

MINUTES

**WEIGHTS AND MEASURES COMMISSION OF LOUISIANA
HEARING**

March 21, 2012

I. Call to Order:

Chairman Roy Amedee called the meeting to order at 9:30 a.m.

II. Roll Call:

Commission Members Present

Roy Amedee, Chairman
Tony Savoie, Vice Chairman
Dave George
Larry Terrell
Nolan Percy
Frank LoPinto

Members Absent

Mike Miller
Joseph Al Moreaux

Staff Members Present

Assistant Commissioner, Benjy Rayburn
Director, Todd Thompson
Assistant Director, Danny McCartney
Program Manager, Milton Hunter
Paralegal, Jackie Henry

Secretary, Lisa Sonnier
Secretary, Jenny Lamey

III. Declaration of Quorum:

Six members being present Chairman Amedee declared a quorum.

IV. Appointing of Director and Assistant Director:

Motion to reappoint Todd Thompson , Director and Danny McCartney, Assistant Director, by Tony Savoie, second by Larry Terrell.

V. Approval of August 24, 2011 Minutes:

Motion to accept the minutes by Larry Terrell, second by Tony Savoie.

Chairman Amedee turned the meeting over to the Hearing Officer, Ms. Lindsey Hunter, with Attorney General Office, at that time she requested to take up matters set for the hearing.

Ashley Dupree, Attorney with Department of Agriculture and Forestry explained how she will be presenting the cases then proceeded with the hearing.

VI. Adjudicatory Hearing:

- (1) Case No. 12-21-1
Advance Auto Parts #5662
306 North Pine Street
Deridder LA 70634**

11 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.

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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Advanced Auto Parts #5662 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

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

A Stipulated fine of 2,200.00 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 with penalty by Tony Savoie, second by Dave George.
All in favor.

(2) **Case No. 12-21-2**
Border Town Travel Plaza
2470 A Toomey Road
Vinton LA 70668

8 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.

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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Border Town Travel Plaza has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

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

A Stipulated fine of 1,600.00 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 with penalty by Dave George, second by Nolan Percy.
All in favor.

(3) **Case No. 12-21-3**
Dollar General #12469
2615 Broad Street
Lake Charles LA 70601

8 violations

8 - 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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Dollar General #12469 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

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

A Stipulated fine of 1,600.00 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 with penalty by Tony Savoie, second by Nolan Percy.
All in favor.

(4) **Case No. 12-21-4**
Fast Stop Inc
3605 Sen. J. Bennett Johnston Avenue
Lake Charles LA 70615

12 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.

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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

Ms. Dupree stated there is no certified return receipt and therefore requested that the charge letter along with **personal service** be presented and submitted into evidence as Exhibit S1.

Ms. Dupree stated that Fast Stop Inc has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Ms. Hunter 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 with penalty by Frank LoPinto, second by Tony Savoie.
All in favor.

(5) **Case No. 12-21-5**
Fred's Store #2380
2350 Sterlington Road
Monroe LA 71201

14 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.

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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Fred's Store #2380 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Ms. Hunter stated let the record reflect that Exhibits S1 and S2 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 with penalty by Dave George, second by Tony Savoie.
All in favor.

(6) **Case No. 12-21-6**
Murphy USA #5778
1123 North Pine Street
Deridder LA 70634

14 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.

12 - 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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Murphy USA #5778 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Ms. Hunter stated let the record reflect that Exhibits S1 and S2 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 with penalty by Tony Savoie, second by Dave George.
All in favor.

(7) **Case No. 12-21-7**
Save & Go #4
1330 12th Street
Lake Charles LA 70601

11 violations

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.

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

(8) **Case No. 12-21-8**
Super Food Mart
1539 North Martin Luther King Hwy
Lake Charles LA 70601

16 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.

13 - 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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Super Food Mart has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

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

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 with penalty by Tony Savoie, second by Roy Amedee.
All in favor.

(9) **Case No. 11-1-11 (Continued)**
Dollar General #7893
104 Mayor Stokes
Elton LA 70532

14 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.

13 - 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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Dollar General #7893 has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

Ms. Hunter stated let the record reflect that Exhibits S1 and S2 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 with penalty by Tony Savoie, second by Dave George.
All in favor.

(10) **Case No. 11-24-8 (Continued)**
Wal- Mart LLC
Legal Department
702 Southwest 8th 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 applies 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. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

Mr. Terrell wanted to know why Wal-Mart was not charged the normal 200 to 500 per violation? Mr. Thompson explained.

Mr. Savoie asked if the product had been sold and what took so long to get this case to a hearing? Mr. Thompson explained.

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

Ms. Dupree stated that Wal Mart LLC has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

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

A Stipulated fine of 22,442.50 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 with penalty by Dave George , second by Tony Savoie. All in favor.

(11) **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. Thompson explained to the commission how Smithfield is working with NIST (National Institute of Standards and Technology) to resolve the problem of moisture loss after packing a product.

Mr. Thompson explained the violations and charges, Ms. Dupree read the stipulation terms.

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

Ms. Dupree stated that Smithfield Foods Inc has stipulated to the violations and requested that the stipulation letter be submitted into evidence as Exhibit S2.

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

A Stipulated fine of 22,492.50 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 with penalty by Tony Savoie , second by Frank LoPinto.
All in favor.

VII. OLD BUSINESS:

None

VIII. NEW BUSINESS:

None

IX. PUBLIC COMMENT:

None

X. NEXT MEETING DATE:

Will contact members of next meeting

XI. ADJOURNMENT:

Larry Terrell motion that the meeting be adjourned, second Tony Savoie
Meeting adjourned at approximately 10:45 am.

Chairman