

## **TOBACCO CONTROL BOARD MEETING MINUTES**

**MARCH 2, 2006**

The Tobacco Control Board met on Thursday, March 2, 2006, 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 - Mr. Brian Bree, Mr. Kevin Case, Mr. Kevin Dedner, Mr. John Hauge, Mr. Ronald Rivers and Mr. Vince Macy, and 2 - Members absent - Mr. Mark Carter and Mr. Gene McKissick.

Mr. Ron Rivers, Chairman, called the meeting to order and opened with a "Welcome" to those attending. He introduced Mr. Kevin Dedner with the American Cancer Society, who replaces Dr. Neal Beaton, and will be serving in the Public At Large - Medical Position.

Next the Chairman announced the resignation of Mr. Charlie Davis and presented him with a plaque expressing the appreciation of the Board for serving as the Director from August 23, 1999 until February 24, 2006.

Mr. Maurice Gilmore of the agency staff was appointed by the Governor to serve as Interim Director until Mr. Davis' replacement joined the agency.

Mr. Rivers also announced the Governor's appointment of Mr. Chad Gallagher, who will begin serving as the Director on Monday, March 13<sup>th</sup>.

Mr. Rivers then introduced Mr. Charlie Moulton, serving as Hearing Officer, and Ms. Lee Ann Dickens, as Court Reporter. The meeting was turned over to Mr. Moulton to proceed with the Disciplinary Hearing segment of the agenda. He called the following cases before the Board:



**Case 2006-0158                      Price Rite Food                      North Little Rock, AR**

**VIOLATION:                      §26-57-248(a)                      Possession of untaxed tobacco, 1<sup>st</sup> offense, \$5,212.50 and destruction of confiscated product.**

**§26-57-228                      Purchasing from unlicensed dealer, 1<sup>st</sup> offense, \$500 fine and 5-day suspension.**

**Rules & Reg 4.1                      No server awareness form, \$100 fine.**

The store location was represented by Ms. Sahar A. Kattom, the owner.

After all evidence was presented and discussion by the Board, a motion was made and approved to find Price Rite Food in violation of §26-57-248(a) Possession of untaxed tobacco, levy a fine of \$1,500.00 and 3-days suspension of permit, in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a \$1,000 fine and 2-day suspension of permit, issue a Warning for being in violation of Rules and Regulations 4.1 No server awareness form, and destruction of all confiscated product except Altadis and Swisher product, as shown on invoices, with 5 – Yes votes, 1 – No vote and 2 – Members absent.

**Case 2006-0192                      Twins Food Mart #6                      Berryville, AR**

**VIOLATION:                      §5-27-227(a)(1)                      Sale to Minor, 3<sup>rd</sup> offense, \$400 Fine and 2-day suspension of permit**

Mr. Mike Magness, a co-owner, represented the store location.

Upon the completion of testimony and discussion, a motion was made and approved to find Twins Food Mart #6 in violation of §5-27-227(a)(1) and §26-57-256 and accept the recommendation of the Director, which was to issue a \$400 fine and 2-day suspension of permit with 6 – Yes votes and 2 – Members absent.

At the February 2, 2006, meeting Case 2005-0762 Hazel Street Food Mart of Pine Bluff came before the Board. The case was heard and a decision made. Mr. Mohamed Nahshal was not present at the February meeting but was represented by an Attorney, Mr. James W. Hyden. Mr. Nahshal requested to come before the Board at the March 2, 2006, meeting and asked for reconsideration of the Board's previous decision.

Mr. John Hauge, a member of the Board, joined Mr. Nahshal at the respondents table to speak on his behalf. After hearing Mr. Nahshal's request and Board discussion, a motion was made to keep this issue closed. The motion failed for lack of a second.

A second motion was made to not rehear the case regarding Hazel Street Food Mart with 3 – Yes votes, 1 – No vote, 2 – Members absent, and 2 – Abstentions. The motion failed, as there has to be 5 votes in agreement.

Since there was not another motion, the Board was in agreement to take no further action regarding the case of Hazel Street Food Mart.

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

Mr. Rivers asked for approval of the Board meeting minutes for February 2, 2006. A motion was made and approved to that effect with 6 – Yes votes and 2 – Members absent.

The Chairman called on Mr. Maurice Gilmore to continue with "New Retail Permit Applications" on the agenda. Mr. Gilmore asked for approval of "New Retail Permit Applications issued from February 2, 2006, through March 1, 2006, as listed."

A motion was made and approved to accept the "New Retail Permit Applications issued from February 2, 2006 through March 1, 2006", with 6 – Yes votes and 2 – Members absent.

Mr. Gilmore continued with his "Address to the Board" and started with a review of the Complaints Report dated February 2, 2006 through March 2, 2006.

He then called on Mr. Greg Sled, Sales to Minors Enforcement Agent Supervisor, to give a report on the activity of the field agents. The monthly Compliance Check Report was reviewed also.

Mr. Gilmore reviewed and asked for approval of the "Offers of Settlement accepted by the permittee on the report dated March 2, 2006. A motion was made and approved to accept the "Offers of Settlement List accepted by the permittee as listed on the report dated March 2, 2006" with 6 – Yes votes and 2 – Members absent.

The Chairman called on Mr. Arnie Jochums, Legal Counsel for the Board, to give a Court Update.

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, April 6, 2006.

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

Minutes prepared by: *Janis L. Campbell*

March 16, 2006