



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
 MIKE STRAIN DVM
 COMMISSIONER



LOUISIANA WEIGHTS AND MEASURES COMMISSION HEARING
MINUTES

SEPTEMBER 19, 2018

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) 925-1341
 Fax: 923-4877

Animal Health & Food Safety
 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

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. Michael Hensgens
 Mr. Justin Alford
 Mr. Nolan Percy
 Mr. Brian Girardot
 Mr. Frank LoPinto

Members absent

Mr. Brad Terral
 Mr. Mark Westmoland

Mr. Cal Simpson (Alternate - representing Mark Westmoland)
 Mr. Dane Hebert (Alternate - representing Brad Terral)

LDAF staff present

Commissioner Mike Strain, Emily Andrews - LDAF Attorney-General Counsel, Steve Sessums, Bobby Fletcher Jr., Paul Floyd, Milton Hunter, Archie Lambert, Jarrad Poirrier, Nolan Jones, Sarah Dark, Dedra Moore, Nikki Stuart, Joshua Moody, Jason Huntington, Troy Coates, and Nicole Robino

Also in attendance

Michael Heier, Hearing Officer for Attorney General Office
 Commission Alternates – Mickey Freiberg, Bo Haring, and Christy Ingram
 Cathy Hensgens, Kim Turner with Central Oil Case #18-09-14

DECLARATION OF QUORUM

Ten (10) members being present, Chairman Larry Terrell declared a quorum.

III. APPROVAL OF MAY 24, 2018 MINUTES

Motion was made by Mr. Cal Simpson and **seconded** by Mr. Dane Hebert to approve the minutes for the May 24, 2018 meeting. All members were in favor. **Motion carried.**

IV. SPECIAL RECOGNITION

Mr. Michael Hensgens was recognized for his service on the Weights and Measures Commission Board by Commissioner Mike Strain. Upon his resignation after 3 and one half years, he was presented with a plaque. Mr. Bobby Fletcher then recognized all newly appointed board members and alternate board members elected to serve on the Commission Board as well as all present staff of the Weights and Measures division.

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.

(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.

- (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 .

- (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.

- (5) Case No. 18-09-01**
Metro PCS #1329
12615 Florida Blvd
Baton Rouge, LA 70815
7 violations

7 - 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.

(6) Case No. 18-09-10
Metro PCS
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.

(7) Case No. 18-09-12
Stonewall Shell
1137 Highway 171 South
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.

STIPULATIONS

(8) Case No. 18-05-03

Wag A Bag #1

912 Polk Street

Mansfield, LA 71052

6 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.

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 \$1,500.00. Motion to accept the stipulation and recommended penalty was made by Dave George and seconded by Michael Hensgens. All members were in favor. **Motion carried.**

(9) Case No. 18-09-04

McCartney Oil Co

21691 Highway 8 West

Jena, LA 71342

1 violation

1 – Nonconforming Product - LAC 7:XXXV.347

3. The nonconforming product may be blended out to remove the contaminating substances in an effort to make the product conform to specification. The blended product shall not be offered for sale again until tested and approved by the department, for offering diesel that was found to be nonconforming to ASTM standards at A and A Quick Stop, located at 702 South Chataignier Street in Ville Platte, without testing or approval by the department.

Stipulation Received: The department recommended a penalty of \$500.00. Justin Alford recused himself from voting on the McCartney Oil Co case.

Motion to accept the stipulation and recommended penalty was made by Brian Girardot and seconded by Paul Coreil. All members were in favor. **Motion carried.**

- (10) **Case No. 18-09-08**
Circle K Store #8158
1000 Shreveport Barksdale Highway
Shreveport, LA 71105

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 Paul Coreil and seconded by Frank LoPinto. All members were in favor. **Motion carried.**

- (11) **Case No. 18-09-11**
Old Metairie Discount 14023
198 Metairie Road
Metairie, LA 70005

11 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.

6 - 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 \$2,750.00

Motion to accept the stipulation and recommended penalty was made by Michael Hensgens and seconded by Dane Hebert. All members were in favor. **Motion carried.**

(12) Case No. 18-09-13
Connectivity Source 10062
215 Veterans Memorial Blvd
Metairie, LA 7005

4 violations

2 - 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 \$1,000.00
Motion to accept the stipulation and recommended penalty was made by Brian Girardot and seconded by Nolan Percy. All members were in favor. **Motion carried.**

(13) Case No. 18-09-15
Dollar General #9453
64263 Highway 41
Pearl River, LA 70452

6 violations

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 \$1,500.00
Motion to accept the stipulation and recommended penalty was made by Frank LoPinto and seconded by Paul Coreil. All members were in favor. **Motion carried.**

(14) **Case No. 18-09-16**
Fred's Store #2080
310 East Main Street
Jonesboro, LA 71251

7 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.

