



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
 MIKE STRAIN DVM
 COMMISSIONER



LOUISIANA WEIGHTS AND MEASURES COMMISSION HEARING
 MINUTES

JANUARY 24, 2019

9:30 a.m.

Louisiana Department of Agriculture & Forestry
 Veterans' Memorial Auditorium
 5825 Florida Blvd.
 Baton Rouge, LA 70806

Agricultural &
 Environmental
 Sciences
 Suite 3000
 (225) 925-3770
 Fax: 925-3760

Agro-Consumer
 Services
 Suite 5000
 (225) 922-1341
 Fax: 923-4877

Animal Health
 Services
 Suite 4000
 (225) 925-3962
 Fax: 925-4103

Forestry
 Suite 6000
 (225) 925-4500
 Fax: 922-1356

Management
 & Finance
 Suite 1000
 (225) 922-1255
 Fax: 925-6012

Marketing
 Suite 2001
 (225) 922-1277
 Fax: 922-1289

Soil & Water
 Conservation
 Suite 7000
 (225) 922-1269
 Fax: 922-2577

I. CALL TO ORDER

Chairman Larry Terrell called the hearing to order at 9:30 a.m.

II. ROLL CALL AND DECLARATION OF QUORUM

Commission Members present

Mr. Larry Terrell, Chairman
 Mr. Dave George, Vice Chairman
 Mr. Paul Coreil
 Mr. Justin Alford
 Mr. Tommy Haring
 Mr. Brian Girardot
 Mr. Mark Westmoland
 Mr. Frank LoPinto
 Mr. Scott Simonson (Alternate – representing Nolan Percy)

Members absent

Mr. Nolan Percy
 Mr. Brad Terral
 Mr. Dane Hebert

LDAF staff present

Amy McInnis - LDAF Attorney-General Counsel, Bobby Fletcher Jr., Paul Floyd, Milton Hunter, Archie Lambert, Richert Williams, Nolan Jones, Mark Lovisa, Michael Howell, Nikki Stuart, Lisa Sonnier, and Rachel Baham.

Also in attendance

Michael Heier, Hearing Officer for Attorney General Office
 Alicia Wheeler, Future Hearing Officer for Attorney General Office
 Commission Alternates – Lucein Jarreau, Andre' Ledoux and Blake Robert
 Tony Mitchell, Louisiana Scales Unlimited, LLC. Case #19-01-01
 Ashrah Salem, Mobile PCS Case #18-09-10

DECLARATION OF QUORUM

Nine (9) members being present, Chairman Larry Terrell declared a quorum.

III. APPROVAL OF SEPTEMBER 19, 2018 MINUTES

Motion was made by Mr. Justin Alford and **seconded** by Mr. Dave George to approve the minutes for the September 19, 2018 meeting. All members were in favor. **Motion carried.**

IV. SPECIAL RECOGNITION

Mrs. Lisa Sonnier was recognized for her eight years of service as Administrative Assistant to the Weights and Measures Commission Board by Director, Bobby Fletcher, Jr.

V. PUBLIC COMMENTS

None

**VI. ADJUDICATORY HEARING
CONTINUED**

**(1) Case No. 18-03-03
Downman Road Shell
3901 Downman Road
New Orleans, LA 70126**

19 violations

1 - Overcharge- LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

18 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale, which is labeled with a computerized bar code label, shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Continuance granted by Hearing Officer Michael Heier due to lack of service.

(2) Case No. 18-03-14
Tiger Touchdown #6
398 Main Street
Arnaudville, LA 70512

5 violations

5 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale, which is labeled with a computerized bar code label, shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Continuance granted by Hearing Officer Michael Heier due to lack of service.

(3) Case No. 18-05-01
Tigers Touchdown #4
5239 Big Lake Road
Lake Charles, LA 70605

4 violations

4 – Removal of tag unlawfully – LA R.S. 3:4610

No one shall remove any weight, measure, or weighing or measuring device, contrary to law or regulation, and tag placed thereon by the department .

Continuance granted by Hearing Officer Michael Heier due to lack of service.

