

TOBACCO CONTROL BOARD MEETING MINUTES

NOVEMBER 3, 2005

The Tobacco Control Board met on Thursday, November 3, 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 7 - Board members present - Dr. J. Neal Beaton, Mr. Mark Carter., Mr. John Hauge, Mr. Ken Milburn, Mr. Vince Macy and Mr. Ronald Rivers with Mr. Gene McKissic arriving shortly after the meeting began, and 1 - Open position.

Mr. Ken Milburn, Chairman, called the meeting to order and opened with a "Welcome" to those attending. He introduced Mr. Charlie Moulton, serving as Hearing Officer and Ms. Lydia Williams, as Court Reporter.

Mr. Milburn turned the meeting over to Mr. Moulton to proceed with the Disciplinary Hearing segment of the meeting. He called the following cases before the Board:

Default Judgment List

**Dated September 1, 2005
October 6, 2005
November 3, 2005**

Mr. Roland Darrow, Attorney, proceeded with a roll call of the stores listed on the Default Judgment Lists dated September 1, 2005, October 6, 2005, and November 3, 2005, with no one responding as being present. He asked for a motion to find those listed in Default, issue maximum fines on all Sales to Minors cases and issue the recommended fines on all other cases as listed.

A motion was made and approved to accept the recommendation of counsel to find those listed in default and issue maximum fines on all Sales to Minors cases and issue the recommended fines on all other cases with 6 - Yes votes, 1 - Member absent, and 1 - Open position.

Case 2005-0751 Tobacco Superstore #8 Little Rock, AR

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

Mr. Larry Cobb, Operations Supervisor, for Tobacco Superstores represented the store location.

After hearing all testimony a motion was made to find Tobacco Superstore #8 in violation of §5-27-227(a)(1) and issue a Warning with 7 – Yes votes and 1 – Open position.

Case 2005-0008 Sav-A-Trip Siloam Springs, AR

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

The store location was represented by Mr. Max Thomas, Store Owner, and Ms. Laura Lynn Burks, the Store Manager.

A motion was made and approved to find Sav-A-Trip in violation of §5-27-227(a)(1), levy a \$400 fine, and wave the Rules and Regulation 4.1 violation with 7 – Yes votes and 1 – Open position.

Case 2005-0820 S & A Express #4 West Memphis, AR

VIOLATION:	§5-27-227(a)(1)	Sale to Minor, 1st Offense Warning
	§26-57-248(a)	Untaxed tobacco products, \$17,575.00 and confiscation of product.
	§26-57-213	Failure to maintain invoices, 1st Offense. \$500 and 5-day suspension of permit.
	§26-57-228	Purchasing from an unlicensed dealer, 1st Offense, \$500 and 5-day suspension of permit.
	R & R 4.1	No server awareness form, 1st Offense, \$100.00 fine.

The store location was represented by Mr. Mark Baretz, Attorney, and Mr. Saleh H Al-Jaradi, the store owner.

A motion was made and approved to accept the recommendation of Counsel and find S & A Express #4 in violation of §5-27-227(a)(1) Selling to a minor and issue a Warning, in violation of §26-57-248(a) Untaxed tobacco products, levy a \$17,575.00 fine and confiscate the product, in violation of §26-57-213 Failure to maintain invoices, levy a \$500 fine and 5-day suspension of permit, in violation of §26-57-228 Purchasing from an unlicensed dealer and levy a \$500 fine and 5-day suspension of permit, and in violation of Rule and Regulation 4.1 No Server Awareness form and issue a \$100.00 fine with 6 – Yes votes, 1 – Abstention and 1 – Open position.

Case 2005-0065

JB's Express

Searcy, AR

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

No one was present to represent the store location.

A motion was made and approved to find JB's Express in violation of §5-27-227(a)(1) and §26-57-257 and accept the recommendation of the Director, which is to levy a \$1,000 fine and 7-day suspension of permit with 7 – Yes votes and 1 – Open position.

