

TOBACCO CONTROL BOARD MEETING MINUTES

AUGUST 4, 2005

The Tobacco Control Board met on Thursday, August 4, 2005, for its monthly meeting in the Main Street Mall building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 9:00 a.m. in Conference Room "C". There were 6 - Board members present - Dr. J. Neal Beaton, Mr. Mark Carter., Mr. John Hauge, Mr. Ken Milburn, Mr. Vince Macy and Mr. Ronald Rivers, 1 - Board member absent - Mr. Gene McKissic, and 1 - Open position.

Mr. Ken Milburn, Chairman, called the meeting to order and opened with a "Welcome" to those attending. He introduced Mr. Charlie Moulton, serving as Hearing Officer and Ms. Lydia Williams, as Court Reporter.

Mr. Milburn turned the meeting over to Mr. Moulton to proceed with the Disciplinary Hearing segment of the meeting. He called the following cases before the Board:

Case 2005-0517 Barton's Grocery Lewisville, AR

VIOLATION: §4-75-708(c) Accepting a rebate in connection with the purchase of cigarettes, 1st Offense, \$500 fine & 14-day suspension of permit.

Mr. Sammy Barton, owner, and Mr. Edward Marrs, Sales Manager for Caldwell Wholesale, represented the store location.

After hearing all testimony a motion was made to find Barton's Grocery in violation of §4-75-708 (c), levy a \$1,000 fine and suspend the permit for 6-months. The motion failed as there was not a second.

A second motion was made and approved to find Barton's Grocery in violation of §4-75-708(c)(1) & (2), levy \$1,066 in fines and suspend permit for 1-week with 5 – Yes votes, 1 – No vote, 1 – Member absent, and 1 – Open position.

Default Judgment List

Dated August 4, 2005

Mr. Roland Darrow, Attorney, proceeded with a roll call of the stores listed on the Default Judgment List with no one responding as being present. He asked for a motion to find those listed in Default, issue maximum fines on all Sales to Minors cases and issue the recommended fines on all other cases as listed.

A motion was made and approved to accept the recommendation of counsel, which was to find those listed on the August 4, 2005, Default List in default and issue maximum fines on all Sales to Minors cases and issue the recommended fines on all other cases as listed on the Default Judgment List with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

Case 2005-0770

**Concord Food Store, LLC dba
Price Cutter Food Warehouse #106
Berryville, Arkansas**

VIOLATION: §5-27-227(a)(1)

**Sale to Minor, 3rd Offense
\$400 fine and 2-day
suspension of permit**

A motion was made and approved to accept the recommendation of the Director, issue a \$400 fine & 2-day suspension of permit and find them

in violation of §26-57-257 and §5-27-227(a)(1) Selling to a Minor with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

**Case 2005-0737 Concord Food Stores LLC dba
Harp's Village Market**

**VIOLATION: §26-27-257(a)(1) Sale to a Minor, 3rd Offense,
\$400 fine and 2-day
suspension of permit**

Mr. Roger Sween, the Manager, represented the store location.

A motion was made to find Harp's Village Market #192 in violation of §5-27-227 (a)(1) and §26-57-257, levy a \$400 fine and suspension of permit for 2-days with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

Case 2005-0695 Jaxx Phillips 66 Truman, AR

**VIOLATION: §5-27-227(a)(1) Sale to a Minor, 3rd Offense,
\$400 fine and 2-day suspension
of permit**

Mr. David Malone, Operations Manager, represented the store location.

A motion was made and approved to find Jaxx Phillips 66 in violation of §5-27-227(a)(1) and §26-57-257, levy a \$400 fine and 1-day suspension of permit with 6 – Yes votes, 1 – Member absent and 1 – Open position.

Case 2005-0733

P & D One Stop

Crossett, AR

VIOLATION:

§5-27-227(a)(1)

**Sale to Minor, 3rd Offense,
\$400 fine & 2-day
suspension of permit**

R & R 4.1

**No Server Awareness form,
3rd Offense and \$400 fine**

The store owner, Ms. Paula Nelms, represented the business location.

