

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2026-10

**STATE OF RHODE ISLAND
DEPARTMENT OF REVENUE
DIVISION OF TAXATION
ONE CAPITOL HILL
PROVIDENCE, RHODE ISLAND 02908**

IN THE MATTER OF:

**SC 25-063; 26-T-005
cigarette tax**

Taxpayer.

DECISION

I. INTRODUCTION

The above-entitled matter came for hearing pursuant to an Order to Show Cause, Notice of Administrative Hearing, and Appointment of Hearing Officer issued on January 15, 2026 to the above-captioned taxpayer (“Taxpayer”) by the Division of Taxation (“Division”) in response to request for hearing. A hearing was held on March 18, 2026. The parties were represented by counsel, and they rested on the record.

II. JURISDICTION

The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-1-1 *et seq.*, R.I. Gen. Laws § 44-20-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the 280-RICR-20-00-2 *Administrative Hearing Procedures* (“Hearing Regulation”).

III. ISSUE

Whether the Taxpayer owes cigarette tax and if so, should sanctions be imposed.

IV. MATERIAL FACTS

(“Inspector”), Tax Investigator, testified on behalf of the Division. He testified he conducted a random inspection of the Taxpayer on March 31, 2025 when the Taxpayer

was open for business. He testified he found single cigarettes and stacked single dollar bills under the counter which indicated the sale of “loosies” cigarettes. He testified there was an open pack of Crown cigarettes under the counter, and the pack was missing cigarettes. He testified the clerk said he smoked Newport cigarettes and refused to answer any questions about the Crown cigarettes. He testified the clerk shut and locked the front door and did not explain why he locked the front door. He testified he prepared a compliance report that detailed what happened and took pictures of the single cigarettes, the open Crown pack, the open Newport pack, and the stack of the dollar bills. He testified the seizure report itemized the seized cigarettes. He testified the sale of single cigarettes is prohibited by law, and cigarettes must be sold by pack or carton. Division’s Exhibits Three (3) (compliance report); Four (4) (photographs); and Five (5) (seizure report).

On cross-examination, the Inspector testified that neither he nor his partner witnessed the selling of single cigarettes, but there were two (2) open packs of cigarettes.

(“Auditor”), Principal Tax Auditor, testified on behalf of the Division. He testified this is the Taxpayer’s seventh violation, and its prior violations were detailed in Division’s Exhibit Six (6). He testified the first violation was in 2014 when the Taxpayer provided no proof of tax paid for other tobacco products (“OTP”) and paid the assessment in full and had no suspension of its tobacco dealer’s license. He testified the second violation was for OTP in 2017, and the Taxpayer paid ¹ with a seven (7) day suspension. He testified the third offense in 2018 was a breach of the consent order for the second offense since tobacco was found in the store when the Taxpayer had been suspended from selling tobacco. He testified to his knowledge, there was a stipulation for the third violation, but for some reason it was considered part of the second offense since the second offense was listed as a seven (7) day suspension rather than a four

¹ Based on the exhibit, this was reduced from

(4) day suspension as three (3) days were added to resolve the breach of stipulation. He testified this is why the third offense is listed as “abated” since it was considered part of the second offense. He testified the fourth offense was in 2020 for OTP with a 10 day suspension and assessment.

For the fifth and sixth offenses, Division’s Exhibit Six (6) listed them as pending hearing; however, the undersigned noted a decision had been issued on both those offenses in December, 2024 resulting in penalties and a 14 day suspension. See *Administrative Decision*, 2024 WL 5228847 (R.I.Div.Tax.). The parties agreed the December, 2024 decision for this Taxpayer is on appeal to sixth district court.

The Auditor testified that a notice of revocation and a notice of assessment were sent to the Taxpayer. He testified tax was assessed and penalty (a) was calculated with a factor of five (5) times the cigarette price for first offense within 24 months and penalty (b) represented the minimum penalty. He testified interest accrues after nonpayment after 30 days. Division’s Exhibits Six (6) (audit report); Seven (7) (notice of revocation); and Eight (8) (assessment).