Next Mr. Darrow presented a Retail Cigarette and Tobacco Permit Application for Auto Stop Wynne for the Board's consideration. No one was present to represent the store location. Mr. Darrow thought there may have been some confusion as to who would be representing the store in this matter at today's meeting. The Board was in agreement to move this application to the December 1, 2005, board meeting and instructed Mr. Darrow to send out another notification to the store location and re-notify the owner/manager.

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

The Chairman announced that Mr. John Hauge had been reappointed to the Board by the Governor and his new term is July 1, 2005, through July 1, 2010.

Mr. Milburn asked for approval of the meeting minutes for August 4, 2005, September 1, 2005, and October 6, 2005. A motion was made and approved to that effect with 7 – Yes votes and 1 – Open position.

Mr. Davis, the Director, asked for approval of "New Retail Permit Applications issued from August 4, 2005, through November 2, 2005, as listed."

A motion was made and approved to that effect with 7 – Yes votes and 1 – Open position.

The following Wholesale Permit Application was presented to the Board as follows:

**STANDARD TOBACCO COMPANY dba
STANDARD DISTRIBUTING COMPANY**

SAPULPA, OKLAHOMA

- 1 – WHOLESALE CIGARETTE PERMIT
- 1 – WHOLESALE TOBACCO PERMIT

There would not be any sales reps working in the State taking orders. The application was complete and recommended for approval.

A motion was made to approve the wholesale permit application for Standard Tobacco Company dba Standard Distributing Company in Sapulpa, OK with 7 – Yes votes and 1 – Open position.

Next the Director Addressed the Board. Mr. Davis was welcomed back from Active Coast Guard Duty by the Chairman. The Complaints Report from August 4, 2005, through November 3, 2005, was reviewed.

He gave an update on the “Open Positions” on the Board. Boards and Commissions contacted the Arkansas Medical Society on October 1, 2005, for a list of candidates for the open medical positions on the Board.

The agency office would be closed on November 11, 2005, for Veteran’s Day holiday. Also the office would be closed on November 24th and 25, 2005, for the Thanksgiving holiday.

He asked Mr. Gary Vlcek to report on the FTA Tobacco Tax Conference held in Big Sky, Montana, from September 10th through 15th. The meeting for 2006 will be held in Little Rock.

The Director reported the Sales to Minors Enforcement Agent Supervisor, Mr. Greg Sled, had been in an automobile accident and was home recuperating.

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Another enforcement vehicle was hit by a deer in South East Arkansas and a third was involved in a “hit and run” accident in Little Rock.

Mr. Roland Darrow presented the Sales to Minors update to the Board. He stated the two open agent positions have been filled by Ms. Linda Rooney-Card and Mr. Horace Walters. Two other agents have resigned – Mr. Guy Hughes and Ms. Michelle Priddy. He followed this with the activity of the agents.

The Chairman called on Mr. Arnie Jochums to give a Court Update.

Mr. Maurice Gilmore explained the Cost Allocation Forms, the Application for Permission to Sell at Less Than Presumptive Cost of Doing Business and 4 – Opinion Request Letters. After discussion a motion was made and approved to accept the Cost Allocation and Cost of Doing Business Forms as presented with 7 – Yes votes and 1 – Open position.

The Board agreed they needed more time to review the Opinion Requests and would not take action on them today. They would bring them back up at the December 1, 2005, meeting.

Mr. Davis reviewed and asked for approval of the “Offers of Settlement accepted by the permittee on the report dated September 1, 2005, which includes August 4, 2005, through November 3, 2005”. A motion was made and approved to accept the “Offers of Settlement List accepted by the permittee as listed on the September 1, 2005, Report” with 7 – Yes votes and 1 – Open position.

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, December 1, 2005.

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

Janis L. Campbell

Minutes prepared by _____

Janis L. Campbell

November 21, 2005