

TOBACCO CONTROL BOARD MEETING MINUTES

SEPTEMBER 7, 2006

The Tobacco Control Board met on Thursday, September 7, 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 5 - Board members present - Mr. Mark Carter, Mr. Kevin Case, Mr. Ronald Rivers, Mr. Gene McKissic and Mr. Vince Macy, 2 - Members absent, Mr. Kevin Dedner and Mr. John Hauge, and 1 - Open position.

The Chairman, Mr. Ron Rivers, called the meeting to order and opened with a "Welcome" to those in attendance. He 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 of the agenda. He called the following cases before the Board:

Default Judgments List

Dated September 7, 2006

Mr. Roland Darrow read the list of businesses with no one responding as being present. He also asked the Board to approve the Default List dated September 7, 2006, find those listed in default and accept the recommendation of the Director.

A motion was made and approved to accept the Default List dated September 7, 2006, find those listed in default, accept the recommendation of the Director to levy the maximum fine on all Sales to Minors cases and issue recommended fines on all other cases with 5 - Yes votes, 2 - Members absent and 1 - Open position.

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

Case 2006-0330 Tobacco Superstore #61 Little Rock, AR

VIOLATION: §4-75-708(a) & (b) Selling below minimum, using coupons of another brand, \$500.00 fine & 1-day suspension of permit.

The business was represented by Mr. Larry Cobb, Operations Supervisor.

After hearing all the testimony in the case, a motion was made and approved to find Tobacco Superstore #61 in violation of §4-75-708(a)(b), levy a \$500 fine with no suspension of permit with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case 2005-0331 Poor Boy's Liquor Hughes, AR

VIOLATION: §26-57-228 Purchasing from unlicensed dealer, \$500 fine and 5-days

§26-57-248(a) Possession of untaxed tobacco 1st Offense, \$12,825 and destruction of confiscated product.

Mr. Tim Leslie, the owner, represented the store location in this matter.

A motion was made and approved to find Poor Boy's Liquor in violation of §26-57-248(a), Possession of untaxed tobacco, levy a \$2,000.00 fine and

in violation of §26-57-228 Purchasing from and unlicensed dealer, levy a \$100 fine with no suspension of permit and destruction of confiscated product with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case 2006-0321 Broadway Food Store Little Rock, AR

VIOLATION: §26-57-228 Purchasing from an unlicensed dealer, \$500 fine and 5 – day suspension of permit.

The store location was represented by Mr. Aisha Katlom.

After all evidence was presented and discussion by the Board, a motion was made and approved to find Broadway Food Store in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a \$100 fine with no suspension of permit.

Case 2006-0386 Murphy USA #6801 Benton, AR

VIOLATION: §4-75-708(a)&(b) Using coupons of another brand. Selling below state minimum, 1st Offense, \$500 fine and 1 – day suspension of permit.

The business location was represented by Mr. Gary Thomas, District Mgr.

A motion was made and approved to find Murphy USA #6801 in violation of §4-75-708(a) & (b), Selling below state minimum using

coupons of another brand, levy a \$500 fine with no suspension of permit with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case # 2006-328 NLR Corner Store North Little Rock, AR

**VIOLATIONS: §26-57-213 Failure to maintain invoices, 1st
Offense, \$500 fine and 5 – day
suspension of permit.**

**§26-57-248(a) Possession of untaxed tobacco,
\$14,550.00**

Destruction of Product

Mr. Clarence Cash, an Attorney and Ms. Yang Lamb, the store owner, appeared before the Board.

After all testimony was presented a motion was made and approved to find the North Little Rock Corner Store in violation of §26-57-248(a) Possession of untaxed tobacco product, levy a \$2,500.00 fine and a \$500.00 fine for being in violation of §26-57-213 for not maintaining invoices and no suspension of permit, and destruction of confiscated product with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Mr. Roland Darrow called the following cases before the Board for consideration:

Case # 2006-338	Tobacco Island	Monticello, AR
VIOLATION:	§26-57-248(a)	Possession of untaxed tobacco, \$,875.00 and Destruction of Confiscated Product.
	§26-57-228	Purchasing from an unlicensed dealer, 1st Offense, \$500 and 5 – day Suspension of Permit.

Mr. Mary Hoff represented the store location in this case.

A motion was made and approved to find Tobacco Island in violation of §26-57-248(a) Possession of untaxed tobacco, levy a \$1,000.00 fine, in violation of §26-57-228 Purchasing from an unlicensed dealer, issue a \$100 fine with no suspension of permit and destruction of all confiscated product with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case #2006-0342 Express Market Little Rock, AR

**VIOLATION: §26-57-213 Failure to maintain
invoices, 1st offense,
\$500 and 5 – days
suspension of permit**

**Destruction of confiscated
product.**

The business location was represented by Mr. Youn See Han, the owner.

A motion was made and approved to find Express Market in violation of §26-57-213 Failure to maintain invoices, levy a \$500 fine and wave the 5 – day suspension of permit, and destruction of the confiscated product with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Case# 2006-0348 Country Store Cabot, AR

**VIOLATION: §26-57-226 Selling on a suspended permit, 1st
Offense, \$750.00 and 7 – day
suspension of permit.**

The owner of the Country Store, Mr. Toby Troutman, appeared before the Board.

After the Board heard all the testimony, a motion was made and approved to find the Country Store in violation of §26-57-226 Selling on a suspended permit, a \$750.00 fine to be imposed and 5 – day suspension of permit with 5 – Yes votes, 2 – Members absent and 1 – Open position.

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

Mr. Rivers asked for approval of the Board meeting minutes for June 1, 2006. The motion was approved with 5 – Yes votes, 2 – Members absent and 1 – Open position.

He asked for approval of the July 6, 2006, Board meeting minutes, which was approved with 5 – Yes votes, 2 – Members absent and 1 – Open position.

He followed with a request to approve the August 3, 2006, Board meeting minutes, which the Board approved with 5 – Yes votes, 2 – Members absent and 1 – Open position.

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 June 1, 2006, through September 6, 2006, as listed. A motion was made to accept the Director’s recommendation and approved with 5 – Yes votes, 2 – Members absent and 1 – Open position.

Mr. Gallagher continued with his “Address to the Board” and started with a review of the Complaints Report dated June 1, 2006 through September 7, 2006.

He reported the Biennial Budget packet for FY2008 and 2009 had been submitted to the Office of Budget. The Closing Book Report for FY2006 had been submitted to the Office of Accounting – CAFR Section.

The agency hosted the 2006 National Federation of Tax Administrators Tobacco Tax Section Conference here in Little Rock.

Tabitha Musgrove had resigned and moved to Fort Worth, Texas, with her family. Versinia Gooden has been hired to fill the front desk position and will join the staff on Monday, September 11, 2006.

He called on Greg Sled, the Sales to Minors Supervisor, to give his report on the activity of the field agents.

Mr. Rivers called on Mr. Arnie Jochums to give his report on Court activity to the Board.

Mr. Jochums followed with a HT Hackney Company Advisory Opinion Request. After discussion and reviewing all the documents submitted, the Board approved the Director's response letter to HT Hackney with 5 – Yes votes, 2 – Members absent and 1 - Open position.

Next on the agenda was the “Notice of Hearing and Offers of Settlement accepted by the permittee”. The Board reviewed the report dated September 7, 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 September 7, 2006” with 5 – Yes votes, 2 – Members absent and 1 – Open position.

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, October 5, 2006.

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

Minutes prepared by

Janis L. Campbell
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September 22, 2006