(4) **Case No. 18-05-10**
Chef Menteur Shell
9232 Chef Menteur Highway
New Orleans, LA 70127

12 violations

12 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale, which is labeled with a computerized bar code label, shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item, which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Continuance granted by Hearing Officer Michael Heier due to lack of service.

STIPULATIONS

(5) **Case No. 17-11-07**
Gerstner Memorial Hop In
1717 Gerstner Memorial Drive
Suite B
Lake Charles LA 70601

7 violations

3 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

4 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,750.00. **Motion** to accept the stipulation and recommended penalty was made by Paul Coreil and **seconded** by Brian Girardot. All members were in favor. **Motion carried.**

(6) **Case No. 18-09-12**
Food Junction, LLC.
Stonewall Shell
1137 Highway 171
Stonewall, LA 71078

16 violations

4 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

12 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label, shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item, which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$4,000.00. **Motion** to accept the stipulation and recommended penalty was made by Justin Alford and **seconded** by Brian Girardot. All members were in favor. **Motion carried.**

(7) **Case No. 19-01-03**
Dollar General #9777
8030 West Metairie Ave
Metairie LA 70003

7 violations

1 - Price not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

6 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

Stipulation Received: The department recommended a penalty of \$1,750.00. **Motion** to accept the stipulation and recommended penalty was made by Mark Westmoland and **seconded** by Scott Simonson. All members were in favor. **Motion carried.**

(8) **Case No. 19-01-04**
Family Dollar Store #20877
631 Veterans Street
Carencro LA 70502

6 violations

2 - Overcharge - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

4 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,500.00. **Motion** to accept the stipulation and recommended penalty was made by Brian Girardot and **seconded** by Tommy Haring. All members were in favor. **Motion carried.**

(9) **Case No. 19-01-06**
Dollar General #9536
4249 Highway 12
Starks, LA 70661

5 violations

3 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

2 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,250.00. **Motion** to accept the stipulation and recommended penalty was made by Tommy Haring and **seconded** by Mark Westmoland. All members were in favor. **Motion carried.**

(10) **Case No. 19-01-07**
Family Dollar #25001
3123 Gerstner Memorial Drive
Lake Charles LA 70601

10 violations

9 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

1 - Overcharge - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

Stipulation Received: The department recommended a penalty of \$2,500.00. **Motion** to accept the stipulation and recommended penalty was made by Paul Coreil and **seconded** by Scott Simonson. All members were in favor. **Motion carried.**

(11) **Case No. 19-01-08**
Family Dollar #11708
7457 Highway 5
Gloster LA 71030

5 violations

5 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,250.00. **Motion** to accept the stipulation and recommended penalty was made by Mark Westmoland and **seconded** by Brian Girardot. All members were in favor. **Motion carried.**

(12) **Case No. 19-01-10**
Smart Style #1862
925 Keyser Avenue
Natchitoches LA 71457

4 violations

4 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

Stipulation Received: The department recommended a penalty of \$1,000.00. **Motion** to accept the stipulation and recommended penalty was made by Frank LoPinto and **seconded** by Justin Alford. All members were in favor. **Motion carried.**

(13) **Case No. 19-01-12**
Dollar General #12696
27478 Highway 22 East
Ponchatoula LA 70454

11 violations

11 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

Stipulation Received: The department recommended a penalty of \$2,750.00. **Motion** to accept the stipulation and recommended penalty was made by Scott Simonson and **seconded** by Tommy Haring. All members were in favor. **Motion carried.**

(14) **Case No. 19-01-13**
Dollar General #6393
19306 Highway 22 East
Ponchatoula LA 70454

8 violations

8 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

Stipulation Received: The department recommended a penalty of \$2,000.00. **Motion** to accept the stipulation and recommended penalty was made by Justin Alford and **seconded** by Paul Coreil. All members were in favor. **Motion carried.**

(15) **Case No. 19-01-15**
Valero Corner Store #382
8800 Jewella Avenue
Shreveport LA 71108

4 violations

3 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

1 - Price not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,000.00. **Motion** to accept the stipulation and recommended penalty was made by Justin Alford and **seconded** by Paul Coreil. All members were in favor. **Motion carried.**