On cross-examination, the Auditor testified there were 43 taxable cigarettes at issue. He testified the Division applies graduated sanctions for violations, and this was the Taxpayer’s seventh violation, so revocation was requested. He testified the statute presumes any product in the store is for sale. He testified that if someone smokes, that person could have their own cigarettes, and it should be on their person.

On redirect examination, the Auditor testified the first four (4) offenses by the Taxpayer were settled by stipulation, and that even if the second and third violations were merged into one violation, this would be the Taxpayer’s sixth violation, and the Division would still ask for a revocation of the Taxpayer’s tobacco dealer’s license.

V. DISCUSSION

A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, “the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (internal citation omitted). In cases where a statute may contain ambiguous language, the Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131 (R.I. 1998).

B. **Relevant Statutes**

R.I. Gen. Laws § 44-20-12 imposes a tax on cigarettes sold, and R.I. Gen. Laws § 44-20-51 provides for administrative penalties for the violation of the tax laws.² R.I. Gen. Laws § 44-

² R.I. Gen. Laws § 44-20-12 provides as follows:

Tax imposed on cigarettes sold. A tax is imposed on all cigarettes sold or held for sale in the state. The payment of the tax to be evidenced by stamps, which may be affixed only by licensed distributors to the packages containing such cigarettes. Any cigarettes on which the proper amount of tax provided for in this chapter has been paid, payment being evidenced by the stamp, is not subject to a further tax under this chapter. The tax is at the rate of two hundred twelve and one-half (212.5) mills for each cigarette.

R.I. Gen. Laws § 44-20-51.1 provides as follows:

Civil penalties. (a) Whoever omits, neglects, or refuses to comply with any duty imposed upon him/her by this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, shall, in addition to any other penalty provided in this chapter, be liable as follows:

(1) For a first offense in a twenty-four-month (24) period, a penalty of not more than ten (10) times the retail value of the cigarettes and/or other tobacco products involved; and

(2) For a second or subsequent offense in a twenty-four-month (24) period, a penalty of not more than twenty-five (25) times the retail value of the cigarettes and/or other tobacco products involved.

20-8³ provides for the suspension or revocation of a tobacco dealer's license. The definition of sale is contained in R.I. Gen. Laws § 44-20-1(15).⁴

C. Whether Tax is Owed on the Cigarettes

The 43 cigarettes that were seized represented six (6) loose single cigarettes that were under the counter and not in a pack. 17 cigarettes were taken from an open pack of Crowns found under the counter. Also, under the counter was a carton of Newport cigarettes with five (5) closed packs in it and one (1) open pack of cigarettes with 20 cigarettes.

In questioning the Auditor, the Taxpayer implied the Newport cigarettes could have been for personal use. However, while the Inspector testified the clerk told him he smoked Newport cigarettes, there was no evidence at hearing showing the Newport cigarettes were for anyone's personal use. Six (6) single Newport cigarettes were lined up on the counter. A carton of Newport cigarettes was also under the counter with missing packs and an open pack. If someone was

(b) Whoever fails to pay any tax imposed by this chapter at the time prescribed by law or regulations, shall, in addition to any other penalty provided in this chapter, be liable for a penalty of one thousand dollars (\$1,000) or not more than five (5) times the tax due but unpaid, whichever is greater.

(c) When determining the amount of a penalty sought or imposed under this section, evidence of mitigating or aggravating factors, including history, severity, and intent, shall be considered.

