

MINUTES

**WEIGHTS AND MEASURES COMMISSION OF LOUISIANA
HEARING**

SEPTEMBER 23, 2009

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
Nolan Percy
Frank LaPinta
Joseph Al Moreaux

Members Absent

Larry Terrell

Staff Members Present

Assistant Commissioner Benjy Rayburn Secretary, Lisa Sonnier
Director Todd Thompson Secretary, Jenny Lamey
Program Manger Archie Lambert
Regional Enforcement Supervisor, Nolan Jones
Enforcement Officer Livestock Brand Commission, E.B. Thompson

III. Declaration of Quorum:

Seven members being present, Chairman Amedee declared a quorum.

IV. Approval of August 27, 2008 Minutes

Motion was made by Tony Savoie, second by Mike Miller to approve the minutes. Motion passed unanimously.

Chairman Amedee turned the meeting over to the Hearing Officer, Ms. Meridith Trahant. At that time Ms. Trahant 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, however we have case #09-09-19 Pilgrim's Pride Corporation that has been continued. Ms. Trahant noted for the record the above case is continued.

V. Adjudicatory Hearing

- (1) **Case No. 09-09-1**
Blockbuster Video #91645
190 Gloria Drive Unit A
Lake Charles LA 70611

12 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.

6 - 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 1.

Mr. Montgomery stated that Blockbuster Video #91645 has stipulated to the violations and he requested that the stipulation letter be submitted into evidence as Exhibit 2

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Dave George, second by Tony Savoie
All members were in favor.

(2) **Case No. 09-09-2**
Blockbuster Video #91646
2615 Dillard Loop
Lake Charles LA 70605

14 violations

3 - 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.

11 - 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 1.

Mr. Montgomery stated that Blockbuster Video #91646 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 have been filed into evidence.

A Stipulated fine of 2,800.00 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 Mike Miller, second by Tony Savoie
All members were in favor.

(3) **Case No. 09-09-3**
Blockbuster Video #91665
4540 Nelson Road
Lake Charles LA 70605

4 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.

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 1.

Mr. Montgomery stated that Blockbuster Video #91665 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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, second by Dave George
All members were in favor.

(4) **Case No. 09-09-4**
Circle K #426
2901 Highway 90
Westlake LA 70669

7 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.

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 1.

Mr. Montgomery stated that Circle K #426 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Frank LaPinta, second by Tony Savoie
All members were in favor.

(5) **Case No. 09-09-5**
Conn's #6
3129 Highway 14
Lake Charles LA 70601

10 violations

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 1.

Mr. Montgomery stated that Conn's #6 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Dave George, second by Tony Savoie
All members were in favor.

(6) **Case No. 09-09-6**
CVS Pharmacy #266
2000 Ryan Street
Lake Charles LA 70601

17 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.

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 1.

Mr. Montgomery stated that CVS Pharmacy #266 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 have been filed into evidence.

A Stipulated fine of 3,400.00 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, second by Mike Miller
All members were in favor.

(7) **Case No. 09-09-7**
CVS Pharmacy #5455
366 Sam Houston Jones Pkwy
Lake Charles LA 70611

10 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.

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 1.

Mr. Montgomery stated that CVS Pharmacy #5455 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Dave George, second by Frank LaPinta
All members were in favor.

(8) **Case No. 09-09-8**
Dollar General #0652
1313 Winnsboro Road
Monroe LA 71202

3 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.

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 1.

Mr. Montgomery stated that Dollar General #0652 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Mike Miller, second by Nolan Percy
All members were in favor.

(9) **Case No. 09-09-9**
Dollar General #4038
4940 Lake Street
Lake Charles LA 70605

3 violations

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 1.

Mr. Montgomery stated that Dollar General #4038 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Tony Savoie, second by Nolan Percy
All members were in favor.

**(10) Case No. 09-09-10
Dollar General #8614
1353 North Martin Luther King
Lake Charles LA 70601**

9 violations

9 - 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 1.

Mr. Montgomery stated that Dollar General #8614 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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, second by Nolan Percy
All members were in favor.

(11) **Case No. 09-09-11**
Dollar General #8646
2765 Lake Street
Lake Charles LA 70601

5 violations

1 - 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 1.

Mr. Montgomery stated that Dollar General #8646 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 LaPinta, second by Tony Savoie
All members were in favor.

(12) **Case No. 09-09-12**
Dollar General #8776
4801 South Common Street
Lake Charles LA 70607

7 violations

1 - 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.

6 - 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 1.

