

## MINUTES

### WEIGHTS AND MEASURES COMMISSION OF LOUISIANA HEARING

July 14, 2010

**I. Call to Order:**

Chairman Roy Amedee called the meeting to order at 10:25 a.m.

**II. Roll Call:**

**Commission Members Present**

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

**Members Absent**

Tony Savoie, Vice Chairman  
Frank LoPinto

**Staff Members Present**

|  |                               |
|--|-------------------------------|
| Assistant Commissioner, Benjy Rayburn        | Secretary, Lisa Sonnier       |
| Director, Todd Thompson                      | Secretary, Jenny Lamey        |
| Program Manger, Archie Lambert               | Program Manger, Milton Hunter |
| Regional Enforcement Supervisor, Nolan Jones |                               |
| Regional Enforcement Supervisor, Earl Thomas |                               |

**III. Declaration of Quorum:**

Six members being present, Chairman Amedee declared a quorum.

**IV. Approval of September 23, 2009 Minutes**

Motion was made by Larry Terrell, second by Mike Miller to approve the minutes. Motion passed unanimously.

Chairman Amedee turned the meeting over to the Hearing Officer, Mr. Michael Vallan at that time Mr. Vallan 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. 10-14-1**  
**Advance Auto Parts # 5987**  
**1380 East Napoleon Street**  
**Sulphur LA 70663**

### **5 violations**

2 - 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.

3 - 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 Advance Auto Parts # 5987 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 1,000.00 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 Dave George, second by Nolan Percy  
All members were in favor.

(2) **Case No. 10-14-2**  
**Delta Food Mart # 4**  
**309 South Cities Service Highway**  
**Sulphur LA 70663**

**12 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.

8 - 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 Delta Food Mart #4 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 2,400.00 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 Mike Miller, second by Al Moreaux  
All members were in favor.

- (3) **Case No. 10-14-3**  
**Dollar General #2538**  
**211 Highway 165**  
**Oakdale LA 70634**

**5 violations**

5 - 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 Dollar General #2538 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 1,000.00 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 Nolan Percy, second by Dave George  
All members were in favor.

- (4) **Case No. 10-14-4**  
**Fred's Store #2355**  
**1701 North 18<sup>th</sup> Street**  
**Monroe LA 71201**

**19 violations**

9 - 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.

10 - 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 there is a fax of the stipulation being signed by the respondent and witnessed, **but not notarized**. He requested that the faxed stipulation be submitted into evidence as Exhibit S2.

Mr. Montgomery asked that when the original stipulation comes in for it to be submitted into evidence as Exhibit S3, and in the mean time for the Commission to act on the faxed copy.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence and Exhibit S3 will be filed into evidence when original is received.

A Stipulated fine of 3,800.00 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 Larry Terrell, second by Mike Miller  
All members were in favor.

(5) **Case No. 10-14-5**  
**Fred's Store #2362**  
**2279 Louisville Avenue**  
**Monroe LA 71201**

**16 violations**

15 - 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.

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 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 there is a fax of the stipulation being signed by the respondent and witnessed, **but not notarized**. He requested that the faxed stipulation be submitted into evidence as Exhibit S2.

Mr. Montgomery asked that when the original stipulation comes in for it to be submitted into evidence as Exhibit S3, and in the mean time for the Commission to act on the faxed copy.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence and Exhibit S3 will be filed into evidence when original is received.

A Stipulated fine of 3,200.00 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 Larry Terrell, second by Mike Miller  
All members were in favor.

(6) **Case No. 10-14-6**  
**Fred's Store #2380**  
**2350 Sterlington Road**  
**Monroe LA 71201**

**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 there is a fax of the stipulation being signed by the respondent and witnessed, **but not notarized**. He requested that the faxed stipulation be submitted into evidence as Exhibit S2.

Mr. Montgomery asked that when the original stipulation comes in for it to be submitted into evidence as Exhibit S3, and in the mean time for the Commission to act on the faxed copy.

Mr. Vallan stated let the record reflect that Exhibits S1 and S2 have been filed into evidence and Exhibit S3 will be filed into evidence when original is received.

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 Mike Miller, second by Roy Amedee  
All members were in favor.

(7) **Case No. 10-14-7**  
**Metro # 386**  
**1304 Kings Highway**  
**Shreveport LA 71103**

**6 violations**

2 - 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 Metro # 386 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 1,200.00 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 Al Moreaux, second by Roy Amedee  
All members were in favor.



(8) **Case No. 09-09-19 (continued from 9-23-2009)**  
**Pilgrim's Pride Corporation**  
**P.O. Box 1637**  
**Mt. Pleasant TX 75456-1637**

**3 violations**

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

Mr. Montgomery stated that Pilgrim's Pride Corporation 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 600.00 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 Dave George, second by Nolan Percy  
All members were in favor.