³ R.I. Gen. Laws § 44-20-8 provides in part as follows:

Suspension or revocation of license. The tax administrator may suspend or revoke any license under this chapter for failure of the licensee to comply with any provision of this chapter or with any provision of any other law or ordinance relative to the sale or purchase of cigarettes or other tobacco products. The tax administrator may also suspend or revoke any license for failure of the licensee to comply with any provision of chapter 19 of title 44 and chapter 13 of title 6, and, for the purpose of determining whether the licensee is complying with any provision of chapter 13 of title 6, the tax administrator and his or her authorized agents are empowered, in addition to authority conferred by § 44-20-40, to examine the books, papers, and records of any licensee. *** Any person aggrieved by the suspension or revocation may apply to the administrator for a hearing as provided in § 44-20-47, and may further appeal to the district court as provided in § 44-20-48.

⁴ R.I. Gen. Laws § 44-20-1(15) defines sale as follows:

(15) "Sale" or "sell" means gifts, exchanges, and barter of cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products. The act of holding, storing, or keeping cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products at a place of business for any purpose shall be presumed to be holding the cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products for sale. Furthermore, any sale of cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products by the servants, employees, or agents of the licensed dealer during business hours at the place of business shall be presumed to be a sale by the licensee.

personally smoking cigarettes, the person would be keeping cigarettes on their person or in their purse or bag and not under the counter loose or with other packs in a carton of cigarettes. Additionally, a stack of dollar bills was also found under the counter indicating that the single cigarettes were being sold for a dollar or two. Division's Exhibit Four (4) (photographs of six (6) single cigarettes, open Newport pack with 20 cigarettes in pack in a carton along with five (5) closed packs, and open Crown pack with only 17 cigarettes).

R.I. Gen. Laws § 44-20-1(15) presumes the act of holding, storing, or keeping cigarettes at a place of business for any purpose shall be presumed to be holding the cigarettes for sale. The cigarettes seized by the Division were being kept, held, and stored at the Taxpayer's store so are presumed to be offered for sale.

While there was discussion at hearing about the statutory prohibition of the selling of single cigarettes or loosies,⁵ this matter is not about that prohibition but rather whether the Taxpayer was selling untaxed cigarettes. The Division seized the cigarettes as contraband for the nonpayment of tax; though, they were also contraband for violating how cigarettes are sold.⁶

The Division seized cigarettes from the Taxpayer for which there was no evidence that Rhode Island tax had been paid. *Supra*. R.I. Gen. Laws § 44-20-12 provides that tax is imposed on cigarettes, so the Division assessed tax on the seized cigarettes. There was no showing the Division improperly calculated the tax owed pursuant to the applicable statute. Thus, the Taxpayer owes the assessed tax.

⁵ R.I. Gen. Laws § 44-20-31 provides that "cigarettes must be sold or offered for sale in individual packages, boxes, or containers bearing stamps evidencing the payment of the tax provided in this chapter." R.I. Gen. Laws § 11-10-13.8 prohibits the sale of cigarettes "[i]n any form other than an original, factory-wrapped package as sealed and certified by the manufacturer" or "[a]s a single-cigarette sale (§ 44-20-31) or as a sale of cigarettes by the individual piece known as 'loosies.'"

⁶ Pursuant to R.I. Gen. Laws § 44-20-15, cigarettes held for sale in violation of the requirements of this chapter are considered contraband goods and may be seized by the Division.

E. What Sanctions Should be Imposed

1. Penalties (a) and (b)

R.I. Gen. Laws § 44-20-51.1(a) provides that for a first offense in a 24 month period, a penalty of not more than ten (10) times the retail value of the cigarettes and/or other tobacco products involved “shall” be imposed. R.I. Gen. Laws § 44-20-51.1(b) provides that a penalty of not more than five (5) times the tax due or \$1,000 whichever is greater shall be imposed. Penalty (b) does not reset the clock for violations within a 24 month period as does penalty (a). R.I. Gen. Laws § 44-20-51.1(c) provides that when determining the penalty to be imposed, mitigating and aggravating factors such as history, severity, and intent shall be considered.

