

## **ARKANSAS TOBACCO CONTROL MEETING MINUTES**

**NOVEMBER 1, 2012**

The Arkansas Tobacco Control Board met on Thursday, November 1, 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 7- Board members present. Those attending were Mr. Kevin Case, Ms. Carol Dyer, Mr. John Hauge, Mr. Steve Lightle, Dr. J.J. Lacey, Mr. Danny Tate, and Dr. Tommy Wagner with 1 – Member absent - 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 October 4, 2012 board meeting minutes. The minutes were approved with 7 – Yes votes and 1 - Member absent.

Mr. Lightle then moved on to “Old Business”. At the October 4<sup>th</sup> meeting, Mr. Roland Darrow, Staff Attorney, presented a Rule 16 Opinion Request for Muswick of Little Rock. After discussion and a failed motion, it was decided the staff would review the Rule 16 Opinion and reintroduce it at the November 1, 2012 board meeting.

Mr. Darrow reintroduced the Rule 16 Opinion Request for Muswick of Little Rock. After discussion a motion was made and approved to approve the Rule 16 Opinion as presented with 7 – Yes votes and 1 – Member absent.

The Chairman then moved on to “New Business”. 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:

### **Motion for Reconsideration**

**Case #2012-166**

**BP Amoco Marion**

**Marion, AR**

Those attending to represent the business location were Mr. Tom Donaldson, Attorney, and Mr. Salamat Shah, the owner.



The store location was represented by Mr. Mohamed Altuwaiti, the owner.

A motion was made to find Speedway #101 in violation of §26-57-235(d)(2) Selling single cigarettes, \$1,000 fine and 30 – day suspension of permit. The motion was approved with 6 – Yes votes, 1 – Abstention and 1 – Member absent. Mr. Altuwaiti stated the violation did occur and agreed to the fine and suspension.

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|-----------------------|-------------------------|---|
| <b>Case #2012-190</b> | <b>Speedway #103</b>    | <b>Pine Bluff, AR</b>   |
| <b>VIOLATION:</b>     | <b>§26-57-235(d)(2)</b> | <b>Selling single cigarettes, \$1,000 fine and 30-day suspension of permit.</b> |

Mr. Wadea Masoud and Mr. Damien Jaber were present with Mr. Ben Brenner their Attorney to represent the business location.

After hearing testimony, a motion was made and approved to find Speedway #103 in violation of §26-57-235(d)(2) Selling single cigarettes, levy a \$750 fine and 10-day suspension of permit with 6 – Yes votes, 1 – Abstention and 1 – Member absent.

|                       |                            |   |
|-----------------------|----------------------------|---|
| <b>Case #2012-176</b> | <b>Fair Park Food Mart</b> | <b>Little Rock, AR</b>  |
| <b>VIOLATION:</b>     | <b>§26-57-235(d)(2)</b>    | <b>Selling single cigarettes, \$1,000 fine and 30-day suspension of permit.</b> |

No one was present to represent the store location in this matter.

After hearing testimony, a motion was made and approved to find Fair Park Food Mart in violation of §26-57-235(d)(2) Selling single cigarettes, levy a \$1,000 fine and 30-day suspension of permit with 7 – Yes votes and 1 – Member 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 October 4, 2012 through October 31, 2012 as submitted” with 7 – Yes votes and 1 – Member absent.

The Director then asked the Board to review the “Accepted Offers of Settlement for Board Approval” report dated November 1, 2012 as submitted. A motion was made to approve the “Accepted Offers of Settlement” report dated November 1, 2012 with 7 – Yes votes and 1 – Member absent.

Mr. Thomas then called on Deputy Director Greg Sled to give his update on enforcement activity and merchant education. Mr. Sled stated in October there were 294 checks with 30 violations for a rate of 10.2%. There would be merchant training in Heber Springs November 1st, Clarksville November 7<sup>th</sup>, Batesville November 8<sup>th</sup>, Lake village November 14<sup>th</sup> and Fayetteville November 29<sup>th</sup>.

The Director then asked for the FDA program report. Dr. Casey Carder reported their FDA sales are potential violations and the percentage rate runs higher than the state rate because of that. She doesn't receive an accurate violation rate for several months from the FDA. The agency's job is to collect all the information and submit it to the FDA to make those determinations.

The Director shared with the Board that the agency had gone before the Arkansas Legislative Council-Joint Budget Committee for its 2013 – 2015 Biennial Budget review. The budget was approved by the committee.

The Chairman asked for a Court Update. Mr. Mark Obrenberger, Assistant Attorney General, didn't have anything to report. Mr. Darrow, Staff Attorney, reported three appeals have been filed. They are for I-30 Superstore, Roosevelt Superstore and Stop-N-Go all of Little Rock.

The next meeting date will be December 6, 2012. A motion was made and approved to adjourn with 7 – Yes votes and 1 – Member absent.

Minutes prepared by

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Janis L. Campbell

November 2, 2012