

LOUISIANA WEIGHTS AND MEASURES COMMISSION
ADJUDICATORY HEARING MINUTES

June 20, 2024 at 9:30 A.M.

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

I. CALL TO ORDER

Chairman, Mr. Scott Simonson, called the hearing to order at 9:31 a.m.

II. ROLL CALL AND DECLARATION OF QUOROM

Blaire LeBlanc, LDAF Staff, called roll, and the following Commission Members were present:

Commission Members Present

Mr. Scott Simonson, Chairman
Mr. Bryan Stafford
Mr. Dave George
Mr. Michael DiResto
Mr. Joe Bushnell
Mr. Tommy "Bo" Haring
Mr. Frank Lopinto

Alternates Present:

Mrs. Jessica Elliott

With Eight (8) members present, a quorum was declared.

III. PUBLIC COMMENTS.

None.

IV. APPROVAL OF MARCH 28, 2024, MINUTES.

Motion made by Mr. Dave George to approve the minutes from the March 28, 2024, meeting. Mr. Tommy "Bo" Haring seconded the motion. All members were in favor. Motion carried.

V. ADJUDICATORY HEARING

LDAF Staff Attorney Bethany Gonzales represented the department and presented the following cases. Assistant Attorney General Tanika Starks presided as Hearing Officer.

ADJUDICATED CASES

24-WM-0603 TP Grocery (Fenton)

3 VIOLATION(S)

3 Overcharge Violations – La. R.S. 3:4617

Bethany Gonzales, LDAF Attorney, represented the Department. Tanika Starks, Assistant Attorney General, presided over the hearing. Waseem Abid was present on behalf of the Respondent.

Director Paul Floyd, LDAF Inspector Anna Greathouse, and Program Manager Steven Coco were called as witnesses by the Department. Paul Floyd identified and authenticated the Charge Letter with all original attachments, and it was offered, filed, and introduced into evidence as LDAF 1. Ms. Anna Greathouse identified and authenticated the price verification summary reports dated May 3, 2023; June 19, 2023; and July 14, 2023. The summary reports were offered, filed, and introduced into evidence as LDAF 2, LDAF 3, and LDAF 5, respectively. Ms. Greathouse also identified the warning letter sent by Program Manager, Steven Coco, it was offered filed and introduced into evidence as LDAF 4. Mr. Steven Coco authenticated the warning letter previously admitted into evidence as LDAF 4.

Mr. Abid spoke on behalf of his business. He explained that he has a small business and tries his best to correct the pricing. He offered photos of the items that were the subject of the violations to show the corrections he has made. These photos were offered, filed and introduced into evidence as TP Grocery 1, TP Grocery 2, TP Grocery 3.

The Department recommended the Commission to find respondent in violation for 3 violations of the Louisiana Weights and Measures, laws, rules, and regulations for misrepresenting the price or quantity of a commodity and failing to meet the 98% or higher pass rate as required. The Department recommended a penalty of Three Thousand Five Hundred Dollars (\$3,500.00) to be paid within 30 days of receipt of demand letter.

The motion to find respondent in violation was made by Mr. Dave George and seconded by Mr. Frank Lopinto. All members were in favor. The motion carried.

The motion to assess the department recommended penalty was made by Mr. Frank Lopinto and seconded by Mr. Tommy “Bo” Haring. All members were in favor. The motion carried.

24-WM-0601 East Main Street Food Mart (Ville Platte)

Ms. Gonzales advised the board that the department received East Main Street’s stipulation on the June 18, 2024 and adjudication would not be necessary.

4 VIOLATION(S)

4 Overcharge Violations – La. R.S. 3:4617

The department recommended a penalty of One Thousand Dollars (\$1,000.00). Motion to accept the stipulation and recommended penalty was made by Mr. Frank Lopinto and seconded by Mr. Michael DiResto. All members were in favor. Motion carried.

STIPULATED CASES

23-WM-1118 Smokers Paradise (Vinton)

5 VIOLATION(S)

5 – Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of One Thousand Two Hundred and Fifty Dollars. (\$1,250.00). Motion to accept the stipulation and recommended penalty was made by Mr. Tommy “Bo” Haring and seconded by Mr. Dave George. All members were in favor. Motion carried.

24-WM-0317 Standlee Hay Company Inc.

