

TOBACCO CONTROL BOARD MEETING MINUTES

NOVEMBER 4, 2004

The Tobacco Control Board met on Thursday, November 4, 2004, 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 - Dr. Neal Beaton, Mr. Mark Carter., Mr. Ken Milburn, Jr., Mr. Vince Macy, Mr. Ronald Rivers, Mr. Gene McKissic, who arrived after to meeting began, 1 - Open position, and 1 - Board member absent - Mr. John Hauge.

The Chairman, Mr. Ken Milburn, opened the meeting with a "Welcome" to those attending. He called on the Director, Mr. Charlie Davis to introduce two (2) new agency staff employees for the Administrative Assistant I positions---Ms. Chanda Mallory and Ms. Tabitha Kirkland.

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

Mr. Milburn asked for a motion to approve the October 6, 2004, Collaborative Legislative Group meeting minutes and the October 7, 2004, Board Meeting Minutes. A motion was made and approved with 5 - Yes votes, 2 - Members absent, and 1 - Open position.

Mr. Charlie Davis, the Director, asked for approval of "New Retail Permit Applications issued from October 6, 2004 through November 3, 2004" after reviewing the report with the Board. A motion was made and approved to that effect with 5 - Yes votes, 1 - Open position, and 2 - Members absent.

The Director then presented the following Wholesale Tobacco Permit Application:

Specialty Cigars International, Inc. Bend, Oregon

A motion was made and approved to accept the Speciality Cigars Wholesale Tobacco Permit Application with 5 - Yes votes, 1 - Open Position, and 2 - Members absent.

Mr. Davis reviewed and asked the “Offers of Settlement accepted by the permittee from October 7, 2004, through November 3, 2004” be approved. A motion was made and approved to approve the “Offers of Settlement accepted by the permittee as listed from October 7, 2004, through November 3, 2004, with the exception of Valley Exxon in Arkadelphia and they be requested to come before the Board with 6 – Yes votes, 1 – Open position and 1 – Member absent.

He then reviewed the Complaints Report from October 8, 2004, through November 3, 2004. He announced the agency office would be closed for Veteran’s Day Holiday on Thursday, November 11th. Next he called on Mr. Greg Sled, Enforcement Agent Supervisor, to report on the activity of the enforcement agents in the field.

Mr. Milburn called on Mr. Walter Skelton to give an update on the Collaborative Legislative Group meeting held on November 3, 2004. Mr. Skelton presented a packet of proposed Regulation changes concerning Sales to Minors to the Chairman for consideration by the Board. Mr. Milburn will forward the proposal to the Rules and Regulations Committee, which will meet on Wednesday, December 1, 2004.

Mr. Milburn introduced Mr. Charlie Moulton, serving as Hearing Officer, and Ms. Lydia Williams, as Court Reporter. Mr. Moulton opened the Disciplinary Hearing segment of the meeting and asked Roland Darrow, Attorney for the Board, to present the Default Judgment List dated November 3, 2004. After calling off the cases on the list and no one responding, he asked to find those persons in Default and issue a maximum fine on all Sales to Minors cases and issue the recommended fines on all other cases as listed. A motion was made and approved to that effect with 6 – Yes votes, 1 – Open position and 1 – Member absent.

Mr. Darrow then presented the following cases to the Board:

**Case #2005-0138 Perry County Food and Drug
Perryville, Arkansas**

Tommy Watson, Contact

VIOLATIONS: §5-27-227(a)(1) Sale to Minor, 2nd Offense, \$200
fine and 1-day suspension of permit.

Mr. Steve Good represented the store location.

After testimony and discussion a motion was made and approved to find no violation in this case against Perry County Food & Drug with 5 – Yes votes, 1 – No vote, 1 –Member absent, and 1 – Open position.

**Case 2005-0040 Crackerbox #26 Hot Springs, AR
Louis Gardner, Owner**

VIOLATION: §5-27-227(a)(1) Sale to Minor, 2nd Offense, \$200 fine
and 1-day suspension of permit

Mr. Louis Gardner represented the store location.

After hearing the facts of the case and board member discussion, a motion was made and approved to find Crackerbox #26 in violation of §5-27-227(a)(1) and levy a \$200.00 fine and wave the 1-day suspension of permit with 6 – Yes votes, 1 - Members absent, and 1 – Open position.

Case 2004-1393

Harvest Foods #6030

Little Rock, AR

Michael Woods, Contact Person

VIOLATION: §5-27-227(a)(1) Sale to Minor, 2nd Offense, \$200 fine and 1-day Suspension of Permit

The store was represented by Mr. Michael Woods.