The Division seeks monetary penalties for the nonpayment of tax on the seized cigarettes pursuant to R.I. Gen. Laws § 44-20-51.1(a) and (b). For this seizure, penalty (a) used a factor of five (5) times the retail value representing a factor of five (5) for a first offense within 24 months. Penalty (b) was calculated as \$1,000 as the greater amount by statute. The penalties imposed are in line with the statutory penalties for a first offense in the last 24 months for penalty (a) and for penalty (b). As a consequence, the Taxpayer’s violations justified the penalties imposed in the Division’s notices of assessment for the seized cigarettes.

The imposition of interest after the nonpayment of a deficiency by its due date is authorized by R.I. Gen. Laws § 44-1-7.⁷

⁷ R.I. Gen. Laws § 44-1-7 provides in part as follows:

Interest on delinquent payments. (a) Whenever the full amount of any state tax or any portion or deficiency, as finally determined by the tax administrator, has not been paid on the date when it is due and payable, whether the time has been extended or not, there shall be added as part of the tax or portion or deficiency interest at the rate as determined in accordance with subsection (b) of this section, notwithstanding any general or specific statute to the contrary.

2. Whether Dealer's License Should be Revoked

Along with the monetary penalties that “shall” be imposed under the statute, R.I. Gen. Laws § 44-20-8 provides the suspension or revocation of a cigarette dealer’s license “may” be imposed. R.I. Gen. Laws § 44-20-51.1(c) provides that when determining the administrative penalty to be imposed, mitigating and aggravating factors including severity, history, and intent shall be considered. The suspension and revocation statute does not contain the same kind of mitigating and aggravating factors as those found in the administrative penalty statute. It also does not provide a look back of two (2) years when determining first or subsequent offences. Instead, it provides that a license may be suspended or revoked for failure to comply with that chapter or with any other law or ordinance relative to the sale or purchase of cigarettes or other tobacco products and for failure to comply with R.I. Gen. Laws § 44-19-1 *et seq.* or R.I. Gen. Laws § 6-13-1 *et seq.* Nonetheless, in considering whether a licensee’s violations merit either a suspension or a revocation in addition to the mandatory monetary penalties, an agency does not have unbridled discretion but rather must determine the appropriate penalty in light of the relevant facts. Not all violations merit a revocation and not all violations merit a suspension of the same amount of time.

In *Chernov Enterprises, Inc. v. Sarkas*, 284 A.2d 61 (R.I. 1971), the Supreme Court construed a license renewal statute that did not provide specific statutory violations as grounds for denial but rather provided the license renewal could be denied for “cause.” In that situation, the Court found that in “establishing cause as the controlling standard, the Legislature obviously did not intend to confer upon the licensing authority a limitless control or to permit the exercise of an unbridled discretion.” *Chernov* at 287. The Court found that such administrative action needed to be based on legally competent evidence, and a review of such an action would only be “to ascertain whether the action being reviewed was so arbitrary or capricious as to constitute an abuse of

discretion, whether there was any legal evidence to support it, and whether the licensing proceeding was otherwise affected by an error of law.” *Id.* at 288. In other words, the Court would decide whether there was legally competent evidence to support the denial of a renewal application or whether the action was so arbitrary or capricious that it would be an abuse of discretion. The Superior Court has discussed the same kind of considerations for determining whether a suspension or revocation of a license is an appropriate sanction for a licensee’s violations.

Under *Rocha vs. Public Utilities Commission*, 694 A.2d 722 (R.I. 1997), a court cannot substitute its judgment for what should be an appropriate sanction but instead the Court will determine if there was legally competent evidence to support an agency’s decision. Thus, in *Rocha*, the Court upheld the revocation of license as there was legally competent evidence to support the finding of the violation that was a basis for revocation under the statute.

