

## MINUTES

### WEIGHTS AND MEASURES COMMISSION OF LOUISIANA HEARING

August 24, 2011

**I. Call to Order:**

Chairman Roy Amedee called the meeting to order at 9:00 a.m.

**II. Roll Call:**

**Commission Members Present**

Roy Amedee, Chairman  
Tony Savoie, Vice Chairman  
Mike Miller  
Dave George  
Larry Terrell  
Nolan Percy  
Joseph Al Moreaux

**Members Absent**

Mike Miller

**Staff Members Present**

General Counsel, Marvin Montgomery  
Assistant Commissioner, Benjy Rayburn  
Director, Todd Thompson  
Assistant Director, Danny McCartney  
Program Manager, Archie Lambert  
Program Manager, Milton Hunter  
Executive Assistant, Tabitha Gray  
Director of Agricultural Commodities, Ashley Dupree

Secretary, Lisa Sonnier  
Secretary, Jenny Lamey

**III. Declaration of Quorum:**

Seven members were present, Chairman Amedee declared a quorum.

**IV. Approval of July 14, 2010 Minutes**

Motion was made by Tony Savoie, seconded by Larry Terrell to approve the minutes. Motion passed unanimously.

Chairman Amedee turned the meeting over to the Hearing Officer, Mr. Michael Vallan at that time requested to take up matters set for the hearing.

Marvin Montgomery, General Counsel with Department of Agriculture proceeded with the hearing. Mr. Montgomery stated we have a number of cases, the majority of the cases have stipulated, Marvin then gave an explanation on how he will be presenting the cases.

Mr. Todd Thompson explained the guidelines for stipulation fees.

**V. Adjudicatory Hearing**

- (1) Case No. 11-24-1  
Autozone #1312  
3428 Greenwood Road  
Shreveport LA 71109**

**7 violations**

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

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that Autozone #1312 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 1,400.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Tony Savoie, seconded by Frank LoPinto  
All members were in favor.

(2) **Case No. 11-24-02**  
**Chardeles Auto & Truck Plaza**  
**560 Highway 397**  
**Lake Charles LA 70615**

**6 violations**

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

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that Chardeles Auto & Truck Plaza has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 1,200.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Tony Savoie, seconded by Nolan Percy  
All members were in favor.

(3) **Case No. 11-24-3**  
**CVS Pharmacy # 5327**  
**9194 Mansfield Road**  
**Shreveport LA 71118**

**9 violations**

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

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that CVS Pharmacy #5327 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 1,800.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Tony Savoie, seconded by Nolan Percy  
All members were in favor.

- (4) **Case No. 11-24-4**  
**Fred's Store #2355**  
**1701 North 18<sup>th</sup> Street**  
**Monroe LA 71201**

**10 violations**

10 - Overcharges - LA. R.S. 3:4617 (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.

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that Fred's Store #2355 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 2,000.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Tony Savoie, seconded by Roy Amedee  
All members were in favor.

- (5) **Case No. 11-24-5**  
**Kangaroo Express # 3772**  
**5112 Monkhouse Drive**  
**Shreveport LA 71109**

**10 violations**

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

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that Kangaroo Express #3772 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 2,000.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Tony Savoie, seconded by Roy Amedee  
All members were in favor.

(6) **Case No. 11-24-6**  
**Q S of Sulphur LLC**  
**2484 South Cities Service Highway**  
**Sulphur LA 70665**

**4 violations**

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

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that Q S of Sulphur LLC has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 800.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Tony Savoie, seconded by Al Moreaux  
All members were in favor.

(7) **Case No. 11-24-7**  
**Road King Travel Plaza**  
**1825 1-10**  
**Lake Charles LA 70601**

**5 violations**

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

Mr. Montgomery requested that the charge letter along with the certified return receipt be presented and submitted into evidence as Exhibit S1.

Mr. Montgomery stated that Road King Travel Plaza has stipulated to the violations and he requested that the stipulation letter be submitted into evidence as Exhibit S2.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence.

A Stipulated fine of 1,000.00 was imposed on the condition that the respondent pay the penalty by certified funds within 30 days after receipt or notice of the Commissioner's final determination.

Motion to accept the stipulation and penalty by Frank LoPinto, seconded by Tony Savoie  
All members were in favor.



- (8) **Case No. 11-24-8 (Continued)**  
**Wal-Mart LLC**  
**Legal Department**  
**702 Southwest 8<sup>th</sup> Street**  
**Bentonville AR 72716-0500**

**8,977 violations**

L.R.S. 3:4604B. (1) To issue stop-use, hold orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale.

LAC 105B. (3) All commodities in package form shall be in full compliance with the law; otherwise, there shall be applied thereto an appropriate violation notice or tag. Such notice or tag shall not be obliterated or removed from package until the commodity in question shall be in compliance with the law, and approved by the commission.

Mr. Montgomery requested this matter to be **continued** the state does not have a problem with the continuance. The matter was continued by Mr. Vallan.

- (9) **Case No. 11-24-9 (Continued)**  
**Smithfield Foods, Inc**  
**Legal Department**  
**200 Commerce Street**  
**Smithfield VA 23430**

**8,997 violations**

8,997 – Short Weight Packaging – LA R.S 3:4617 (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.

Mr. Montgomery this matter to be **continued** the state does not have a problem with the continuance. The matter was continued by Mr. Vallan.

After Adjudicatory Hearing Mr. Marvin Montgomery informed the Commission he will be retiring September 18, 2011 he had 24 years with Weights and Measures Commission 10 years as hearing officer and 14 years as Departments Attorney. Mr. Montgomery stated it has been a pleasure working with the board and they have done an outstanding job.

Chairman Amedee congratulated Mr. Montgomery on a fine job on behalf of himself and the other board members.

**VI. OLD BUSINESS**

None

**VII. NEW BUSINESS**

Mr. Thompson began with an update on Weights and Measures budget for this physical year 2011-2012. He stated our budget is much better this year and the Commissioner has allowed our division to hire five (5) new outside employees and five (5) employees from within the Department of Agriculture.

Mr. Thompson informed the Commission that the money from last year COOL (Country of Origin Labeling) audit program was used to buy inspectors new laptops.

Mr. Rayburn updated the Commission on this year Legislative Session for the entire Department of Agriculture and Forestry.

Mr. Roy Amedee wanted to know where does the fees collected from the hearing go? Mr. Thompson said it comes back to the Department and is applied to Weights and Measures Division.

Mr. Larry Terrell wanted to know when a location is inspected is it done annually or checked only when we receive a complaint and what is involved at the time of an inspection? Mr. Thompson explained.

**VIII. PUBLIC COMMENT:**

None

**IX. NEXT MEETING DATE:**

Will be around late October / early November of this year.

**X. ADJOURNMENT:**

Al Moreaux motion that the meeting be adjourned, seconded Tony Savoie  
Meeting adjourned at apporximately 10:00 am.

  
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Roy Amedee, Chairman