



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
MIKE STRAIN DVM
 COMMISSIONER



LOUISIANA WEIGHTS AND MEASURES COMMISSION HEARING
 MINUTES

OCTOBER 15, 2020, 9:30 A.M.
 Louisiana Department of Agriculture & Forestry
 Veterans' Memorial Auditorium
 5825 Florida Blvd.
 Baton Rouge, LA 70806

Agricultural &
 Environmental
 Sciences
 Suite 3000
 (225) 925-3770
 Fax: 925-3750

Agro-Consumer
 Services
 Suite 5000
 (225) 922-1341
 Fax: 923-4877

Animal Health
 & Food Safety
 Suite 4000
 (225) 925-3952
 Fax: 925-4103

Forestry
 Suite 6000
 (225) 925-4500
 Fax: 922-1355

Management
 Finance
 Suite 1000
 (225) 922-1255
 Fax: 925-5012

Soil & Water
 Conservation
 Suite 7000
 (225) 922-1269
 Fax: 922-2577

I. CALL TO ORDER

Chairman, Larry Terrell called the hearing to order at 9:30 a.m.

II. ROLL CALL AND DECLARATION OF QUORUM

Commission Members Present

- Mr. Larry Terrell, Chairman
- Mr. Lucien Jarreau
- Mr. Michael DiResto, Alt.
- Mr. Frank LoPinto
- Mr. Justin Alford
- Mr. Mickey Freiberg
- Mr. Mark Westmoland
- Mr. Scott Simonson, Alt.
- Mrs. Christy Ingram, Alt.

Members Absent

- Mr. Dave George
- Mr. Neil Henderson
- Mr. Nolan Percy
- Mr. Dane Hebert

LDAF Staff Present

Ms. Baleigh Olah & Amy McInnis - LDAF Attorney-General Counsel, Director: Dr. Bobby Fletcher, Assistant Director: Paul Floyd, PVI Program Manager: Mr. Milton Hunter, Scales and Packages Program Manager: Mr. Mark Lovisa, Motor Fuels Program Manager: Mr. Lee Mabile, Regional Enforcement Supervisor: Ms. Tricia Berry, District Managers: Mr. Fred Larue, Inspectors: Mr. Steven Coco, Mr. Zachary Shupe, Mr. Michael Howell, Mr. Joshua Moody, Mr. Joshua Salley, Ms. Erin Joseph, and Administrative Assistant: Mrs. Rachel Rice-Baham.

Also in Attendance

Mr. Jeffrey Wales, Hearing Officer for Attorney General's Office, Mr Benito Castro with Orleans Avenue Market, LLC. and Morales Brothers, LLC.

III. DECLARATION OF QUORUM

Nine (9) members being present, Chairman Larry Terrell declared a quorum.

IV. APPROVAL OF JULY 23, 2020 MINUTES

Motion was made by Mr. Justin Alford to approve the minutes for the *July 23, 2020* meeting. Mr. Lucien Jarreau **seconded** the motion. All members were in favor. **Motion carried.**

V. PUBLIC COMMENTS

There were no public comments made.

VI. ADJUDICATORY HEARING

CONTINUED CASES

CASE #: 20-10-07 / JOEY'S STOP AND GO LLC

2400 Old Sterlington Road

Monroe, LA 71202

5 VIOLATION(S)

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

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(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

STIPULATED CASES

CASE #: 20-04-16 / DOLLAR GENERAL #9181

2080 Commons Street

Lake Charles, LA 70601

12 VIOLATION(S)

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

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(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$6000. **Motion** to accept the stipulation and recommended penalty was made by Mr. Justin Alford and **seconded** by Mr. Michael DiResto. Member Larry Terrell recused himself from the overall vote. All remaining members were in favor. **Motion carried.**

CASE #: 20-04-17 / CARQUEST AUTO PARTS

600 East Prien Lake Road

Lake Charles, LA 70601

20 VIOLATION(S)

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

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(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$5000. **Motion** to accept the stipulation and recommended penalty was made by Mr. Mickey Freiberg and **seconded** by Mr. Frank LoPinto. All members were in favor. **Motion carried.**

CASE #: 20-10-06 / FAMILY DOLLAR #12194

707 Highway 8

Harrisonburg, LA 71340

2 VIOLATION(S)

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

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.

