

TOBACCO CONTROL BOARD MEETING MINUTES

OCTOBER 5, 2006

The Tobacco Control Board met on Thursday, October 5, 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. Kevin Dedner, who arrived after the meeting began, Mr. John Hauge, Mr. Ronald Rivers, Mr. Gene McKissic and Mr. Vince Macy, and 1 - Member absent, Ms. Kristen Nutt, who was recently appointed by the Governor to fill the Open Medical Position. Ms. Nutt will begin serving her term at the November 2, 2006, meeting.

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 announced Mr. Gene McKissic was re-appointed by the Governor to serve until July 1, 2011. The announcement of Ms. Kristen Nutt's appointment to the Board followed. She replaces Mr. Brian Bree in the "Open Medical Position". Mr. Rivers called on Mr. Chad Gallagher, the Director, who introduced a new agency staff member, Ms. Versinia Gooden, who replaces Ms. Tabitha Musgrove.

The Chairman continued with "New Business" and introduced Mr. Charles Moulton, serving as Hearing Officer, and Ms. Lydia Williams, as Court Reporter. The meeting was turned over to Mr. Moulton to proceed with the Disciplinary Hearing segment on the agenda. He called the following cases before the Board:

Default Judgment List

Dated October 5, 2006

Mr. Roland Darrow called off all the businesses shown on the Default Judgment List with no one responding as being present. He also asked the Board to approve the Default List dated October 5, 2006, find those listed in default and accept the recommendation of the Director.

A motion was made and approved to find Grand Drive In Liquor in default and issue the maximum fine with 6 – Yes votes and 2 – Members absent.

Mr. Arnie Jochums called the following cases before the Board:

Case 2006-0346

Electric Moo II

Fort Smith, AR

VIOLATION: §26-57-228

Purchasing from an unlicensed Dealer, \$500.00 fine & 5-day suspension of permit.

The business was represented by Mr. Daniel Hudson, the business owner.

After hearing all the testimony in the case, a motion was made and approved to find Electric Moo II in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a \$500 fine with no suspension of permit with 6 – Yes votes, 1 – Present and 1 – Member absent.

Case 2006-0347

**Shane Smith Enterprises dba Tobacco Outlet
of Hot Springs**

Hot Springs, AR

VIOLATION:

§4-75-708(a) & (b)

**Selling below minimum
using another
manufacturers coupon,
\$500 fine and 1 - day
suspension of permit.**

Mr. Keith Williams, the District Manager, represented the store location in this matter.

A motion was made and approved to find Tobacco Outlet of Hot Springs in violation of §4-75-708(a) & (b) Selling below state minimum using another manufacturers coupon, levy a \$500.00 fine and no suspension of permit with 7 – Yes votes and 1 – Member absent. .

Case 2006-0339 Double Quick Liquor Little Rock, AR

**VIOLATION: §26-57-248(a) Possession of untaxed tobacco, 1st
Offense, \$4,900 fine and
destruction of confiscated
product.**

**§26-57-213 Failure to maintain invoices,
\$500 fine and 5 – day suspension
of permit.**

The store location was represented by Mr. Zak Kassees, the owner, and his cousin, Mr. Hathum Alley, the owner of the building.

After all evidence was presented and discussion by the Board, a motion was made and approved to find Double Quick Liquor in violation of §26-57-248(a) Possession of untaxed tobacco, levy a \$3,000 fine, and in violation of §26-57-213 Failure to maintain invoices, levy a \$500 fine and 2 – day suspension of permit and destruction of confiscated product with 6 – Yes votes, 1 – No vote, and 1 – Member absent.

The following cases were presented to the Board by Mr. Roland Darrow, Attorney for the Board.

Case 2006-0377 SAV-A-TRIP SILOAM SPRINGS, AR

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

The business location was represented by Mr. Max Thomas, the owner.

A motion was made and approved to find Sav-A-Trip in violation of §5-27-227(a)(1) Selling to a minor, issue a \$1,000 fine and suspension of permit for 7 days, accepting the Director's recommendation with 6 – Yes votes, 1 – No vote, and 1 – Member absent.

The following two (2) cases were presented together by Mr. Darrow:

Case # 2006-0379

Hays Food #4

Wynne, AR

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

Case #2006-0407

Hays Food #10

Paragould, AR

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

Mr. Michael J. King, the owner and President, represented the business locations as listed above.

After all testimony was presented for each case a motion was made and approved to find Hays Food #10 for the third offense in violation of §5-27-227(a)(1) Selling to a minor, levy a fine of \$400 and 1 – day suspension of permit. On the 4th Offense find Hays Food #4 in violation of §5-27-227(a)(1) Selling to a minor with a fee of \$1,000 to be imposed and 2 – day suspension of permit with 7 – Yes votes and 1 – Member absent.

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

Mr. Rivers asked for approval of the Board meeting minutes for September 7, 2006. The motion was 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 September 6, 2006, through October 4, 2006, as listed. A motion was made to accept the Director's recommendation to approve the "New Retail Permit Applications issued from September 6, 2006 through October 4, 2006 with 6 - Yes votes and 2 - Members absent.

The Director then presented a wholesale permit application for BBK Tobacco & Food, Inc. located in Phoenix, Arizona. No sales representatives will be working in the state taking orders. The application was complete and recommended for approval.

A motion was made to approve the Wholesale Tobacco Permit application for BBK Tobacco and Food, Inc. with 6 - Yes votes and 2 - Members absent.

Mr. Gallagher continued with his "Address to the Board" by presenting the Complaints Report dated September 7, 2006 through October 5, 2006.

At the September 7, 2006, meeting, the Board asked Mr. Gallagher to send a letter out to Arkansas Retailers addressing unlicensed wholesalers selling into the state. He provided a copy of the letter to the Board, which was mailed on September 29, 2006.

He reported Legislative Audit had completed the agency "Internal Control and Compliance Review" for Fiscal Years 2004 and 2005. There were no findings and each board member would receive a copy of the audit report by mail.

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

Since Mr. Arnie Jochums was not present, agency staff provided the Board with Court activity concerning Board business.

Next on the agenda was the "Notice of Hearing and Offers of Settlement accepted by the permittee". The Board reviewed the report dated October 5, 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 October 5, 2006" with 6 – Yes votes, and 2 – Members 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, November 2, 2006.

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

Minutes prepared by

Janis L. Campbell
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October 13, 2006