A motion was made and approved to find P & D One Stop in violation of §5-27-227(a)(1), §26-57-257, and Rules and Regulation 4.1, levy a \$400 fine and 1-day suspension for the first violation and a \$300 fine for the second violation with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

The Disciplinary Hearing segment of the agenda was closed by the Hearing Officer and the meeting was turned back over to the Chairman.

Mr. Milburn asked for approval of the meeting minutes for July 7, 2005. A motion was made and approved to that effect with 6 – Yes votes, 1 – Member absent and 1 – Open position.

Mr. Maurice Gilmore asked for approval of “New Retail Permit Applications issued from July 7, 2005 through August 3, 2005 as listed.”

A motion was made and approved to that effect with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

The following three (3) Wholesale Permit Applications were presented to the Board as follows:

TRENDSETTER INTERNATIONAL ROGERS, ARKANSAS

**FISCAL YEAR 2002 1 – WHOLESALE TOBACCO PERMIT
11 – SALES REPS**

**FISCAL YEAR 2003 1 – WHOLESALE TOBACCO PERMIT
7 – SALES REPS**

**FISCAL YEAR 2004 1 – WHOLESALE TOBACCO PERMIT
12 – SALES REPS**

**FISCAL YEAR 2005 1 – WHOLESALE TOBACCO PERMIT
12 – SALES REPS**

**FISCAL YEAR 2006 1 – WHOLESALE TOBACCO PERMIT
10 – SALES REPS**

Trendsetter International was selling without a permit and is now completing the application process. The applications were complete and recommended for approval.

A motion was made to approve Trendsetter International Marketing, Inc.'s wholesale application with 6 – Yes votes, 1 - member absent, and 1 – Open position.

ST. JOSEPH TOBACCO COMPANY dba SAINT JOE DISTRIBUTING CO.

ST. JOSEPH, MISSOURI

- 1 – WHOLESALE CIGARETTE PERMIT**
- 1 – WHOLESALE TOBACCO PERMIT**
- 1 – WHOLESALE SALES REPRESENTATIVE PERMIT**

The application was complete and recommended for approval.

A motion was made and approved to accept the recommendation of the acting Director to approve the wholesale permit for St. Joseph Tobacco Company, Inc. dba Saint Joe Distributing Company with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

B & W WHOLESALE DISTRIBUTORS, INC. MURFREESBORO, TN

- 1 – WHOLESALE CIGARETTE PERMIT**
- 1 – WHOLESALE TOBACCO PERMIT**

A motion was made to approve the wholesale permit application for B & W Wholesale Distributors, Inc. with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

A retail permit application for Auto Stop Wynne was presented to the Board. After discussion a motion was made and approved to set a Hearing on the retail application for Auto Stop Wynne and not take action today with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

The Acting Director reviewed the Complaints Report from July 7, 2005 through August 4, 2005. He reported the Rules and Regulations adopted by the Board at the May 5, 2005, meeting were effective on August 1, 2005, and are posted on the agency web site.

He recognized Chanda Mallory for an excellent job during the renewal process. The agents are in the field working a list of non-renewed permittees.

Charlie Davis, Director of the Tobacco Control Board, is expected to be back in the office on Monday, October 3rd, from active duty with the U S Coast Guard.

He then asked Mr. Greg Sled, Enforcement Agent Supervisor, to report on the Sales to Minors activity of the enforcement agents. He also reviewed the Sales to Minors Charts, which are prepared each month.

The Chairman called on Mr. Arnie Jochums to give a Court Update.

Mr. Gilmore reviewed and asked for approval of the "Offers of Settlement accepted by the permittee on the report dated August 4, 2005". A motion was made and approved to accept the "Offers of Settlement accepted by the permittee as listed on the August 4, 2005 Report" with 6 – Yes votes, 1 – Open position and 1 – Member absent.

Next on the agenda was "Open Forum for Board Member Discussion" followed by "Open Forum for Comments from the Audience".

Announcements included the next meeting date of the Board on Thursday, October 6, 2005. It was determined at the meeting that there would not be a September 1, 2005, meeting due to lack of a quorum.

All business of the Board had been conducted and the meeting was adjourned.

Janis L. Campbell

Minutes prepared by _____

Janis L. Campbell

October 25, 2005