Stipulation Received: The department recommended a penalty of \$1000. **Motion** to accept the stipulation and recommended penalty was made by Mr. Scott Simonson and **seconded** by Ms. Christy Ingram. All members were in favor. **Motion carried.**

CASE #: 20-10-08 / DOLLAR GENERAL #10313

200 Highway 3175

Natchitoches, LA 71457

4 VIOLATION(S)

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

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(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Stipulation Received: The department recommended a penalty of \$2000. **Motion** to accept the stipulation and recommended penalty was made by Mr. Michael DiResto and **seconded** by Mr. Justin Alford. Member Larry Terrell recused himself from the overall vote. All remaining members were in favor. **Motion carried.**

CASE #: 20-10-09 / SUPER 1 FOODS #629

3916 Northeast Evangeline Thruway

Carencro, LA 70520

2 VIOLATION(S)

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

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.

Stipulation Received: The department recommended a penalty of \$1000. **Motion** to accept the stipulation and recommended penalty was made by Mr. Frank LoPinto and **seconded** by Mr. Lucien Jarreau. All members were in favor. **Motion carried.**

ADJUDICATORY CASES

CASE 3; 20-01-38 / IDEAL DISCOUNT MARKET

3340 Orleans Avenue
New Orleans, LA 70119

11 VIOLATION(S)

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

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.

9 – Price(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Mr. Benito Castro was present on behalf of the Respondent.

Inspector Michael Howell was called as a witness and the previously conducted Price Verification inspections were entered in as evidence, along with the warning letter, the charge letter, the stipulation agreement and any associated proof of service notices showing proper service to the Registered Agent on file with the Louisiana Secretary of State's office.

After a thorough discussion of the case and all possible resolutions, a **motion** was made by Mr. Mickey Freiberg **seconded** by Mr. Frank LoPinto to find the Respondent guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of a maximum \$500 for each violation, for a total of up to \$5500 in penalties to be paid. The **motion** was made by Mr. Larry Terrell and **seconded** by Mr. Michael DiResto, to set the penalty at the rate of **two thousand seven hundred fifty (\$2750) dollars, PENDING** the successful completion of a follow up price verification inspection with at least a 98% accuracy rate within 30 days following this decision. Should the Respondent not receive a passing accuracy percentage on this inspection, the full original penalty of **three thousand (\$5500) dollars would** be owed in full by the Respondent to LDAF within 60 days following the hearing.

All members were in favor. **Motion carried.**

CASE #: 20-04-13 / FAMILY DOLLAR #30667

19350 Highway 22

Ponchatoula, LA 70454

10 VIOLATION(S)

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

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.

There were no parties present on behalf of the Respondent.

Inspector Joshua Moody was called as a witness and the previously conducted Price Verification inspections were entered in as evidence, along with the warning letter, the charge letter, the stipulation agreement and any associated proof of service notices showing proper service to the Registered Agent on file with the Louisiana Secretary of State's office.

Motion made by Mr. Frank LoPinto and **seconded** by Ms. Christy Ingram to find the Respondent guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of a maximum \$500 for each violation, for a total of up to \$5000 in penalties to be paid. The **motion** was made by Mr. Scott Simonson and **seconded** by Mr. Mickey Freiberg, to set the penalty at the full rate of \$500 per violation, for a total of \$5000 to be paid in penalties. All members were in favor. **Motion carried.**

CASE #: 20-04-14 / FAMILY DOLLAR #20954

814 Polk Street

Mansfield, LA 71052

12 VIOLATION(S)

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

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(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

There were no parties present on behalf of the Respondent.