Testimony was presented to the Board. A motion was made and approved to find Harvest Foods #6030 in violation of §5-27-227(a)(1), levy a \$200 fine, and no suspension of permit with 5 – Yes votes, 1 – Member absent, 1 – Open position, and 1 - Abstention.

Case 2005-0112

Harvest Foods #1684

Little Rock, Arkansas

Charles Lee, Store Manager

VIOLATION: §5-27-227(a)(1) Sale to Minor, 4th Offense, \$600 fine and 3-day Suspension of Permit

The store location was represented by Mr. Michael Woods and Mr. Charles Lee.

After hearing testimony a motion was made and approved to find Harvest Foods #1684 in violation of §5-27-227(a)(1) and dismiss Case #2005-0112, with 4 – Yes votes, 1 – No vote, 1 – Member absent, 1 – Abstention, and 1 – Open position. The motion failed. There has to be 5 votes in agreement in order for a motion to pass.

A second motion was made to find Harvest Foods #1684 in violation of §5-27-227(a)(1), levy a \$500 fine, and 1-day suspension of permit with 5 – Yes votes, 1 – Abstention, 1 – Member absent, and 1 – Open position.

Case #2005-0145 Furlow Grocery Lonoke, AR

Joe Bailey, Owner

VIOLATION: §5-27-227(a)(1) Sale to a Minor, 2nd Offense, \$200 fine, 1-day suspension of permit.

The store location was represented by Mr. Joe Bailey, the owner.

After hearing all testimony a motion was made and approved to find Furlow Grocery in violation of §5-27-227(a)(1), levy a \$300.00 fine, and no suspension of permit with 5 – Yes votes, 1 – Member absent, 1 – Abstention, and 1 – Open position.

Case # 2004-1413 Alford's 66, #4 Beebe, AR

Judy Alford, Owner

VIOLATION: §5-27-227(a)(1) Sale to a Minor, 2nd Offense, \$200 fine and 1 – day suspension of permit.

Ms. Judy Alford represented the store location.

After all testimony was presented a motion was made to find Alford's in violation of §5-27-227(a)(1), levy a \$200 fine, and wave the suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case #2005-0168 Harp's Food Market #198 Rector, AR

Jim Antz, Contact

VIOLATION: §5-27-227(a)(1) Selling to a Minor, 2nd Offense, \$200 fine and 1-day suspension of permit.

The store was represented by Mr. Travis Sexton, Manager.

Once all the testimony was presented, a motion was made to find Harp's Food Market #198 in violation of §5-27-227(a)(1) for selling to a minor, levy a \$200 fine and wave the suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case #2005-0144 Dub's One Shot Van Buren, AR

Darrell Smith, Contact

VIOLATION: §5-27-227(a)(1) Sale to a Minor, 2nd Offense, \$200 fine, 1 – day suspension of permit

The store location was represented by Mr. Darrell Smith.

After hearing all testimony a motion was made and approved to find Dub's One Shot in violation of §5-27-227(a)(1), levy a \$200 fine and wave the 1 – day suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case #2004-1310 Ferguson Superette Marshall, AR

Kenneth Ferguson, Contact

VIOLATION: §5-27-227(a)(1) Selling to a Minor, 2nd Offense, \$200
fine and 1-day suspension of permit

The store was represented by Kenneth Ferguson and Roberta Vance Ferguson.

After the Board heard all the testimony pertaining to this matter, a motion was made and approved to find Ferguson Superette in violation of §5-27-227(a)(1), levy a \$200 fine, and wave the 1-day suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

Case #2004-1392 Phillips 66 Food Plaza #47 Morrilton, AR

Anjad H. Raja, Owner

VIOLATION: §5-27-227(a)(1) Selling to a Minor, 2nd Offense,
\$200 fine, and 1-day suspension

The store was represented by Mr. Anjad H. Raja, the owner.

The Board heard all the facts in the matter, a motion was made and approved to find Phillips 66 Food Plaza #47 in violation of §5-27-227(a)(1), levy a \$200 fine, and wave the 1-day suspension of permit with 5 – Yes votes, 2 – Members absent, and 1 – Open position.

The Hearing Officer, Mr. Charlie Moulton, called the Disciplinary Hearing segment of the meeting to a close and turned the meeting back over to the Chairman, Mr. Ken Milburn. He continued with "Open Forum for Board Member Discussion" followed by "Open Forum for Comments from the Audience".

The next meeting of the Board will be held on Thursday, December 2, 2004.

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

Minutes prepared by _____
Janis L. Campbell

November 19, 2004