A Superior Court decision, *Jake and Ella’s Inc. v. Department of Business Regulation*, 2002 WL977812 (R.I. Super.), discussed *Rocha*’s holding that as long as there is an evidentiary basis for an agency’s finding, a court cannot overturn a sanction because it disagrees with the sanction. However, the Court discussed how in general hearing officers must apply concepts of proportionality to sanctions. The Court found that “[t]here are times when the sanction imposed by an agency, while permitted by law, is so arbitrary and extreme that it constitutes a clear abuse of discretion” so that under the arbitrary and capricious standard contained in R.I. Gen. Laws § 42-35-15 of the Administrative Procedures Act (“APA”), the Court can reverse the lower court’s decision. *Jake* at 5. The Court found there are two (2) components to administrative decision: 1) a determination of the merits of the case; and 2) determination of the sanction and while the former is mainly factual, the latter not only involves ascertainment of factual circumstances but the application of administrative judgment and discretion. The Court indicated that factors to be

considered in weighing the severity of a violation should include the number and frequency of the violations, the real and/or potential danger to the public posed by the violation(s), history of any prior violations and sanctions, and other relevant facts to determining an appropriate sanction.

In 2014, the Superior Court in reviewing a Department of Health’s licensee’s sanction on appeal cited to the factors considered in *Jake* for sanctions and discussed whether it had been properly applied by an agency director. *Blais v. Department of Health*, 2014 WL 7368789 (R.I.Super.). A more recent Superior Court case, *John Hope Settlement House, Inc. v. DCYF et al.*, 2017 WL 2021402 (R.I.Super.), also discussed *Rocha* and the applicability of *Jake* when determining administrative penalties for a licensee and what should be considered. In that case, the Superior Court discussed what would be the appropriate sanction by the Department of Children, Youth, and Families on a day care licensee for three (3) violations. The Court found there was not enough information in the record to make a determination about sanctions as the Court could not tell if the violations were intermittent technical violations or a “pattern of inability to comply with substantive Department policies.” *John Hope* at 6. The Court remanded the matter so the record could be supplemented so the Court could make a determination on sanctions.⁸

⁸ *John Hope* at 6 found as follows:

Finally, the Center contends that despite the three violations found, the Hearing Officer erred by affirming DCYF’s penalty—the revocation of its day care license. Specifically, John Hope argues that these three violations do not merit the “death sentence” that revocation would bring. . . . To that end, the Center points to *Jake & Ella’s* In *Jake & Ella’s*, the Superior Court vacated the revocation of a liquor license because “the sanction imposed [was] excessive and disproportionate as a matter of law.” *Id.* at *5. There, the Court held that “implementation of that sanction [revocation] under the facts of this case was clearly an abuse of discretion, ignoring concepts of proportionality that hearing officers should be expected to apply.” *Id.* at *6.

On the other hand, the Court is mindful of *Rocha v. State Pub. Utils. Comm’n*, 694 A.2d 722 (R.I. 1997), heavily cited to in *Jake & Ella’s*, which stated that “[t]he Superior Court is limited in its review of an agency decision to examining the record to determine whether it contains some or any legal evidence therein to support the finding made by the division.” *Rocha*, 694 A.2d at 727. This Court cannot “merely disagree[] with the sanction decided upon by the division and reverse[] the division’s decision.” *Id.* at 726 (internal citations omitted).

Nevertheless, based solely on the three violations before the Court, the Court could find the revocation to be “so arbitrary and extreme that it constitutes a clear abuse of discretion” in the vein of *Jake & Ella’s*, 2002 WL 977812 at *5. This Court lacks a sufficiently-developed record to make such a conclusion. Of the three violations, two were technical and only one potentially could have threatened