(9) **Case No. 10-14-8**  
**Century Ready Mix**  
**Robert Humble**  
**3250 Armond Street**  
**Monroe LA 71202**

**1 violation**

1 – Approval or disapproval of apparatus; procedure – LRS 3:4609 (C) - The owners or users of any weights, measures, or weighing or measuring devices which are condemned for repairs shall have them repaired and corrected within a reasonable period specified by the department. During that time, the owners or users may neither use nor dispose of the apparatus in any way, but shall hold it at the disposal of the department.

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 Century Ready Mix 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 500.00 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 Dave George, second by Nolan Percy  
All members were in favor.

**(10) Case No. 10-14-9  
Century Ready Mix  
David Campbell  
800 Well Road  
West Monroe LA 71292**

**3 violations**

1 – Removal of tag unlawfully – LRS 3:4610 – No one shall remove from any weight, measure, or weighing or measuring device, contrary to law or regulation, any tag placed thereon by the department.

1 – Use of unsealed Instruments – LRS 3:4611 – No one shall use, or have in his possession, any commercial weighing or measuring device which has not been sealed by the department at its direction, within the year prior thereto, unless written notice has been given to the department to the effect that the commercial weighing or measuring device is available for examination or is due for re-examination, as the case may be.

1 – Hindering, obstructing, or impersonating prohibited – LRS 3:4620 – No one shall hinder or obstruct the department in any way in the performance of its official duties. No one shall impersonate in any way the commissioner, his inspectors or the director.

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 Century Ready Mix 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, 500.00 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 Nolan Percy, second by Mike Miller  
All members were in favor.

(11) **Case No. 10-14-10**  
**Porky's**  
**Kyle Dupuy**  
**1541 Bringhurst**  
**Alexandria LA 71301**

**3 violations**

1 – Use of unsealed instruments – LRS 3:4611 – No one shall use, or have in his possession, any commercial weighing or measuring device which has not been sealed by the department at its direction, within the year prior thereto, unless written notice has been given to the department to the effect that the commercial weighing or measuring device is available for examination or is due for re-examination, as the case may be.

1 – Hindering, obstructing, or impersonating prohibited – LRS 3:4620 – No one shall hinder or obstruct the department in any way in the performance of its official duties. No one shall impersonate in any way the commissioner, his inspectors, or the director.

1 – Scale Prohibited from Use – LAC7: XXXV.115 – (A) the following scales shall not be used, sold or employed for commercial purposes in the weighing of any salable commodity:

(2.) a scale identified as illegal for use in trade.

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 Porky's 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 600.00 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 Larry Terrell, second by Dave George  
All members were in favor.

**VI. OLD BUSINESS**

None

**VII. NEW BUSINESS**

Mr. Rayburn updated the Commission members on this years Legislative issues which pertained to the Weights and Measures Division:

- 1.) Clarification for the definition of catfish
- 2.) Ethanol Labeling in regards to marine industries
- 3.) EPA allowing ethanol blends up to 15%
- 4.) Syn Diesel plant in Geismar which will be producing a synthetic diesel

Mr. Rayburn discussed the budget for the entire Department of Agriculture and Forestry, starting July 1<sup>st</sup> this year the Department is looking at a new 3.3 million cut and the Department had a 3 million carryover from last year so the Department is looking at reduction this year in the amount of about 6 million additional dollars. Mr. Rayburn also explained where the Department of Agriculture stands this year in regards to the general fund money we get from the Treasury Department.

Mr. Rayburn then discussed the budget for the Weights and Measures Division, starting with a breif explanation in regards to their last year budget and how the Division of Administration had cut their budget authority. Mr. Rayburn said at this years session the Division of Weights and Measures was able to get their budget authority back so that their division can utilize the money they collect.

Mr. Thompson explained we now have 30 field inspectors and are down by 20 field inspectors in the last 3 years. Mr. Rayburn said we might be able to get some employees from other divisions within the Department of Agriculture and Forestry this year.

Mr. Larry Terrell wanted to know what was the total budget for the Department of Agriculture and Forestry for a year? Mr. Rayburn said about 82 million.

Mr. Terrell then asked where are the cuts coming from? Mr. Thompson said Division of Administration, Governor's office.

**VIII. PUBLIC COMMENT:**

None

**IX. NEXT MEETING DATE:**

Will contact members of next meeting

**X. ADJOURNMENT:**

Mike Miller motion that the meeting be adjourned, second by Larry Terrell  
Meeting adjourned at approximately 11:30 am.

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Roy Amedee, Chairman