

TOBACCO CONTROL BOARD MEETING MINUTES

NOVEMBER 2, 2006

The Tobacco Control Board met on Thursday, November 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 7 - Board members present - Mr. Mark Carter, Mr. Kevin Case, Mr. John Hauge, Mr. Ronald Rivers, Mr. Gene McKissic, who arrived after the meeting began, Mr. Vince Macy, Ms. Kristen Nutt and 1 - Member absent, Mr. Kevin Dedner.

The Chairman, Mr. Ron Rivers, called the meeting to order and opened with a "Welcome" to those in attendance. He began the meeting with "Old Business". He introduced and welcomed Ms. Kristen Nutt to the Board, who is replacing Mr. Brian Bree in the "Open Medical Position".

Mr. Ronald Rivers continued with "New Business" by asking for a motion to approve the Board meeting minutes for October 5, 2006. A motion was made and approved with 6 - Yes votes and 2 - Members absent.

The Chairman called on Mr. Chad Gallagher, the Director, to present the report for "New Retail Permits Issued". Mr. Gallagher asked for a motion to approve the "New Retail Permit applications issued from October 5, 2006 through November 2, 2006, as listed. A motion was made to accept the Director's recommendation to approve the "New Retail Permit Applications issued from October 5, 2006 through November 2, 2006, with 6 - Yes votes and 2 - Members absent.

Mr. Gallagher continued with his "Address to the Board" by presenting the Complaints Report dated October 5, 2006 through November 2, 2006.

He reported that on Thursday, October 12, 2006, the Sales to Minors Biennial Budget was called before the Joint Budget Committee at the Capitol. The budget was approved. The General Revenue Budget had not come up on their agenda as of that date. The next step in the process is for the Biennial Budgets to be considered for approval by the full Legislature during the 86th General Assembly, convening in January 2007.

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Mr. Roland Darrow, on the agency staff, had been updating the Tobacco Control Board web site and it's now live on the web. He encouraged everyone to view the site at www.arkansas.gov/atcb.

He announced the agency office would be closed for the following holidays-----

Friday, November 10th for Veteran's Day

Thursday, November 23rd and Friday, November 24th for Thanksgiving.

The Director then called on Mr. Greg Sled to give a report on the Sales to Minors activity in the field.

Mr. Arnie Jochums was not present to give the "Court Update". Ms. Ashley Argo of the Attorney Generals Office, and staff attorney, Mr. Roland Darrow, provided the Board with information concerning Court activity.

Next on the agenda was the "Notice of Hearing and Offers of Settlement accepted by the permittee". The Board reviewed the report dated November 2, 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 November 2, 2006 with 7 – Yes votes and 1 – Member absent.

Mr. Rivers continued with "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, December 7, 2006.

Mr. Rivers began the "Disciplinary Hearing" segment of the agenda by introducing Ms. Beth Carson, serving as Hearing Officer, and Ms. Lee Ann Dickens, as Court Reporter. The meeting was turned over to Ms. Carson to proceed with the following Disciplinary Hearings on the agenda. The following cases were called before the Board:

Default Judgment List

Dated: November 2, 2006

Mr. Roland Darrow read aloud all the businesses as shown on the Default Judgment List with no one responding as being present. He also asked the Board to approve the Default List dated November 2, 2006, find those listed in default and accept the recommendation of the Director.

A motion was made and approved to accept the recommendation of the Director to find those listed in Default, levy the maximum amounts on all Sales to Minors cases and issue the recommended fines on all other cases as listed with 7 – Yes votes and 1 – Member absent.

Mr. Ashley Argo presented the following case before the Board:

Case 2007-0001

Montgomery Market

Houston, AR

VIOLATION: §26-57-226

**Selling on an expired permit,
\$250.00 fine.**

The business was represented by Ms. Sonya Montgomery, the owner.

After hearing all the testimony in the case, a motion was made and approved to not find Montgomery Market in violation of §26-57-226 Selling on an expired permit and not issue a fine with 7 – Yes votes and 1 – Member absent.

Mr. Roland Darrow presented the following cases before the Board----

Case 2007-0034

Edison Shell

Little Rock, AR

VIOLATION:	§26-57-248(a)	Possession of untaxed tobacco products, \$65,400 fine and destruction of confiscated product.
	§26-57-213	Failure to maintain invoices, \$500 fine and 5-day suspension of permit.
	§26-57-1303(c)	Purchasing cigarettes not listed in Directory.

The store location in this matter was represented by Mr. Randy Satterfield, Attorney, and the store owner, Mr. Justin Bruce Kim.

After hearing the testimony regarding this case, a motion was made to find Edison Shell in violation of §26-57-248(a) Possession of untaxed product, levy a \$65,400 fine and destruction of confiscated product, in violation of §26-57-213 Failure to maintain invoices, levy a \$500 fine and 5 – day suspension of permit, and in violation of §26-57-1303(c) Purchasing cigarettes not in the Directory, levy a \$100 fine and destruction of confiscated product with 7 – Yes votes and 1 – Member absent.

The following two (2) cases for Tobacco Superstore were presented together-----

Case 2006-0387 Tobacco Superstore #31 Maumelle, AR

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

Case 2006-0408 Tobacco Superstore #78 Paragould, AR

**VIOLATION: §5-27-227(a)(1) Selling to a minor, 2nd
Offense, \$200 fine**

The store location was represented by Mr. Larry Cobb, the Retail Operations Supervisor for Tobacco Superstores.

Once all the evidence was presented to the Board, a motion was made and approved to find Tobacco Superstore #78 in violation of §5-27-227(a)(1) Selling to a minor and issue a Warning with 7 - Yes votes and 1 - Member absent.

Another motion was made and approved to find Tobacco Superstore #31 in violation of §5-27-227(a)(1) Selling to a minor and issue a \$200 fine and 1 - day suspension of permit with 7 - Yes votes and 1 - Member absent.

Case #2007-0060 Flash Market #10 West Memphis, AR

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

Mr. Cliff LaFeat, the District Manager, and Ms. Latrice Garrett, the Store Manager, represented the store location in this matter.

A motion was made and approved to find Flash Market #10 in violation of §5-27-227(a)(1) Selling to a minor, issue a \$1,000 fine and 7 - day suspension of permit with 7 – Yes votes and 1 – Member absent.

The Disciplinary Hearing segment of the agenda was closed.

The Chairman wished every a “Happy Thanksgiving” and adjourned the meeting, as all business of the Board had been conducted.

Minutes prepared by

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November 8, 2006