3 - 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 Dane Hebert and seconded by Cal Simpson. All members were in favor. **Motion carried.**

(15) **Case No. 18-09-17**
Dollar General #7177
41065 Highway 42
Prairieville, LA 70769

3 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.

Stipulation Received: The department recommended a penalty of \$750.00
Motion to accept the stipulation and recommended penalty was made by Justin Alford and seconded by Michael Hensgens. All members were in favor. **Motion carried.**

(16) **Case No. 18-09-18**
Dollar General #11664
10656 Highway 190
Opelousas LA 70570

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 Dave George and seconded by Cal Simpson. All members were in favor. **Motion carried.**

(17) **Case No. 18-09-09**
Billy's Quick Stop
1237 South 3rd Street
Gibbsland, LA 71028

7 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.

6 - 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 Dave George and seconded by Brian Girardot. All members were in favor. **Motion carried.**

ADJUDICATORY

(18) **Case No. 18-09-02**
R and E Chevron
68106 Highway 59
Mandeville, LA 70471

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.

No representation for the defending party was in attendance for the hearing. At the request of LDAF Counsel, Emily Andrews, Chairman Larry Terrell motioned to proceed with the hearing in their absence. Motion granted. Inspector Joshua Moody was called as a witness and his previously conducted Price Verification inspections were entered in as evidence.

Motion made by Michael Hensgens and seconded by Dave George to find R and E Chevron guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of \$500.00 for each violation, for a total of \$2000.00 in penalties to be paid. The **motion** was made by Michael Hensgens and seconded by Dave George. All members were in favor. **Motion carried.**

(19) **Case No. 18-09-05**
Advance Auto Parts #5763
2262 West Thomas Street
Hammond, LA 70401

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.

No representation for the defending party was in attendance for the hearing. At the request of LDAF Counsel, Emily Andrews, Chairman Larry Terrell motioned to proceed with the hearing in their absence. Motion granted. Inspectors Jason Harrington and Joshua Moody were called as witnesses and the previously conducted Price Verification inspections were entered in as evidence.

Motion made by Frank LoPinto and seconded by Paul Coreil to find Advanced Auto Parts #5763 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 \$2000.00 in penalties to be paid. The **motion** was made by Michael Hensgens and seconded by Justin Alford to set the penalty rate at \$350.00 per violation, for a total of \$1400.00 to be paid in penalties. All members were in favor. **Motion carried.**

(20) **Case No. 18-09-14**
Harde Mart / Central Station #215
1601 Farmerville Highway
Ruston, LA 71270

7 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.

6 - 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.

Kimberly Turner, HS&E Compliance Officer - attended the hearing as representation on behalf of Central Oil. No legal representation for the defending party was in attendance for the hearing. At the request of LDAF Counsel, Emily Andrews, Chairman Larry Terrell motioned to proceed with the hearing in their absence. Motion granted. Inspector Troy Coates was called as a witness and his previously conducted Price Verification inspections were entered in as evidence. Kimberly Turner was then allowed to make a statement on behalf of Central Oil – advising of a vendor change starting May 01, 2018. It was noted that there were two followup inspections conducted after this date that both received failing scores as well.

Motion made by Dave George and seconded by Michael Hensgens to find Harde Mart / Central Station #215 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 \$3500.00 in penalties to be paid. The **motion** was made by Michael Hensgens and seconded by Nolan Percy to set the penalty rate at \$250.00 per violation, for a total of \$1750.00 to be paid in penalties. All members were in favor. **Motion carried.**

VII. NEW BUSINESS

None

VIII. OLD BUSINESS

None

IX. PUBLIC COMMENT


A newly appointed board member suggested to the division that it would be helpful in assessing future cases, to be provided with a better understanding of the processes and regulations involved in conducting the inspections. Information was offered to the member on where to find information, training videos as well as opportunities to see firsthand our processes in the field.

X. NEXT MEETING DATE

Next Commission Hearing is scheduled for Thursday, January 24, 2019 @ 9:30 a.m.

XI. ADJOURNMENT

Motion made by Mr. Michael Hensgens and seconded by Mr. Justin Alford
All members were in favor. Motion carried



Mr. Larry Terrell, Chairman