Inspector Joshua Salley was called as a witness and the previously conducted Price Verification inspections were entered in as evidence, along with the warning letter, the charge letter, the stipulation agreement and any associated proof of service notices showing proper service to the Registered Agent on file with the Louisiana Secretary of State's office.

Motion made by Mr. Justin Alford and **seconded** by Mr. Michael DiResto to find the Respondent guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of a maximum \$500 for each violation, for a total of up to \$6000 in penalties to be paid. The **motion** was made by Mr. Lucien Jarreau and **seconded** by Mr. Mickey Freiberg, to set the penalty at the full rate of \$500 per violation, for a total of \$6000 to be paid in penalties. All members were in favor. **Motion carried.**

CASE #: 20-10-03 / FAMILY DOLLAR #28185

1521 Highway 90 West

Vinton, LA 70668

4 VIOLATION(S)

4 – Price(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

There were no parties present on behalf of the Respondent.

Inspector Tricia Berry was called as a witness and the previously conducted Price Verification inspections were entered in as evidence, along with the warning letter, the charge letter, the stipulation agreement and any associated proof of service notices showing proper service to the Registered Agent on file with the Louisiana Secretary of State's office.

Motion made by Mr. Lucien Jarreau and **seconded** by Mr. Larry Terrell to find the Respondent guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of a maximum \$500 for each violation, for a total of up to \$2000 in penalties to be paid. The **motion** was made by Mr. Frank LoPinto and **seconded** by Mr. Lucien Jarreau, to set the penalty at the full rate of \$500 per violation, for a total of \$2000 to be paid in penalties. All members were in favor. **Motion carried.**

CASE #: 20-10-05 / IDEAL MARKET #7

653 Terry Parkway

Gretna, LA 70056

6 VIOLATION(S)

6 – Price(s) 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 the 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.

B. The price displayed on the shelf, commodity or item, required by subsection A of this section, shall be precisely equal to the price actually charged by the seller.

Mr. Benito Castro was present on behalf of the Respondent.

Inspector's Fred Larue and Zachary Shupe were called as witnesses and the previously conducted Price Verification inspections were entered in as evidence, along with the warning letter, the charge letter, the stipulation agreement and any associated proof of service notices showing proper service to the Registered Agent on file with the Louisiana Secretary of State's office.

After a thorough discussion of the case and all possible resolutions, a **motion** was made by Mr. Frank LoPinto **seconded** by Mr. Mark Westmoland to find the Respondent guilty as charged. All members were in favor. **Motion carried.**

The motion was set before the commission to assess a penalty of a maximum \$500 for each violation, for a total of up to \$3000 in penalties to be paid. The **motion** was made by Mr. Scott Simonson and **seconded** by Mr. Mickey Freiberg, to set the penalty at the rate of **one thousand five hundred (\$1,500) dollars, PENDING** the successful completion of a follow up price verification inspection with at least a 98% accuracy rate within 30 days following this decision. Should the Respondent not receive a passing accuracy percentage on this inspection, the full original penalty of **three thousand (\$3,000) dollars would** be owed in full by the Respondent to LDAF within 60 days following the hearing.

All members were in favor. **Motion carried.**

VII. NEW BUSINESS

Weights & Measures Director, Bobby H. Fletcher, stood to recognize and commend the great work of the Division's staff and to offer thanks to the dedication of its employees and Commission members. He then extended the offer to all Commission members who might be interested, to tour our facilities and shadow with the Division's inspectors in the field to see first hand the inspections discussed at each hearing.

VIII. OLD BUSINESS

None

IX. PUBLIC COMMENT

None.

X. NEXT MEETING DATE

It was announced that, as decided upon by popular vote of all Commission Members and Alternates, the next hearing was scheduled to be held on *Thursday, March 18, 2021*.


XI. ADJOURNMENT

Motion made by Mr. Justin Alford and seconded by Mr. Larry Terrell. All members were in favor. Motion carried.



Signature

Chairman



Print Name