For an administrative appeal, the Division is not subject to the APA. When its decisions are appealed, its appeals are *de novo* to District Court. See R.I. Gen. Laws § 44-20-48. Thus, on appeal, the court would not be deciding whether a sanction was arbitrary and capricious, but rather the court, if it found violations after a *de novo* hearing, would determine the appropriate sanction. The suspension and revocation statute provides the statutory grounds for such an action but not every violation will merit a suspension of the same length of time or a revocation. There are several factors to be considered - even if they are not specifically delineated in the suspension and revocation statute - to assure that a sanction that is imposed is not disproportionate. The imposition of a suspension or revocation is not subject to unbridled discretion. Such a determination includes consideration of relevant facts to the licensee and its violations. Therefore, in determining the appropriate sanction for the Taxpayer's violations, it is relevant to consider the Taxpayer's disciplinary history, the seriousness of violations, the type of violations, and the effect on the public among the relevant factors to be considered.

In 2014, the Taxpayer was assessed _____ for an OTP seizure and paid _____ with no suspension requested. In 2017, the Taxpayer was assessed _____ for an OTP seizure and paid _____ . In the 2024 decision for this Taxpayer, the Division's records showed the 2018 violation was abated. However, in this hearing, the Auditor testified the third offense in 2018 was a violation of the stipulation for the second offense that somehow was considered part of the second offense when the breach was a separate offense, and the Taxpayer served a three (3) day suspension of its

the safety and welfare of the children in John Hope's care. ***

If the Department's revocation was based on the cumulative effect of the violations which led to the several probationary periods, the nature of John Hope's previous violations is unclear from the record. While the record hints at technical violations, see R. Ex. 9, there may be more substantive violations that were not mentioned. Whether the decision of the Department to revoke the license was arbitrary, capricious, or an abuse of discretion depends on whether John Hope has committed intermittent technical violations of DCYF regulations or has shown a pattern of inability to comply with substantive Department policies. The record here lacks the information needed for the Court to make such a determination.

tobacco license as part of the “second offense” for which there had been an initial four (4) day suspension. Thus, the Taxpayer’s fourth offense was in 2020 when the Taxpayer was assessed

for an OTP seizure and paid At hearing, the Auditor testified the Taxpayer served 10 day suspension for the 2020 violation. In the 2024 decision, the 2020 violation was described as a 10 day suspension but with three (3) days served and seven (7) days abated. *Supra* at 2024 WL 5228847. Therefore, the 2022 seizure was the fifth offense, and the 2023 seizure was the sixth offense that both were addressed in the 2024 decision upholding the penalties and imposing a 14 day suspension. While the 2024 decision has been appealed, there has been no court order overturning the findings and discipline imposed.

The evidence regarding the first four (4) prior violations is the date and type of violation (OTP and cigarette) and the total assessed amount and the settled amount as well as if a suspension was imposed in addition to the mandatory monetary penalties. The testimony was that the first, second, and fourth violations were because the Taxpayer could not prove payment of tax, and the second violation was a breach of stipulation. The 2024 decision gives more detail to the Taxpayer’s violations but again, the Taxpayer could not provide proof of tax paid on the seized cigarettes.

In *In the Matter of Taxpayer*, 2024 WL 4729826 (R.I. Div. Tax), the Division imposed a 30 day suspension of a cigarette dealer’s license after a taxpayer had six (6) violations in ten (10) years and previously had a suspension of license as well as prior violations including a recent violation and during the inspection at issue, that taxpayer interfered with the inspection. That decision found the purchase of the products were part of pattern of willful noncompliance by the Taxpayer over several years, and it had failed to institute corrective measures after prior violations, and it failed to maintain records.

In 2022, the Taxpayer could not prove tax had been paid on Rhode Island stamped cigarette packs as the packs were opened. The 2023 violation was based on a Taxpayer's error in that it picked up Massachusetts' stamped cigarettes and failed to realize its error. The 2023 violation was more akin to a technical violation rather than a deliberate evasion of Rhode Island tax for profit. However, there is now evidence that the Taxpayer breached a stipulation in 2018 so that it now has seven (7) violations in 11 years (2014 to 2025). It had three (3) violations between 2022 and 2025.

