

A Hearing Under Section 6 of the *Tobacco Control Act* R.S.B.C. 1996, c. 451
as amended

Regarding an alleged Contravention of Section 2.4(a) of the
Tobacco Control Act R.S.B.C. 1996, c.451

- by –

492354 BC Ltd. (doing business as Save N’ Shop Food Store),
(the “Respondent”)

Administrator’s Delegate under Section 5 of the <i>Tobacco Control Act</i> :	C. L. Roberts
Date of Hearing:	May 3, 2012
Place of Hearing:	Maple Ridge, British Columbia
Date of Decision:	May 7, 2012
Appearing: For 492354 BC Ltd.:	W. Martin Finch, Q.C.
For the Fraser Health Authority:	Hans Mulder, Tobacco Enforcement Officer

Decision

Background

1. On December 15, 2011, I conducted a hearing into whether or not 492354 BC Ltd. doing business as Save N’Shop Food Store (“Save N’Shop”) had contravened Section 2.4 (a) of the *Tobacco Control Act* (the “Act”) by displaying tobacco products in a manner by which they could reasonably be seen by a minor.

2. Following the presentation of the evidence and submissions, the parties agreed that I ought not to hear submissions on an appropriate penalty until I had made a finding on whether or not there had been a contravention.
3. On January 15, 2012, I issued a decision concluding that Save N’Shop had contravened s. 2.4 (a) and the hearing was reconvened for May 3, 2012.

Law

4. Section 6.1 of the *Act* provides that, if the administrator is satisfied that a person has contravened the *Act*, the administrator may a) make an order imposing a monetary penalty on the person, in accordance with the prescribed schedule of penalties and b) prohibit the person, in accordance with the prescribed schedule of prohibition periods, from selling tobacco or offering to sell tobacco.
5. Section 13 of the *Tobacco Control Regulation* sets out a number of factors the administrator must consider in imposing an administrative penalty.

PENALTY

6. The parties jointly submitted that the following penalty was appropriate:
 - a) A monetary penalty in the amount of \$1,400; and
 - b) A 14 day license suspension, effective from June 1, 2012 until June 14, 2012.
7. I am satisfied that the jointly agreed upon penalty is both in compliance with the *Act* and *Regulations*, and is appropriate in the circumstances.
8. Counsel for Save N’Shop says that his clients take the privilege of selling tobacco products seriously and that the contravention arose out of unusual circumstances. He also says that the owners will be undertaking renovations to the store to assist with compliance.
9. The Health Authority agrees that the penalty is in the public interest and meets the goals of both specific and general deterrence.

ORDER

10. Pursuant to Section 6.1(2) of the *Act*, I **ORDER** that Save N’Shop pay a monetary penalty in the amount of **\$1,400**, which is due and payable upon service of this Decision and Order. I **FURTHER ORDER** that Shop N’Save be prohibited from selling tobacco or offering to sell tobacco at 33236 First Avenue, Mission, B.C. for the period June 1, 2012 until June 14, 2012, inclusive.



Carol Roberts, Administrator's Delegate