server Awareness Forms
	Rule 2.6	Permit not properly displayed
	§26-57-213	Failure to Maintain Invoices
	§26-57-245	Possession of Untaxed Product

Mr. Asif Bhagit, a managing partner was present to appear before the Board in this matter.

After hearing testimony, a motion was made to find University Market in violation of Rule 4.1 for having no server awareness forms and levied a \$500 fine with a suspension of 5 days, Rule 2.6 for not having their permit displayed properly and issued a warning for the penalty, §26-57-213 for failure to maintain invoices and levied a fine for \$500 with a 5 day suspension and §26-57-245 for possession of untaxed product issuing a fine for \$12,312.50 with a 10 day suspension including destruction of confiscated product. The total fine levied was \$13,312.50 and 20 days suspension. The motion was approved with 5 yes votes with 3 members absent.

Case #2013-62

Turrell One Stop

Turrell, AR

VIOLATIONS:	§26-57-245	Possession of Untaxed Product
	§26-57-213	Failure to Maintain Invoices
	§26-57-228	Purchasing from unlicensed dealer
	§26-57-235	Cigarettes not in 20 or 25 count pack

Mr. Ahmed Mose Ali, the store owner was present to appear before the Board in this matter.

After hearing testimony, a motion was made to find Turrell One Stop in violation of §26-57-245 Possession of untaxed product and levied a fine of \$8,925.00 and a 10 day suspension including destruction of confiscated product, §26-57-213 Failure to maintain invoices with a fine of \$500.00 with 5 days suspension and §26-57-228 Purchasing tobacco from an unlicensed dealer with a fine of \$2,000.00 and 30 days suspension. The violation of §26-57-235 was dismissed. Total penalty levied was \$11,425.00 plus 45 days suspension. The motion was approved with 5 yes votes with 3 members absent.

Case #2013-15

Al's Tobacco

Little Rock, AR

**VIOLATIONS: §26-57-245
§26-57-228**

**Possession of Untaxed Product
Purchasing from unlicensed dealer**

Mr. Alaa Farah, the store owner was present to appear before the Board in this matter.

After hearing testimony, a motion was made to find Al's Tobacco in violation of §26-57-245 Possession of Untaxed Product and issued a fine of \$925.00 with 5 days suspension including destruction of confiscated product and §26-57-228 Purchasing from unlicensed dealer and levied a fine of \$500.00 with 5 days suspension. The total fine levied was \$1,425.00 and 10 days suspension. The motion was approved with 5 yes votes with 3 members absent.

The Disciplinary Hearings were concluded and Mr. Kirkpatrick turned the meeting back over to the Chairman.

Mr. Lightle asked the Director, Mr. J.R. Thomas, to present his reports to the Board.

Mr. Thomas asked the Board to review the "New Retail Permits" report and approve as submitted. A motion was made to approve the "New Retail Permits Issued" list dated May 2 through June 5, 2013 as submitted with 5 yes votes and 3 members absent.

The Director then asked the Board to review the "Accepted Offers of Settlement for Board Approval" reports dated June 6, 2013. A motion was made to approve the "Accepted Offers of Settlement" reports with 5 yes votes and 3 members absent.

Mr. Thomas then called on Deputy Director Greg Sled to give his update on enforcement activity and merchant education. Mr. Sled stated there were 702 checks in May with 54 violations which is a violation rate of 7.69% for May. We also have one merchant training class scheduled for June 19th, 2013 in Russellville. He also reported we only have 666 permits left unchecked for FY 2013.

The Director then asked for the FDA program report. Dr. Casey Carder reported there were 39 potential violations with 35 undercover buys and 4 advertising and labeling. Their compliance rate was 14.03% for the month of May.

The Chairman asked for a Court Update. Mr. Mark Obrenberger, Assistant Attorney General, didn't have anything to report.

Page 4

Attorney Roland Darrow gave a report that the Shell Superstop #412's appeal has been dismissed. He also presented a potential change to "Section 3" in Rules & Regulations to be discussed further at the August meeting.

The next meeting date will be August 1, 2013. All the board members were in agreement to adjourn.

Minutes prepared by

Pat Dykes

June 6, 2013