

ARKANSAS TOBACCO CONTROL MEETING MINUTES

SEPTEMBER 3, 2009

The Tobacco Control Board met on Thursday, September 3, 2009 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 7 - Board members present – Mr. Kevin Case, Ms. Carol Dyer, Mr. John Hauge, Mr. Steve Lightle, Mr. Gene McKissic, Mr. Danny Tate, and Dr. Tommy Wagner and 1 – Open Position.

Mr. Steve Lightle, the Chairman, began the meeting with a “Welcome” to those attending. He then asked for a motion to approve the June 4, 2009 board meeting minutes. A motion was made and approved with 7 – Yes votes and 1 – Open position. He asked for a motion to approve the July 2, 2009 board meeting minutes, which was made and approved with 7 – Yes votes and 1 – Open position. A motion was made and approved for the August 6, 2009 board meeting minutes with 7 – Yes votes and 1 – Open position.

There was no “Old Business” and the meeting moved on to “New Business”. Mr. Lightle introduced Mr. Greg Kirkpatrick, serving as Hearing Officer, and Ms. Lydia Williams-Heroman, as Court Reporter. The meeting was turned over to Mr. Kirkpatrick, who continued with the Disciplinary Hearing segment of the meeting. He called on Mr. Roland Darrow, Staff Attorney, who presented the Default List dated September 3, 2009. After a roll call of those listed and no one responding as being present, he asked the Board to find those listed in Default and levy the maximum fines on all Sales to Minors cases and levy the recommended fine on all others. A motion was made to that effect and was approved with 7 – Yes votes and 1 – Open position.

Mr. Kirkpatrick called the following cases before the Board-----

Case #2009-0381

Ray’s Fast Trax

Rogers, 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. Mahdi Baghestani, the owner, and Mr. Reza Baghestani, the manager, in Case #2009-0381 and Case #2009-0334.

After testimony and discussion by the Board, a motion was made to find Ray's Fast Trax in violation of §5-27-227(a)(1) and §26-57-256, Selling to a minor, issue a \$1,000 fine and 7 – day suspension of permit. The motion failed with 2 – Yes votes, 5 – No votes and 1 – Open position.

A second motion was made and approved to impose the maximum penalty of a \$2,000 fine and 14 – day suspension of permit with 7 – Yes votes and 1 – Open position.

Case #2009-0334	Ray's Fast Trax	Rogers, AR
VIOLATION:	§26-57-248(a)	Possession of untaxed product, \$3,525 fine, 5-day suspension of permit and destruction of confiscated product.
	§26-57-228	Purchasing from unlicensed dealer, \$1,000 fine and 10-day suspension of permit
	§26-57-213	Failure to maintain invoices, 2nd Offense, \$1,000 fine and 10-day suspension of permit.

A motion was made to find Ray's Fast Trax in violation of §26-57-248(a) Possession of untaxed product, levy a fine of \$3,525 and a 10-day suspension of permit and destruction of confiscated product, in violation of §26-57-228 Purchasing from an unlicensed dealer, levy a fine of

\$1,000 and 10-day suspension of permit, and in violation of §26-57-213 Failure to maintain invoices, issue a fine of \$1,000 and 15-day suspension of permit with 7 – Yes votes and 1 – Open position. The 2 - 10-day suspensions of the permit will run concurrent with the 15-day suspension of permit and the 14-day suspension of permit issued in Case #2009-0381 to run consecutively.

Mr. Kirkpatrick closed the Disciplinary Hearing segment of the agenda and turned the meeting back over to the Chairman.

Mr. Lightle called on the Director, Mr. J.R. Thomas, to continue with “New Retail Permits Issued”. Mr. Thomas asked the Board to review and approve the report dated June 4, 2009 through September 2, 2009. A motion was made to approve the “New Retail Permit Applications” report and accepted with 7 – Yes votes and 1 – Open position.

Mr. Thomas reminded the Board of an approved motion to remove Mr. Richard Harsa, a Sales Representative, with Merchants Wholesale from the “New Retail Permit Applications” report at the June 4, 2009 meeting. He asked the Board to approve the application for Mr. Harsa. After discussion a motion was made and approved to permit Mr. Richard Harsa with 7 – Yes votes and 1 – Open position.

Mr. Thomas continued with a “Change of Ownership” application for Roberts Cigar & Tobacco Co., LLC in Shreveport, LA. All requirements were met in the Rules and Regulations. A motion was made and approved to accept the wholesale “Change of Ownership” for Roberts Cigar & Tobacco Co., LLC in Shreveport, LA with 7 – Yes votes and 1 – Open position.

The Director presented the wholesale application for Affiliated Foods Midwest in Norfolk, Nebraska. The application consisted of a wholesale cigarette permit, a wholesale tobacco permit, and two sales representative’s licenses. All requirements were met. A motion was made and approved to accept the Affiliated Foods Midwest application with 7 – Yes votes and 1 – Open position.

Mr. Thomas asked the Board to review the “Accepted Offers of Settlement for Board Approval” report dated September 3, 2009. He asked for approval. A motion was made and approved to that effect with 7 - Yes votes and 1 – Open position.

The Director then called on Mr. Greg Sled, the Deputy Director, to give an update on enforcement activity and merchant education. Mr. Sled also reviewed a report of "Criminal Untaxed Tobacco" cases.

The Chairman then asked if there were any "Court Updates". Mr. Arnie Jochums of the Attorney General's Office reminded the Board of a Hearing that was held in Judge Moody's Court on June 15, 2009 concerning Advisory Opinions. He and the Director are waiting a Court ruling.

Mr. Roland Darrow, Staff Attorney, didn't have any Court activity to report. He introduced Mr. Larry Garland, who is in the process of purchasing Muswick LLC. Mr. Garland addressed the Board on the status of "Change of Ownership". After discussion the Board voted to provisionally approve the "Change of Ownership" application and required Mr. Gardner to notify Arkansas Tobacco Control of "Change of Ownership" and at the appropriate time come back before the Board for review of that application with 7 - Yes votes and 1 - Open position.

The Chairman announced the next meeting date of October 1, 2009.

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

Minutes prepared by

Janis L. Campbell
Janis L. Campbell

September 15, 2009