Mr. Montgomery stated that Dollar General #8776 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Dave George, second by Nolan Percy
All members were in favor.

(13) **Case No. 09-09-13**
Pilot Travel Center #428
300 Well Road
Monroe LA 71292

7 violations

3 - 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 1.

Mr. Montgomery stated that Pilot Travel Center #428 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Al Moreaux, second by Roy Amedee
All members were in favor.

**(14) Case No. 09-09-14
Regis Salon #1801
3437 Masonic Drive Space 1514
Alexandria LA 71301**

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 1.

Mr. Montgomery stated that Regis Salon #1801 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Dave George, second by Tony Savoie
All members were in favor.

(15) **Case No. 09-09-15**
Rite Aid #7335
6940 Pines Road
Shreveport LA 71129

17 violations

17 - 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 1.

Mr. Montgomery stated that Rite Aid #7335 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 have been filed into evidence.

A Stipulated fine of 3,400.00 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, second by Dave George
All members were in favor.

**(16) Case No. 09-09-16
Caldwell Milling Inc
P.O. Box 179
Rosebud AR 72137**

5 violations

5 – 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 1.

Mr. Montgomery stated that Caldwell Milling Inc has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Tony Savoie, second by Frank LaPinta
All members were in favor.

(17) **Case No. 09-09-17**
Land O Lakes, Purina Feed LLC
P.O. Box 6637
Shreveport LA 71136

2 violations

2 – 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 1.

Mr. Montgomery stated that Land O Lakes, Purina Feed LLC has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 have been filed into evidence.

A Stipulated fine of 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 Nolan Percy, second by Dave George
All members were in favor.

(18) **Case No. 09-09-18**
Petrus Feed & Seed
2914 North Bolton Avenue
Alexandria LA 71303

5 violations

5 – 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 1.

Mr. Montgomery stated that Petrus Feed & Seed has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit 2.

Ms. Trahan stated let the record reflect that Exhibits 1 and 2 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 Tony Savoie, second by Dave George
All members were in favor.

(19) **Case No. 09-09-19**
Pilgrim's Pride Corporation
P.O. Box 1637
Mt. Pleasant TX 74546-1637

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 this matter to be **continued** and the state does not have a problem with the continuance. The matter was continued by Ms. Trahan.

VI. OLD BUSINESS

None

VII. NEW BUSINESS

Mr. Mike Miller wanted to know how do we come up with a tolerance for short weight? Todd Thompson gave a detailed explanation of short weight inspections.

Marvin Montgomery reiterated to the Commission Members how important their roles were as a Commission Members for Weights and Measures and how important the cases' are even though they stipulated.

Marvin Montgomery also explained that under charges are a violation of the law but we do not bring them before the Commission board, but we do issue them a warning letter notify them that they are in violation of the law.

Mr. Roy Amedee wanted to know if the Department of Agriculture & Forestry has plans to help the Shrimper's with their issue's? Marvin Montgomery informed the commission members that Governor, Bobby Jindal has appointed a shrimp task force. And Commissioner Mike Strain has a seat on the task force and has appointed a member of his staff to be a liaison with the task force.

Benjy Rayburn also addressed the Shrimper's issue stating that he has talked to the Commissioner as to what our authority could be with the issue's and the two main issues the shrimper's have are:

- 1.) Importing product coming in at cheaper prices and the product could be tainted or contaminated with antibiotics.
- 2.) Repacking a imported product as a Louisiana product.

Our laws were looked at and we have no statues that would allow us to address the issue's the shrimper's are having.

Mr. Mike Miller also had a comment on the shrimper's issue and he thinks the shrimpers need to get out and market their product more.

Mr. Roy Amedee wanted to know how do we compare our inspector's position's today from a year or two ago? Todd Thompson said as far as the New Orleans area it has been down inspector wise since Katrina back in 2005 and since then we have had a number of employees that have either retired or resigned so we have lost about 12 inspectors state wide.

Mr. Roy Amedee wanted to know where does the money collected from the hearing fines go? Todd and Benjy addressed this by saying to the Department of Agriculture & Forestry.

Benjy Rayburn reiterated to the commission members we are short two members John O'Neil and Ronald Gonsoulin. Benjy informed the commissiom members he will be getting with the nominating groups to try and get those positions filled.

Todd Thompson introduced Archie Lambert, State Program Manager for Packages and Scales and Nolan Jones, Regional Enforcement Supervisor for the North Part of the State.

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 Tony Savoie
Meeting adjourned at apporximately 11:30 am.

Roy Amedee, Chairman

