

TOBACCO CONTROL BOARD MEETING MINUTES

MAY 4, 2006

The Tobacco Control Board met on Thursday, May 4, 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 8 - Board members present - Mr. Brian Bree, Mr. Mark Carter, Mr. Kevin Case, Mr. Kevin Dedner, Mr. John Hauge, Mr. Ronald Rivers, Mr. Gene McKissick, who arrived after the meeting began, and Mr. Vince Macy.

Mr. Ron Rivers, Chairman, called the meeting to order and opened with a "Welcome" to those in attendance. This was the last meeting for Brian Bree, who was serving in a Medical position. The Chairman presented him with a certificate and letter of appreciation for serving on the Board.

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:

Default Judgments List

Dated May 4, 2006

Mr. Roland Darrow read the list of businesses with no one responding as being present. He also asked the Board to approve the Default List dated May 4, 2006, find those listed in default and accept the recommendation of the Director.

A motion was made and approved to approve the Default List dated May 4, 2006, find those listed in default, accept the recommendation of the Director to levy the maximum fine on all Sales to Minors cases and issue recommended fines on all other cases with 7 - Yes votes, and 1 - Member absent.

Case 2006-0229

Family Quick Stop #1

Marion

VIOLATION: §26-57-228 Purchasing tobacco products from an unlicensed dealer, 1st Offense, \$500.00 fine & 5-day suspension of permit.

§26-57-213 Failure to maintain invoices, 1st Offense, \$500.00 fine & 5-day suspension of permit.

The business was represented by the store manager.

After hearing all the testimony in the case, a motion was made and approved to find Family Quick Stop #1 in Marion, Arkansas, in violation of §26-57-213 Failure to maintain invoices, levy a \$500.00 fine and 2-day suspension of permit, and in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a \$500.00 fine and 3-day suspension of permit with 7 – Yes votes and 1 – Member absent.

Case 2006-0249

Hogs Mart

Cabot

| | | |
|-------------------|----------------------|--|
| VIOLATION: | §26-57-228 | Purchasing from unlicensed dealer, 1st offense, \$500 fine and 5-day suspension of permit. |
| | §26-57-248(a) | Possession of untaxed tobacco, 1st Offense, \$1,550.00 fine. |
| | | Destruction of confiscated product |

The store location was represented by Ms. Sohrang Chang, the owner, and her Attorney, Mr. Ryan Allen.

After all evidence was presented and discussion by the Board, a motion was made to take this case under advisement until it can be determined if Blunt Wraps are a taxable or non-taxable product and address this issue at a later date. The motion failed as there were 4-Yes votes and 4-No votes.

A second motion was made and approved to dismiss this case against Hogs Mart with 7 – Yes votes and 1 – No vote.

Case 2006-0307

Jade Super Foods

Camden

VIOLATION: §5-27-227(a)(1) Sale to Minor, 5th Offense, \$2,000.00 and 30-day suspension of permit.

The business location was represented by Mr. Rick Anders, the store supervisor.

Upon the completion of testimony and discussion a motion was made and approved to find Jade Super Foods #80 in violation of §5-27-227(a)(1) Sale to a Minor, accept the Director's recommendation and levy a \$2,000.00 fine and 30-day suspension of permit. There were 3- Yes votes and 5 - No votes. The motion failed.

A second motion was made to find Jade Super Foods #80 in violation of §5-27-227(a)(1) Selling to a minor, levy a \$2,000.00 fine and 10-day suspension of permit with 8 - Yes votes.

Case 2006-0241

Broadway Grocery & Food Mart

West Memphis

VIOLATION: §26-57-228 Purchasing from an unlicensed dealer, 1st Offense, \$500 fine, and 5-day suspension of permit.

The business was represented by Mr. Ketema Belete, the owner.

The testimony was presented and after discussion by the Board a motion was made and approved to find Broadway Grocery & Food Mart in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a \$500.00 fine and 5-day suspension of permit with 6 - Yes votes and 2 - No votes.

Case 2006-0254

Harp's Food Store #118

Elkins

VIOLATION: §5-27-227(a)(1) Sale to Minor, 2nd offense, \$200 fine

Mr. Bobby Tony, the store manager, represented the store location.

After discussion a motion was made and approved to find Harp's Food Store #118 in violation of §5-27-227(a)(1) Selling to a minor, levy a \$200 fine with no suspension of permit with 8 – Yes votes.

Case 2006-0234

Lehi Market

Marion

VIOLATION: R & R 4.1 No server awareness form, 1st Offense, \$100.00 fine

§26-57-213 Failure to maintain invoices, \$500.00 fine & 5-days suspension of permit.

§26-57-228 Purchasing from an unlicensed dealer, 1st Offense, \$500.00 fine & 5-day suspension of permit.

There was no one present to represent the store location in this matter.

After testimony was presented and Board discussion, a motion was made and approved to find Lehi Market in violation of Rules & Regulations 4.1 No server awareness form, levy a \$100.00 fine, in violation of §26-57-213 Failure to maintain invoices, levy a \$500.00 fine with no suspension of permit, and in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a \$500.00 fine and a 5-day suspension of permit with 8 – Yes votes.

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 April 6, 2006. A motion was made and approved to that effect with 8 – Yes votes.

Next the Chairman called on Mr. Chad Gallagher, the Director, to continue with “New Retail Permit Applications”. After reviewing the report, the Director asked for approval of “New Retail Permit Applications issued from April 6, 2006, through May 3, 2006, as listed.” A motion was made and approved to that effect with 8 – Yes votes.

Mr. Gallagher continued with his “Address to the Board” and started with a review of the Complaints Report dated April 6, 2006 through May 4, 2006.

He reported the agency is updating its software to better track compliance checks for Sales to Minors of smokeless tobacco.

We’re working on our Fiscal Year 2007 budget and will also be putting together the 2007 – 2009 Biennial Budget.

He thanked Roland Darrow of the agency staff for updating him on the “Freedom of Information Act”. The Director sent a letter and booklet to all board members, as he thought it would be a good refresher for everyone.

He discussed the “Clean Air Act” that was signed into Law on April 7, 2006, and it will go into effect 60-days from that date.

He announced the agency office would be closed on Monday, May 29th for the Memorial Day holiday.

He called on Greg Sled, the Sales to Minors Supervisor, to give his report on the activity of the field agents.

Mr. Arnie Jochums, the Board Attorney, was not present. Therefore, the “Court Update” was moved to the June 1, 2006, meeting.

Next on the agenda was the “Notice of Hearing and Offers of Settlement accepted by the permittee”. The Board reviewed the report dated May 4, 2006. A motion was made and approved to accept the “Notice of Hearing and Offers of Settlement List accepted by the permittee as shown on the report dated May 4, 2006” with 7 – Yes votes and 1 – Member absent.

Mr. Rivers continued with “Open Forum for Board Member Discussion”. He discussed the need to fill “Open Positions” on the Legislative and Rules and Regulations Committees. Mr. Case stated he would like to serve on the Rules and Regulations Committee. This leaves a remaining “Open Position” on each committee, which will be filled at a later date.

Next was “Open Forum for Comments from the Audience”.

Announcements included the next meeting date of the Board on Thursday, June 1, 2006.

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

Minutes prepared by

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May 25, 2006