

LOUISIANA WEIGHTS AND MEASURES COMMISSION HEARING
MINUTES

NOVEMBER 29, 2017

9:30 a.m.

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

I. **CALL TO ORDER**

The hearing was called to order by Mr. Dave George at 9:35 a.m.

II. **ROLL CALL**

Commission Members present

Mr. Larry Terrell, Chairman
Mr. Dave George, Vice Chairman
Mr. Joseph Al Moreaux
Mr. Michael Hensgens
Mr. Brian Girardot
Mr. Justin Alford
Mr. Mark Westmoland

Members absent

Mr. Brad Terral
Mr. Nolan Percy
Mr. Chuck Garrett

LDAF staff present

Tabitha Gray, LDAF Legal Executive Counsel, Emily Andrews LDAF General Counsel, Amy Morales LDAF Attorney, Steve Sessums, Bobby Fletcher Jr., Paul Floyd, Milton Hunter, Archie Lambert, Jarrad Poirrier, Tricia Berry, Teri Berken, Nicole Kerne, Joshua Salley, Mark Lovisa, Steven Coco, Laura Oliver, Gene Cavalier, Nicole Robino, Lisa Sonnier and LDAF security Hugh Lee

Also in attendance

Michael Heier, Hearing Officer for Attorney General Office
Henry Rodriguez and Steven M. Dufour with Shell Jefferson Case #17-09-07
Raouf Mousa with Brothers Food Mart case's listed below:
Case #17-09-01 store #116
Case #17-09-02 store #123
Case #17-09-12 store #112
Case #17-09-13 store #152
Case #17-09-14 store #117
Case #17-09-15 store #125

DECLARATION OF QUORUM

Seven (7) members being present Mr. George declared a quorum

III. INTRODUCTION OF TWO NEW COMMISSION MEMBERS

MR. MARK WESTMOLAND AND MR. CHUCK GARRETT

Mr. George welcomed our new Commission Member Mr. Mark Westmoland, Mr. Garrett was not present

IV. ELECTION OF CHAIRMAN

Motion made by Mr. Hensgens to nominate Mr. Larry Terrell as Chairman of the Weights and Measures Commission, **Motion** seconded by Mr. Alford
All members were in favor. Motion carried

V. APPROVAL OF MAY 24, 2017 MINUTES

Motion made by Mr. George and seconded by Mr. Hensgens to approve the minutes. All the members were in favor. Motion carried

VI. PUBLIC COMMENTS

None

VII. ADJUDICATORY HEARING

STIPULATIONS

- (1) **Case No. 17-09-03**
Fred's Store #2687
702 West Fourth Street
DeQuincy LA 70633

9 violations

9 - Prices 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 \$2,250
Motion to accept the stipulation and recommended penalty by Mr. Terrell and seconded by Mr. Hensgens, All members were in favor. Motion carried

(2) **Case No. 17-09-08**
Dollar General #10414
2727 Edenborn Ave Unit A
Metairie LA 70002

6 violations

6 - Prices 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 \$1,500
Motion to accept the stipulation and recommended penalty by Mr. Hensgens and seconded by Mr. Girardot, All members were in favor. Motion carried

(3) **Case No. 17-09-09**
Valero Corner Store #615
300 Veterans Memorial Drive
Abbeville LA 70510

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 - Prices 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 \$2,000
Motion to accept the stipulation and recommended penalty by Mr. Girardot and seconded by Mr. Hensgens, All members were in favor. Motion carried

(4) **Case No. 17-09-10**
Hollywood Ave Food Mart
1416 Hollywood Ave Suite 300
Shreveport LA 71108

15 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

12 - Prices 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 \$3,750
Motion to accept the stipulation and recommended penalty by Mr. Alford and seconded by Mr. Girardot, All members were in favor. Motion carried

(5) **Case No. 17-09-11**
Breaux Mart Supermarket Inc
315 East Judge Perez Drive
Chalmette LA 70009

2 violations

2- Stop Order- LA. R.S. 3:4604(B)

B. The Commissioner shall have the following powers:

(1) To issue stop-use, hold, and removal 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

Board Member Mr. Mark Westmoland recused himself from this case due to conflict of interest

Stipulation received. The department recommended a penalty of \$1,000
Motion to accept the stipulation and recommended penalty by Mr. Moreaux and seconded by Mr. Hensgens, Six (6) members were in favor. Motion carried

- (6) **Case No. 17-11-01**
CVS Pharmacy #5327
9194 Mansfield Road
Shreveport LA 71118

7 violations

7- Prices 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 \$1,750
Motion to accept the stipulation and recommended penalty by Mr. Hensgens and seconded by Mr. Alford, All members were in favor. Motion carried

