

TOBACCO CONTROL BOARD MEETING MINUTES

AUGUST 5, 2004

The Tobacco Control Board met on Thursday, August 5, 2004, 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. Neal Beaton, Mr. John Hauge, Mr. Gene McKissic, Mr. Ken Milburn, Jr., Mr. Vince Macy, and Mr. Ron Rivers, and 1 - Board member absent - Mr. Mark Carter, and 1 - Open position.

The Chairman opened the meeting 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 conduct the Disciplinary Hearing segment of the agenda. Mr. Moulton called the following cases before the Board:

Default Judgment List dated 8/5/04

Attorney for the Board, Mr. Roland Darrow read the Default List off with no one in attendance.

A motion was made to accept the Default List as amended. After discussion by the Board a substitute motion was made and approved to accept the Default List as amended and issue maximum penalties on all Sales to Minors cases with 5 - Yes votes, 1 - Abstention, 1 - Member absent, and 1 - Open position.

Case #2004-1101 E-Z Mart
Case #2004-1090 E-Z Mart
Kathy Bearden, Contact

Monticello, AR
Little Rock, AR

VIOLATIONS:

Monticello	§5-27-227(a)(1) Rules & Reg 4.1	Sale to Minor, 2 nd Offense, \$200 fine and 1-day suspension of permit. No Server Awareness Form--\$100 fine
Little Rock	§5-27-227(a)(1)	Sale to Minor, 3 rd Offense, \$400 fine and 2-day suspension of permit.

The business was represented by Mr. George DeLoach.

After testimony and discussion a motion was made and approved to find E-Z Mart in violation of §5-27-227(a)(1), fine them \$300.00, omit the 1-day suspension of permit, and assess a \$100 fine for being in violation of Rules and Regulation 4.1 No Server Awareness form for the Monticello store location. Also to find the Little Rock location in violation of §5-27-227(a)(1), fine them \$600 and not suspend their permit with 6 – Yes votes, 1 –Member absent, and 1 – Open position.

**Case 2004-1630 Price Cutter Food Warehouse, #106
Berryville, AR**

Jim Antz, Contact

VIOLATION: §5-27-227(a)(1) Sale to Minor, 2nd Offense, \$200 fine
and 1-day Suspension of Permit

Mr. Frank Ray, Vice President of Human Resources of Harps Food Stores, Inc., represented Price Cutter Food Warehouse.

Testimony was presented to the Board. A motion was made and approved to find Price Cutter Food Warehouse, #106, in violation of §5-27-227(a)(1) and issue a fine of \$200 and no suspension of permit with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

**Case 2004-1046 Beebe Country Store Beebe, AR
Paula Boone, Contact**

VIOLATION: §5-27-227(a)(1) Sale to Minor, 2nd Offense, \$200 fine
and 1-day Suspension of Permit

There was no one present to represent Beebe Country Store.

After hearing testimony a motion was made and approved to find Beebe Country Store in violation of §5-27-227(a)(1), and accept the recommendation of a \$200 fine and 1-day Suspension of Permit with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

The Disciplinary Hearing segment of the meeting was concluded and Mr. Moulton turned the meeting back over to the Chairman, Mr. Ken Milburn, who asked for approval of the June 30, 2004, Collaborative Legislative Group meeting minutes, and July 1, 2004, board meeting minutes. Approval was given with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

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The Director, Mr. Charlie Davis, continued by presenting a list of New Retail Permit Applications and asked for approval of “New Retail Permit applications issued from July 1, 2004, through August 4, 2004”. A motion was made and approved to that effect with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

Next Mr. Davis reviewed and asked for a blanket approval of the “Offers of Settlement accepted by the permittee from July 1, 2004, through August 4, 2004”. A motion was made and approved to accept the “Offers of Settlement accepted by the Permittee from July 1, 2004, through August 4, 2004”, as recommended by the Director, with 6 – Yes votes, 1 - Member absent, and 1 – Open position.

The Chairman asked the Director to continue with his “Address to the Board”. He reviewed the June 2004 and July 2004 Complaints reports.

Mr. Davis shared information with the Board about attending the FTA Tobacco Tax Conference from August 29th through September 1st in Newport, Rhode Island. Mr. Maurice Gilmore will also be attending, as he is the Lt. Governor for the Southern Region.

He called upon Mr. Greg Sled, Enforcement Agent Supervisor, to review the activity of the enforcement agents.

Mr. Sled handed out a letter to the Board from Ms. Tommie Johnson Waters, Director of Prevention Services, of Alcohol and Drug Abuse Prevention with the Arkansas Department of Human Services.

In her letter she commended the Tobacco Control Board in its efforts to educate, monitor and regulate sales of tobacco to underage minors. The raw data reflects a significant decrease in Sales to Minors from the 2003 and 2004 Synar inspections. She stated in her letter “the raw data serves as evidence that Arkansas Tobacco Control Board efforts are creating positive changes in the practices of merchants regarding sales of tobacco to underage minors”.

Mr. Arnie Jochums, Attorney for the Board, gave a “Court Update”.

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Mr. John Hauge and Mr. Walter Skelton, acting Chairman of the Collaborative Legislative Group, gave an update on the meeting held Wednesday, August 4, 2004, at 1:00 p.m.

After discussion Mr. Skelton indicated the Committee will meet again to review his draft of recommendations for the Board's consideration regarding tobacco issues.

Mr. Milburn then opened the floor to "Board Member Discussion".

"Comments from the Audience" followed. Mr. Shawn Stevens, a new owner of Circle S Convenience Store, located in England, AR, asked the Board to re-examine his case. He received a notice for Sale to a Minor, First Offense, and misunderstood the wording in the Warning Notice, which resulted in fines being assessed. After discussion a motion was made and approved to re-examine this case and bring it back before the Board with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Announcements included the next meeting date of **September 2, 2004**.

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

Minutes prepared by _____

Janis L. Campbell

August 11, 2004