(16) **Case No. 19-01-16**
Dollar General #15788
2821 4th Avenue
Lake Charles LA 70601

6 violations

5 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

1 - Price not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,500.00. **Motion** to accept the stipulation and recommended penalty was made by Justin Alford and **seconded** by Frank LoPinto. All members were in favor. **Motion carried.**

(17) **Case No. 19-01-01**
Louisiana Scales Unlimited, LLC
111 Harold Street
West Monroe LA 71292

15 violations

1 – Operating without a Service Agency license - LA. R.S. 3:4621 (A)

A. No one may operate as a registered service agency, a registered service person, or as a weighmaster until he is licensed as such as provided for in this Section, for Louisiana Scales Unlimited, LLC operating as a service agency at Madden Construction on 04/23/2018 without a valid Service Agency license.

1 – Operating without a Service Technician license - LA. R.S. 3:4621 (A)

A. No one may operate as a registered service agency, a registered service person, or as a weighmaster until he is licensed as such as provided for in this Section, for Jamie Swain operating as a service person at Madden Construction on 04/23/2018 without a valid Service Technician license.

13 – Using rejected devices - LA. R.S. 3:4612 (B)

A. No one shall use, sell, hire, offer or expose for sale or hire, any incorrect commercial weighing or measuring devices, for Louisiana Scales unlimited, LLC using thirteen (13) rejected 1000 pound mass standards identified as LSU2, LSU4, LSU6, LSU7, LSU8, LSU10, LSU12, LSU13, LSU14, LSU15, LSU16, LSU18, and LSU24 at five (5) locations (Madden Construction Minden Woodyard, Shreveport scale #1, Campti AP16, Mansfield Rock yard, and Hanna Port on April 23, 2018 and April 24, 2018. (These items were rejected by LDAF on January 23, 2017 and again on June 25, 2018. See attached reports.)

Board members Dave George and Tommy Haring **recused** themselves from the case due to conflicts of interest.

Stipulation Received: The department recommended a penalty of \$3,750.00. **Motion** to accept the stipulation and recommended penalty was made by Paul Coreil and **seconded** by Mark Westmoland. All members were in favor. **Motion carried.**

(18) Case No. 18-09-10
Metro PCS
Express Mobile Connections
3655 18th Street
Metairie, LA 70002

5 violations

1 - Overcharge - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

4 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale, which is labeled with a computerized bar code label, shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item, which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$1,250.00. **Motion** to accept the stipulation and recommended penalty was made by Justin Alford and **seconded** by Frank LoPinto. All members were in favor. **Motion carried.**

ADJUDICATORY

(19) Case No. 19-01-14
OM Carrollton Shell
3101 S. Carrollton Avenue
New Orleans LA 70118

13 violations

13 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

No representation for the defending party was in attendance for the hearing. At the request of LDAF Counsel, Amy McInnis, Hearing Officer Michael Heier **motioned** to proceed with the hearing in their absence. **Motion granted.**

Inspector Michael Howell was called as a witness and the previously conducted Price Verification inspections were entered in as evidence.

Motion made by Dave George and **seconded** by Justin Alford to find OM Carrollton Oil, Inc. guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of a maximum \$500.00 for each violation, for a total of up to \$6,500.00 in penalties to be paid. The **motion** was made by Scott Simonson and **seconded** by Brian Girardot to set the penalty rate at the full rate of \$500.00 per violation, for a total of \$6,500.00 to be paid in penalties. All members were in favor. **Motion carried.**

VII. NEW BUSINESS

None

VIII. OLD BUSINESS

None

IX. PUBLIC COMMENT

Hearing Officer Michael Heier announced that this hearing would be his last, as he has accepted a position with the Army Corps of Engineers. He announced Alicia Wheeler as his replacement and introduced her to the Commission Members.

X. NEXT MEETING DATE

Next Commission Hearing is scheduled for Thursday, May 2, 2019 @ 9:30 a.m.

XI. ADJOURNMENT

Motion made by Mr. Larry Terrell and seconded by Mr. Paul Coreil
All members were in favor. Motion carried



Mr. Larry Terrell, Chairman