- (7) **Case No. 17-11-02**
Cracker Barrel #218
3332 West Pinhook Road
Lafayette LA 70508

4 violations

4 - Prices 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 \$1,000
Motion to accept the stipulation and recommended penalty by Mr. George and seconded by Mr. Girardot, All members were in favor. Motion carried

(8) **Case No. 17-11-03**
Corner Express
2760 Country Club Road
Lake Charles LA 70605

5 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

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 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 \$1,250
Motion to accept the stipulation and recommended penalty by Mr. Westmoland and seconded by Mr. Hensgens, All members were in favor. Motion carried

(9) **Case No. 17-11-04**
Complete Stop
3755 Ambassador Caffery Parkway
Lafayette LA 70503

6 violations

6 - Overcharges - 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 \$1,500
Motion to accept the stipulation and recommended penalty by Mr. Moreaux and seconded by Mr. Girardot, All members were in favor. Motion carried

(10) Case No. 17-11-06
Circle K #1729
3003 Kaliste Saloom Road
Lafayette LA 70508

8 violations

4 - Overcharges - 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 – Prices 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 \$2,000
Motion to accept the stipulation and recommended penalty by Mr. Alford and seconded by Mr. Westmoland, All members were in favor. Motion carried

(11) Case No. 17-11-09
Rayne Express
1419 The Boulevard
Rayne LA 70578

9 violations

1 - Overcharge - 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- Prices 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 \$2,250
Motion to accept the stipulation and recommended penalty by Mr. Hensgens and seconded by Mr. Alford, All members were in favor. Motion carried

(12) Case No. 17-11-10
Harde Mart Store #227
200 Main Street
Junction City LA 71749

7 violations

5 - Overcharges - 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

2- Prices 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 \$1,750
Motion to accept the stipulation and recommended penalty by Mr. Girardot and seconded by Mr. Westmoland, All members were in favor. Motion carried

(13) Case No. 17-11-11
Circle K Store #7773
635 Old Winnfield Road
Jonesboro LA 71251

4 violations

1 – Overcharge - 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

3- Prices 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 \$1,000
Motion to accept the stipulation and recommended penalty by Mr. George and seconded by Mr. Hensgens, All members were in favor. Motion carried

ADJUDICATED

- (14) **Case No. 17-09-01 (Continued Case)**
Brothers Food Mart # 116
2439 Manhattan Blvd Suite 401
Harvey LA 70058

8 violations

2 – Overcharges - 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- Prices 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

Present for Brothers Food Mart was Mr. Raouf Mousa (**employee in corporate office**)
Mr. Heier continued this case because Brothers Food Mart did not have a legal representative present

- (15) **Case No. 17-09-02 (Continued Case)**
Brothers Food Mart #123
1944 Belle Chasse Hwy
Gretna LA 70056

6 violations

6 - Prices 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

Present for Brothers Food Mart was Mr. Raouf Mousa (**employee in corporate office**)
Mr. Heier continued this case because Brothers Food Mart did not have a legal representative present

(16) Case No. 17-09-12 (Continued Case)

Brothers Food Mart #112

1600 Manhattan Blvd

Harvey LA 70058

5 violations

5 - Prices 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

Present for Brothers Food Mart was Mr. Raouf Mousa (**employee in corporate office**)
Mr. Heier continued this case because Brothers Food Mart did not have a legal representative present

(17) Case No. 17-09-13 (Continued Case)

Brothers Food Mart #152

1200 Westbank Expressway

Westwego LA 70094

4 violations

4 - Prices 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

Present for Brothers Food Mart was Mr. Raouf Mousa (**employee in corporate office**)
Mr. Heier continued this case because Brothers Food Mart did not have a legal representative present

(18) Case No. 17-09-14 (Continued Case)

Brothers Food Mart #117

3449 Manhattan Blvd

Harvey LA 70058

3 violations

2 - Overcharges - 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 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

Present for Brothers Food Mart was Mr. Raouf Mousa (**employee in corporate office**)
Mr. Heier continued this case because Brothers Food Mart did not have a legal representative present

(19) Case No. 17-09-15 (Continued Case)

Brothers Food Mart #125

3659 Lapalco Blvd

Harvey LA 70058

6 violations

1 - Overcharge - 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 - Prices 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

Present for Brothers Food Mart was Mr. Raouf Mousa (**employee in corporate office**)
Mr. Heier continued this case because Brothers Food Mart did not have a legal representative present

(20) **Case No. 17-09-04**
Cricket Wireless
9080 Mansfield Road Suite B
Shreveport LA 71118

