

TOBACCO CONTROL BOARD MEETING MINUTES

DECEMBER 2, 2004

The Tobacco Control Board met on Thursday, December 2, 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 5 - Board members present - Dr. Neal Beaton, Mr. Mark Carter., Mr. John Hauge, Mr. Ken Milburn, Jr., and Mr. Vince Macy, 2 - Board members absent - Mr. Ronald Rivers and Mr. Gene McKissic, and 1 - Open position.

The Chairman, Mr. Ken Milburn, opened the meeting with a "Welcome" to those attending.

Mr. Milburn asked for a motion to approve the November 3, 2004, Collaborative Legislative Group meeting minutes and the November 4, 2004, Board Meeting Minutes. A motion was made and approved with 5 - Yes votes, 2 - Members absent, and 1 - Open position.

Mr. Charlie Davis, the Director, asked for approval of "New Retail Permit Applications issued from November 3, 2004 through December 1, 2004" after reviewing the report with the Board. A motion was made and approved to that effect with 5 - Yes votes, 1 - Open position, and 2 - Members absent.

He then reviewed the Complaints Report from November 4, 2004, through December 2, 2004. He announced the agency office would be closed on Thursday, December 23rd for Christmas Eve, and Friday, December 24th for Christmas Day. Next he called on Mr. Greg Sled, Enforcement Agent Supervisor, to report on the activity of the enforcement agents in the field.

Mr. Arnie Jochums, Board Attorney, gave the Board a "Court Update".

Mr. Milburn reported to the Board that the Rules and Regulations Committee met on Wednesday, December 1, 2004, to begin the process of writing Rules and Regulations based on recommendations of the Collaborative Legislative Group regarding Sales to Minors, to consider presentations regarding Section 15 of the Rules and Regulations of the Board, and to consider changes recommended by the agency.

Mr. Davis reviewed and asked the “Offers of Settlement accepted by the permittee from November 4, 2004, through December 2, 2004” be approved. A motion was made and approved to accept the “Offers of Settlement accepted by the permittee as listed from November 4, 2004, through December 2, 2004”, 5 – Yes votes, 1 – Open position and 2 – Members absent.

Mr. Milburn introduced Mr. Charlie Moulton, serving as Hearing Officer, and Ms. Lydia Williams, as Court Reporter. Mr. Moulton opened the Disciplinary Hearing segment of the meeting and asked Roland Darrow, Attorney for the Board, to present the Default Judgment List dated December 2, 2004. After a roll call of the cases listed and no one responding, he asked to find those persons in Default with the exception of the Minit Shop in Crossett, Case #2005-0298, issue a maximum fine on all Sales to Minors cases and levy recommended fines on all other cases as listed. A motion was made and approved to that effect with 5 – Yes votes, 1 – Open position and 2 – Member absent.

A second motion was made and approved to find the Minit Shop in default. The Board will defer imposing sanctions until January 6, 2005. At the time of Hearing it will consider sanctions, including revocation of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case 2004-1204 Ola Food Liner Ola, Arkansas

Contact person: Bobby B. McCool

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

The store was represented by Bob and Lynn McCool, store owners.

After all testimony was heard by the Board and discussion, a motion was made to find Ola Food Liner in violation of §5-27-227(a)(1), levy a \$200 fine and wave the 1-day suspension of permit with 4 – Yes votes, 1 – No vote, 2 – Members absent, and 1 – Open position. The motion failed as there were not 5 votes in agreement.

A second motion was made and approved to find Ola Food Liner in violation of §5-27-227(a)(1), wave the \$200 fine and 1-day suspension of permit and reduce those to a Warning, but remain a 2nd Offense with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Mr. Arnie Jochums brought this case before the Board:

Case 2005-0115 Keltner Oil dba KOC Food Mart

Little Rock, Arkansas

Contact Person: Ron Keltner, Owner

VIOLATION: §4-75-708(a) Sale to Minor, 2nd Offense, \$200 fine
and 1-day Suspension of Permit

The store was represented by Mr. Ron Keltner.

Testimony was presented to the Board. A motion was made and approved to find Keltner Oil dba KOC Food Mart in violation of §4-75-708(a), and dismiss the charges against Keltner Oil dba KOC Food Mart with 5 – Yes votes, 2 – Member absent, and 1 – Open position.

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There was discussion regarding setting a date for a Rules and Regulations Committee meeting to continue the process that was started on December 1, 2004. Several options were discussed, including December 14, 2004, as a tentative possibility.

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

Minutes prepared by _____
Janis L. Campbell

December 27, 2004