

TOBACCO CONTROL BOARD MEETING MINUTES

JUNE 2, 2005

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

Mr. Ken Milburn, Chairman, called the meeting to order and opened the meeting with a "Welcome" to those attending. He introduced Mr. Clay Hodges, serving as Hearing Officer and Ms. Lydia Williams, as Court Reporter. Mr. Hodges opened the Disciplinary Hearing segment of the meeting and called the following cases before the Board for consideration:

Default Judgment List

Dated June 2, 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.

A motion was made and approved to accept the recommendation of counsel to levy the maximum fine on all Sales to Minors cases and issue the recommended fines on all others as listed on the Default Judgment List dated 6/2/05 as presented to the Board with 5 - Yes votes, 2 - Members absent, and 1 - Open position.

Case 2005-0630 J-Square, Inc. Conway, AR

**VIOLATION: Sale to Minors §5-27-227(a)(1), 4th Offense
\$1,000 fine and 7-day suspension of permit**

J-Square was represented by Mr. Stephan Joseph, Store Owner.

After hearing all testimony a motion was made and approved to find J-Square in violation of §5-27-227(a)(1) and §26-57-256(a)(5), levy a fine of \$2,000 and suspend the license for 2-days with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case 2005-0632 Shepard's Quick Stop Arkadelphia, AR

**VIOLATION: Sale to Minors §5-27-227(a)(1) 5th Offense
\$2,000 fine and 30-day suspension of permit**

The store location was represented by Ms. Donna Worrell, Store Manager.

A motion was made and approved to find Shepard's Quick Stop in violation of §5-27-227(a)(1) and §26-57-256, levy a \$2,000 fine and 15-day suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case 2005-0641

Fred's #1045

Arkadelphia, AR

**VIOLATION: §5-27-227(a)(1) Sale to Minor, 4th Offense,
\$1,000 fine and 7-day suspension of permit**

Mr. Clint Richards the Store Manager represented the store location in this matter. Mr. Paul Nash, District Mgr. and Ms. Michelle Mitchell, District Mgr. were also present to testify.

A motion was made to find Fred's #1045 in violation of §5-27-227(a)(1) and §26-57-257, levy a \$1,000 fine and 7-day suspension of permit per the Director's recommendation with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case 2005-0567

Tobacco Outlet of Hamburg Hamburg, AR

**VIOLATION: §4-75-708(a)(b) Advertising/Selling below
minimum, \$100 fine**

The store location was represented by Ms. Trisha Davis.

After all testimony was presented a motion was made and approved to not find Tobacco Outlet of Hamburg in violation of §4-75-708 and §26-57-257 with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case 2005-0424 Fred's #2905 Stamps, AR

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

The Store Manager represented the store location in this Hearing.

A motion was made and approved to find Fred's Store #2905 in violation of §5-27-227(a)(1) and §26-57-257 and accept the recommendation of the Director of a \$400 fine and 2-day suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case 2005-0585 Fred's #2980 Star City, AR

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

A motion was made and approved to find Fred's #2980 in violation of §5-27-227(a)(1) and §26-57-257, accept the Director's recommendation of \$400 fine and 2-day suspension of permit with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case 2005-0660

Alford's 66, #4

Beebe, AR

VIOLATION:

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

The business location was represented by Ms. Judy Alford and Ms. Anna Rouse.

A motion was made and approved to find Alford's 66, #4, in violation of §5-27-227(a)(1) and §26-57-257 and fine them in the amount of \$400 and no suspension of permit with 5 – Yes votes, 2 – Members 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 May 5, 2005. A motion was made and approved to that affect with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Mr. Maurice Gilmore asked for approval of “New Retail Permit Applications issued from May 4, 2005 through June 1, 2005.” A motion was made and approved to that affect with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

The Interim Director reviewed the Complaints Report from May 5, 2005 through June 3, 2005. He reported the Rules and Regulations adopted by the Board at the May 5, 2005, meeting are on the July 5, 2005, agenda of the Legislative Council. He reviewed Act 2252, which concerns termination, continuance, or re-establishment of agencies. He stated he would be out of the office on business from June 13 through 17 and would be attending the Tobacco Tax Conference from June 29th through 22nd. The office would be closed on Monday, July 4th for the 4th of July holiday. He then asked Mr. Greg Sled, Enforcement Agent Supervisor, to report on the Sales to Minors activity of the enforcement agents.

Mr. Sled also reported that the Health Department yearly audit was performed with no findings and everything in order.

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

Mr. Gilmore reviewed and asked for approval of the "Offers of Settlement accepted by the permittee on the report dated June 2, 2005". A motion was made and approved to accept the "Offers of Settlement accepted by the permittee as listed on the June 2, 2005, report" with 5 – Yes votes, 1 – Open position and 2 – Members 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, July 7, 2005.

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

Janis L Campbell

Minutes prepared by _____
Janis L. Campbell

June 16, 2005