12 VIOLATION(S)

12 Not meeting declared quantity - LA. R.S. 3:4617 (A)

The department recommended a penalty of Three Thousand Dollars (\$3,000.00). Motion to accept the stipulation and recommended penalty was made by Mr. Michael DiResto and seconded by Mr. Scott Simonson. All members were in favor. Motion carried.

24-WM-0324 Lighthouse Market 2 (Lake Charles)

3 VIOLATION(S)

3 Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of Seven Hundred Fifty Dollars (\$750.00). Motion to accept the stipulation and recommended penalty was made by Mr. Dave George and seconded by Mr. Frank Lopinto. All members were in favor. Motion carried.

24-WM-0604 Grab N Geaux 16 (Sulphur)

6 VIOLATION(S)

6 Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of Three Thousand Dollars (\$3,000.00). Motion to accept the stipulation and recommended penalty was made by Mr. Scott Simonson and seconded by Mr. Michael DiResto. All members were in favor. Motion carried.

24-WM-0602 Circle K 8340 (Sulphur)

5 VIOLATION(S)

5 Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of Two Thousand Five Hundred Dollars (\$2,500.00). Motion to accept the stipulation and recommended penalty was made by Mr. Frank Lopinto and seconded by Mr. Bryan Stafford. All members were in favor. Motion carried.

24-WM-0605 Circle K 2701681 (Lafayette)

9 VIOLATION(S)

9 Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of Four Thousand Five Hundred Dollars (\$4,500.00). Motion to accept the stipulation and recommended penalty was made by Mr. Tommy “Bo” Haring and seconded by Mr. Michael DiResto. All members were in favor. Motion carried.

24-WM-0606 Circle K 2740372 (Opelousas)

15 VIOLATION(S)

15 Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of Seven Thousand Five Hundred Dollars (\$7,500.00). Motion to accept the stipulation and recommended penalty was made by

Mr. Bryan Stafford and seconded by Mr. Tommy “Bo” Haring. All members were in favor. Motion carried.

24-WM-0608 Circle K 2740383 (DeQuincy)

7 VIOLATION(S)

7 Overcharge Violation(s) – LA. R.S. 3:4617 (A)

The department recommended a penalty of Three Thousand Five Hundred Dollars (\$3,500.00). Motion to accept the stipulation and recommended penalty was made by Mr. Frank Lopinto and seconded by Mr. Tommy “Bo” Haring. All members were in favor. Motion carried.

VI. OLD BUSINESS.

None.

VII. NEW BUSINESS.

A. Motor Fuels Program Manager, Mr. Lee Mabile, presented a power point presentation on the Evolution of gas stations.

B. LDAF attorney, Ms. Bethany Gonzales, gave an update on the Legislative and Rule Promulgations.

a. HB240 now ACT 210.

i. New civil penalty structure coming into effect on August 1, 2024 provides for increased civil penalty if more than one violation in preceding five years.

ii. The department will not consider any violations prior to August 1, 2024 when calculating the penalty recommendation.

iii. Mr. Michael DiResto asked how a violation would be counted for example one case may have multiple violations.

iv. Mr. Paul Floyd explained that a single case would be counted as one violation for the purposes of penalty calculations.

b. SB166 now ACT 148.

i. New seafood packaging laws that the department will be helping to enforce.

ii. Mrs. Jessica Elliott commented that it will be difficult to enforce.

iii. Mr. Paul Floyd agreed and encouraged the board members to reach out if they have recommendations. He further explained that the department will begin promulgating the rules and regulations this fall.

c. Open Meetings and ADA compliance.

i. New provisions to allow for attendance at a meeting via electronic means for board members with a disability as defined by the Americans with Disabilities Act.

ii. New provisions to allow for accommodations via electronic means for members of the public.

d. Petitions for Declaratory Orders.

i. New provisions to allow for members of the public to request a declaratory order from the board for clarification on the rules and regulations the commission oversees.

ii. In the event the department receives such a request, the department will schedule a meeting if one is not already scheduled. If there is already an

upcoming meeting, the department will include the request on the agenda.

e. Requests for Rule Changes.

i. New provisions to allow for members of the public to request rule adoption, amendment, or repeal.

VIII. PUBLIC COMMENTS.

None

IX. NEXT MEETING DATE.

October 24, 2024

X. ADJOURNMENT.

A motion was made to adjourn the meeting by Mr. Micheal DiResto and seconded by Mr. Tommy “Bo” Haring. All members were in favor. Motion carried. The meeting adjourned at 11:11 a.m.

Chairman Signature

Printed Name