



Asa Hutchinson  
Governor

## ARKANSAS TOBACCO CONTROL

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Steve Goode  
Director

### BOARD MEETING MINUTES MARCH 7, 2019

The Arkansas Tobacco Control Board met on Thursday, March 7, 2019 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 7 Board members present. Those attending were Chairman Kevin Case, Dr. Brad Mayfield, Mrs. Carol Dyer, Dr. Patricia Knott and Mr. Jay Hickey and Dr. Shabbir Dharamsey. Mr. Sam Stathakis, Jr. did not attend.

Chairman Kevin Case welcomed those attending and introduced Charlie Moulton serving as the Hearing Officer and Amanda Brown serving as Court Reporter.

Mr. Case asked for a motion to approve the board meeting minutes from February 7, 2019. A motion was made to approve the February minutes and it was passed with 7 yes votes and 1 absent.

The Hearing Officer then opened the Disciplinary Hearings and asked Attorney Lindsey Burnette to present the following:

#### **DEFAULT LIST**

Attorney Lindsey Burnett read off the list of violators on the default list that have failed to respond to their Offer of Settlement and found that none had appeared for the meeting. She reported to the board that a hearing for these in default will be heard at our next meeting on April 4th, 2019.

**DEFAULT HEARINGS**

**IN THE MATTER OF**

**PERMIT #13867-01  
SHORT & LONG TOBACCO – LITTLE ROCK**

**CASE #2018-6825**

**POSSESSION OF UNTAXED TOBACCO  
PURCHASING FROM UNLICENCED DEALER**

On October 9, 2018, during an inspection performed at the retail location, tobacco products with unpaid taxes were found on store premises. Upon further investigation, it was discovered that said products were purchased online from an unpermitted business. Respondent was notified and ordered to respond before January 3, 2019 but did not respond. Respondent was notified and ordered to respond or appear before or on March 7, 2019 but failed to respond or appear before the board.

A civil penalty in the amount of \$1000.00 be imposed for the violations of Ark. Code Ann. §26-57-228, a civil penalty in the amount of \$3,052.20 and destruction of the confiscated product be imposed for the violation of Ark. Code Ann. §26-57-244/45. Additionally, permit number 13867-01 shall be revoked for the stated violations.

This final Board action is subject to judicial review pursuant to A.C.A. § 25-15-212 et seq. This section provides for review of the Board's decision by a circuit court. Should you desire to seek judicial review of this decision, you are required to file a petition in the Pulaski County Circuit Court or the circuit court of the county in which you live or do business. The petition must be filed within 30 days of the date on which you receive a copy of this Order.

A motion was made to accept the Director's recommendation. The motion was seconded and passed with 7 yes votes and 1 absent.

**LENIENCY HEARINGS**

**IN THE MATTER OF**

**PERMIT #5458-02  
SHANE SMITH ENTERPRISES INC.  
DBA TOBACCO OUTLET #03 - FAYETTEVILLE**

**CASE #2019-341**

**SALE TO MINOR (3<sup>RD</sup> OFFENSE)**

On January 14, 2019, Respondents' clerk sold a tobacco product to a minor for a third time within forty-eight months.

Christina Sands appeared before the board representing Tobacco Outlet located in Fayetteville, AR requesting leniency for the violation of Selling to a Minor (3<sup>rd</sup> offense).

After hearing testimony from Ms. Sands a decision was made to levy a fine of \$700.00 plus 5 day suspension plus Merchant Training for all employees of Tobacco Outlet within 6 months of the order for Selling to a Minor (3<sup>rd</sup> offense). A motion was made and approved by the board with 4 yes votes, 3 no votes and 1 absent.

This final Board action is subject to judicial review pursuant to A.C.A. § 25-15-212 et seq. This section provides for review of the Board's decision by a circuit court. Should you desire to seek judicial review of this decision, you are required to file a petition in the Pulaski County Circuit Court or the circuit court of the county in which you live or do business. The petition must be filed within 30 days of the date on which you receive a copy of this Order.

**IN THE MATTER OF**

**V-MART LLC - CABOT  
PERMIT #7563-04**

**CASE #2018-6337**

**POSSESSION OF UNTAXED TOBACCO  
FAILURE TO MAINTAIN INVOICES**

A decision was made to postpone this hearing till April 7, 2019 for further review. A motion was made and approved with 7 yes votes and 1 absent.

**IN THE MATTER OF**

**MAZIENIZ LLC DBA EXXON TIGERMART – BEEBE  
PERMIT #2592-02**

**CASE #2018-5853**

**SALE TO MINOR (3<sup>RD</sup> OFFENSE)**

The owner, Nizar Thobani appeared before the board requesting leniency for the violation of selling tobacco products to a minor for the 3<sup>rd</sup> offense that occurred on September 4, 2018. After hearing testimony from Mr. Thobani and store clerk Ruth Elkins a discussion was held among the board members. A decision was made to levy the recommended fine by the director of \$1000 plus 7 day suspension plus required merchant training within the next 6 months of the board's decision.

A motion was made and approved with 6 yes votes and 2 absent.

**WHOLESALE APPLICATIONS**

Mr. Case ask for approval of the following Wholesale Permit Applications:

McLane North Texas, Fort Worth, TX  
Middle Man Technologies – Fort Smith, AR  
B & R Enterprises – Hueytown, AL

Cigarette, Tobacco & Vapor Permit  
Tobacco & Vapor Permit  
Tobacco & Vapor Permit

All 3 were approved with 6 yes votes and 2 absent.

Director Goode asked the Board members to review the list of new permits issued from February 7, 2019 through March 6, 2019. The new permits issued were approved by the board with 6 yes votes and 2 absent.

Director Goode then asked the board members to review the list of Accepted Offers of Settlement dated March 7th, 2019 which were approved by the board with 6 yes votes and 2 absent.

Deputy Director Greg Sled was not able to give a report from enforcement due to technical problems with our new RMS computer system which will be corrected soon.

Deputy Director Ray Owens reported that FDA performed 312 checks with 20 violations which gave them a 6.4% violation rate for the month of February.

Attorney Lindsey Burnette reported updates on 1 appeal case that is still open.

Director Goode gave updates on the Legislative Session.

### **ANNOUNCEMENTS**

Next Board Meeting is scheduled for April 4, 2019.

### **ADJOURNMENT**

We had lost all but 3 board members by the end of the meeting. Mr. Case announced we were adjourned without a vote.

Minutes prepared by

March 11, 2019

*Pat Dykes*

Pat Dykes