39 violations

39 - Prices 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

Motion made by Mr. George and seconded by Mr. Girardot to find Cricket Wireless guilty as charged; **Motion** made by Mr. George and seconded by Mr. Hensgens to accept the departments recommended penalty of \$19,500 all members were in favor
Motion carried

(21) **Case No. 17-09-06**
Allbrands Lake Charles
2615 Dillard Loop
Lake Charles LA 70601

2 violations

2 - Overcharges - 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

Motion made by Mr. Dave George and seconded by Mr. Westmoland to find Allbrands Lake Charles guilty as charged; **Motion** made by Mr. Alford and seconded by Mr. Girardot to accept the departments recommended penalty of \$1,000 all members were in favor. **Motion carried**

(22) Case No. 17-09-07 (Continued Case)

**Shell Jefferson
4501 Jefferson Highway
Jefferson LA 70121**

15 violations

15 - Prices 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

Present for Shell Jefferson was Mr. Henry Rodriguez and Mr. Steven Dufour
(Store managers)

Mr. Heier continued this case because Shell Jefferson did not have a legal representative present

(23) Case No. 17-11-05

**The Sherwin Williams Co. #7445
508 East Prien Lake Road
Lake Charles LA 70601**

8 violations

4 - Overcharges - 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 - Prices 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

Motion made by Mr. Dave George and seconded by Mr. Westmoland to find The Sherwin Williams Co. #7445 guilty as charged; **Motion** made by Mr. Alford and seconded by Mr. Moreaux to accept the departments recommended penalty of \$4,000 all members were in favor. Motion carried

(24) Case No. 17-11-08
Peacock Chevron
1515 North Highway 190
Covington LA 70433

34,387 gallons of fuel violations

Standard Fuel Specifications for Gasoline and Gasoline –Oxygenate Blends

LAC 7.XXXV 303.8 which provides:

“Gasoline or gasoline-oxygenate blends sold or delivered to consumers in Louisiana shall meet all the foregoing specifications and, in addition, shall have on all retail pumps a posted Antiknock Index of the gasoline or gasoline-oxygenate blend shall not be less than the Antiknock Index posted on the pump.”

Motion made by Mr. Justin Alford and seconded by Mr. Westmoland to find Peacock Chevron guilty as charged; **Motion** made by Mr. Hensgens and seconded by Mr. George to accept the departments recommended penalty of \$71,524.96 all members were in favor. Motion carried

CONTINUED

(25) **Case No. 17-05-18 (Continued Case)**

Super Saver Express

2706 S. Beglis Pkwy

Sulphur LA 70665

4 violations

LA R.S. 3:4682 (A) and (B)

Products not conforming to specifications, duty of commissioner

A. When the analysis of a sample of a petroleum product taken in conformity with the provisions of this Subpart discloses that the product from which the sample was taken does not conform to the specifications fixed by the commissioner it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subpart.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner may, by written notice, suspend the sale or distribution of this product. The retailer or distributor upon whom a notice of suspension is served, is prohibited from doing business in the sale or distribution of this product until formally released by order of the commissioner. The order of suspension given by the commissioner must apply only to that product and cannot be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subpart.

Ms. Gray requested this case be continued, request granted by Mr. Heier

**VIII. NEW BUSINESS - none
PROGRAM UPDATE**

Mr. Floyd presented a slide show explaining the following Weights & Measures changes since the last Commission meeting:

- Through training courses the inspectors consistent rates for the price verification reports are getting back to normal throughout the state

Mr. Fletcher updated the Commission starting with equipment:

- Fuel Lab has a new Viscometer - used for checking the viscosity of oil
- Process of getting 6 new vehicles
- Process of getting 4 new slide in prover systems
- Process of getting a gas Chromatography machine for fuel lab – used to determine percentage of ethanol in fuel

Mr. Fletcher then update the Commission on the inspectors, we have hired two (2) new inspectors. We have also sent three (3) inspectors to the Southern Regional Training in Arkansas on the price verification inspection program; from accountability stand point a new inspector expectations document went into effect which include two categories, Number of successful inspections (60% of rating) and Professional competency and performance (40% of rating). Also through the Louisiana Civil Service we have developed a training video on price verification inspections that the inspectors will be able to watch on their laptops.

Mr. Fletcher then discussed how we are working with the U.S. Secret Service when it comes to securing and seizing gas pump skimmers

IX. OLD BUSINESS

none

X. PUBLIC COMMENT

none

XI. NEXT MEETING DATE

Next Commission Hearing is scheduled for Thursday March 29, 2018 @9:30am

XII. ADJOURNMENT

Motion made by Mr. Alford and seconded by Mr. Westmoland

All members were in favor. Motion carried



Mr. Larry Terrell, Chairman