

TOBACCO CONTROL BOARD MEETING MINUTES

OCTOBER 2, 2008

The Tobacco Control Board met on Thursday, October 2, 2008 for its monthly meeting in the Main Street Mall building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 10:00 a.m. in Suite 401. There were 5 - Board members present – Mr. Mark Carter, Mr. John Hauge, Mr. Steve Lightle, Mr. Gene McKissic and Dr. Tommy Wagner, with 2 – Members absent – Mr. Kevin Case and Mr. Kevin Dedner, and 1 – Open Position.

Mr. Mark Carter served as the Acting Chairman. He called the meeting to order and welcomed those in attendance. He then asked for a motion to approve the August 7, 2008 and September 4, 2008 board meeting minutes, which was made and approved with 5 – Yes votes, 2 – Members absent and 1 – Open Position.

“Old Business” was presented by Mr. Roland Darrow, Staff Attorney. At the August 7, 2008 meeting, Mr. Kevin Dedner asked for clarification of smoking regulations regarding Ruth’s Chris Steak House in Rogers, AR. Mr. Darrow reported there was no smoking inside the restaurant, just outside on the patio and, therefore, the restaurant was in compliance with the Clean Indoor Air Act.

The Chairman moved on to “New Business” and the Disciplinary Hearings. He introduced Ms. Eileen Harrison, serving as Hearing Officer and Ms. Lydia Williams, as Court Reporter. Ms. Harrison called on Mr. Roland Darrow to continue.

Mr. Darrow, Staff Attorney, made a roll call of the cases on the Default List dated October 2, 2008. No one responded as being present. He asked the Board to find those listed in Default with the removal of Case #2009-0026, 2009-0036, 2009-0040 and 2009-0051, issue the maximum fine on all Sales to Minors cases and the recommended fine on all others. A motion was made and approved to that effect with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Ms. Harrison called the following cases before the Board-----

Case # 2009-006 Flash Market #189 Fayetteville, 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. Allen Fike, the Division Manager.

After testimony and discussion by the Board, a motion was made and approved to find Flash Market #189 in violation of §5-27-227(a)(1) Selling to a Minor, impose the recommended fine of \$1,000 and a 7-day suspension of permit with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case #2009-023 Willco One Stop Mart Fayetteville, AR

**VIOLATION: §5-27-227(a)(1) Selling to a Minor, 4th
Offense, 7-day suspension of
permit.**

Mr. Rex Williams, the owner, represented the store location in this matter.

A motion was made to find Willco One Stop Mart in violation of §26-57-257 and §5-27-227(a)(1) Selling to a Minor, issue a \$600 fine and 5-day suspension of permit and attend mandatory training of employees

within 6-months. If the Tobacco Control Board training is not attended, the fine will revert back to a \$1,000 fine and 7-day suspension of permit for the 4th Offense with 5 - Yes votes, 2 – Members absent and 1 – Open Position.

Case #2009-065 GSC Enterprises Sulphur Springs, TX

**VIOLATION: §26-57-248 Selling untaxed tobacco,
2nd Offense**

GSC Enterprises was represented by Mr. Charles Singleton, a Little Rock Attorney, and Mr. John Prickett, Division Manager.

Upon the completion of testimony, a motion was made to find GSC Enterprises in violation of §26-57-248, Selling untaxed tobacco, with this being on record as a 2nd Offense and no penalty with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case #2009-001 Caraway BP Jonesboro, AR

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

No one was present to represent the business location.

After hearing the testimony, a motion was made to find Caraway BP in violation of §5-27-227(a)(1) Selling to a minor and issue a \$500 fine and 2-day suspension of permit with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Ms. Harrison closed the Disciplinary Hearing segment of the agenda and turned the meeting back over to the Chairman.

Mr. Carter called on the Director. Mr. Thomas continued with the "Offers of Settlement" reports and asked for approval by the Board. A motion was made to approve the "Offers of Settlement reports dated September 4, 2008 and October 2, 2008" with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Next Mr. Thomas presented the "New Retail Permits Issued" report. He asked the Board to review the monthly list and approve. A motion was made to approve the "New Retail Permit Applications" issued from August 6, 2008 through October 2, 2008 with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Mr. Carter asked the Director if there were any "Staff Reports". Mr. Thomas called on Mr. Greg Sled, Enforcement Agent Supervisor, to give a report on enforcement activity and merchant education.

The meeting continued with "Court Update". Mr. Arnie Jochums, Assistant Attorney General, stated he anticipated a Hearing to be scheduled in early March of 2009 regarding the McLane lawsuit.

Mr. Roland Darrow, Staff Attorney, reported on September 9, 2008 there was a felony charge made against the two (2) owners of E T Relay Station in El Dorado for possession of untaxed tobacco. Also on September 15, 2008 there was a felony arrest that arose out of a vehicle being pulled over by State Highway Police, at our agent's request, for possession of untaxed tobacco. The agency had its first criminal conviction on March 2007 for possession of untaxed tobacco that resulted in a 6-month probation and a civil penalty of \$20,000.

Mr. Carter announced the next meeting date of November 6, 2008.

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

Minutes prepared by

Janis L. Campbell
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October 17, 2008