

ARKANSAS TOBACCO CONTROL MEETING MINUTES

MARCH 7, 2013

The Arkansas Tobacco Control Board met on Thursday, March 7, 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 Mr. Kevin Case, Mr. John Hauge, Dr. J.J. Lacey Jr., Mr. Danny Tate, Dr. Tommy Wagner, who served as the Chairman for Mr. Lightle, with 3 - Members absent - Ms. Carol Dyer, Mr. Steve Lightle and Dr. Laura Sisterhen.

Dr. Wagner began the meeting with a "Welcome" to those attending. He then asked for a motion to approve the February 7, 2013 board meeting minutes. The minutes were approved with 5 - Yes votes and 3 - Members absent.

Dr. Wagner 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. Nicole Hartwick, as Court Reporter.

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

Case #2012-129

Tobacco Shack

Bryant, AR

VIOLATION:

§4-75-708(c)

**Accepting rebates
No recommended
penalty.**

Mr. Greg Sims, the owner, Ms. Melissa (Missy) Bass, the Manager and sister to Mr. Sims, along with their legal counsel, Mr. Benjamin Brenner with the law firm of Mitchell Williams, were present to represent the business location.

An "Objection of Hearing" was presented by Mr. Brenner. After discussion, a motion was made and approved to proceed with a full Hearing for Tobacco Shack with 5 – Yes votes and 3 – Members absent.

After hearing testimony, a motion was made to find Tobacco Shack in violation of §4-75-708(c) Accepting rebates, levy a \$22,000 fine with \$11,000 being waived for cooperation and a 3 month suspension of permit. The motion failed as there was no second.

A second motion was made to find Tobacco Shack in violation of §4-75-708(c) Accepting rebates, levy a \$2,200 fine and suspension of permit for 30 – days. The motion was approved with 5 – Yes votes and 3 – Members absent.

Case #2012-249

Nasco Business, Inc.

Dumas, AR

VIOLATION:

§26-57-245

Possession of untaxed Tobacco, \$3,125 & 10 – day Suspension of permit, and destruction of confiscated product.

§26-57-213

Failure to maintain invoices, \$500 fine and 5 – day suspension of permit.

Mr. Roland Darrow, Staff Attorney, advised the Board a continuance was requested to move this case to the next meeting date. Mr. Cliff McKinney, Attorney, representing Nasco Business, Inc. was present to answer any questions.

A motion was made and approved to grant a continuance to the next meeting with 5 – Yes votes and 3 – Members absent.

Case #2012-221 Corner Tobacco Place North Little Rock, AR

VIOLATION:	§26-57-245	Possession of untaxed Tobacco, \$144,400 & 10 – day suspension of permit, and destruction of confiscated product.
	§26-57-213	Failure to maintain invoices, \$500 fine and 5 – day suspension of permit.

The owners Mr. Noor Ali and his wife, Mrs. Amina Ali, were present to represent the business location.

After hearing testimony, a motion was made to find Corner Tobacco Place, in violation of §26-57-245 Possession of untaxed tobacco, levy a fine of \$2,000, destruction of confiscated product and no suspension of permit. Also in violation of §26-57-213 Failure to maintain invoices, no penalty was levied. The motion was approved with 5 – Yes votes and 3 – Members absent.

A “Use and Benefit Order” was presented to the Board by Mr. Darrow and he asked for approval. A motion was made to approve the Use and Benefit Order as submitted with 5 – Yes votes and 3 – Members absent.

The Disciplinary Hearings were concluded and Mr. Kirkpatrick turned the meeting back over to the Chairman. Dr. Wagner 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 February 7, 2013 through March 6, 2013 as submitted” with 5 – Yes votes and 3 – Members absent.

Mr. Darrow presented a wholesale permit application to the Board for Super Food Services, Inc. of Bellefontaine, Ohio, and asked for approval, as all the requirements of the application had been met. A motion was made to that effect and approved with 5 – Yes votes and 3 – Members absent.

The Director then asked the Board to review the “Accepted Offers of Settlement for Board Approval” report dated March 7, 2013. A motion was made to approve the “Accepted Offers of Settlement” report dated March 7, 2013 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 285 checks in February with a violation rate of 8.4%.

There will be merchant education in Lonoke, AR on March 12th, Fayetteville March 14th, and the agency would be participating in the Arkansas Oil Marketers Trade Show being held in Hot Springs, AR on March 26th and 27th.

The Director then asked for the FDA program report. Dr. Casey Carder reported there were 116 violations of advertising and labeling. Their compliance rate was 3.9% this past month. She has 2 open positions for enforcement agents.

The Chairman asked for a Court Update. Mr. Mark Obrenberger, Assistant Attorney General, didn’t have anything to report nor did Mr. Darrow, Staff Attorney.

The next meeting date will be April 4, 2013. All the board members were in agreement to adjourn.

Minutes prepared by

Janis L. Campbell

March 22, 2013