The Taxpayer's violations demonstrate that over time, the Taxpayer has failed to provide proof of payment of the appropriate tobacco taxes. Revocation could be merited prior to a sixth offense dependent on the type of offense. E.g. egregious action. The 2024 decision found the facts at issue in *In the Matter of Taxpayer*, 2024 WL 47298216 (R.I. Div. Tax) which imposed a 30 day suspension were not in play. However, the facts now are there were seven (7) violations in 11 years, and the third violation was a breach of stipulation rather than having been abated. The sixth offense is more akin to a technical violation rather than a pattern of noncompliance. However, the other violations show a pattern of nonpayment of tax. The 2024 decision imposed a 14 day suspension without the knowledge of the third offense. That 14 day suspension was imposed for a violation in 2022 and a violation in 2023.

Now, in 2025, the Taxpayer has violated the statute again. The facts in this matter show a year to year recurring pattern by the Taxpayer with maintaining its tax compliance as in *In the Matter of Taxpayer*, 2024 WL 47298216 (R.I. Div. Tax). Thus, the facts in play in *In the Matter of Taxpayer*, 2024 WL 47298216 (R.I. Div. Tax) are certainly in play now. As the Taxpayer's last two (2) violations from 2022 and 2023 merited a 14 day suspension, the 2025 violation with similar facts (loose untaxed cigarettes) and further knowledge of the Taxpayer's prior violations including a breach of stipulation merits a longer suspension.

Based on the foregoing, a 30 day suspension is imposed on the Respondent's cigarette dealer's license.

VI. FINDINGS OF FACT

1. Cigarettes for which no tax was paid were seized by the Division from the Taxpayer on March 31, 2025.
2. The Taxpayer holds a cigarette dealer's license.
3. An Order to Show Cause was issued on January 15, 2026.
4. A hearing on this matter was held on March 18, 2026 with the parties both represented by counsel who rested on the record.
5. The facts contained in Section IV and V are reincorporated by reference herein.

VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

1. The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-1-1 *et seq.*, R.I. Gen. Laws § 44-20-1 *et seq.*, and the Hearing Regulation.
2. The Taxpayer violated R.I. Gen. Laws § 44-20-12 on March 31, 2025.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends as follows:

Pursuant to R.I. Gen. Laws § 44-20-1 *et seq.*, R.I. Gen. Laws § 44-20-12, and R.I. Gen. Laws § 44-20-51.1, the Taxpayer owes the tax and penalties assessed by the Division as set forth in the notices of assessment contained in Division's Exhibit Eight (8). Additionally, the Taxpayer owes the accrued interest pursuant to R.I. Gen. Laws § 44-1-7. Payment shall be made by the 31st day from the date of execution of this decision.

Pursuant to R.I. Gen. Laws § 44-20-8, the Taxpayer's tobacco dealer's license shall be suspended for 30 days to begin on the 31st day after the execution of this decision.

Date: April 8, 2026


Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

ADOPT
 REJECT
 MODIFY

Dated: 5/26/26


Neena S. Savage
Tax Administrator

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DIVISION. THIS ORDER MAY BE APPEALED TO THE SIXTH DIVISION DISTRICT COURT PURSUANT TO THE FOLLOWING WHICH STATES AS FOLLOWS:

R.I. Gen. Laws § 44-20-48 Appeal to district court.

Any person aggrieved by any decision of the tax administrator under the provisions of this chapter may appeal the decision within thirty (30) days thereafter to the sixth (6th) division of the district court. The appellant shall at the time of taking an appeal file with the court a bond of recognizance to the state, with surety to prosecute the appeal to effect and to comply with the orders and decrees of the court in the premises. These appeals are preferred cases, to be heard, unless cause appears to the contrary, in priority to other cases. The court may grant relief as may be equitable. If the court determines that the appeal was taken without probable cause, the court may tax double or triple costs, as the case demands; and, upon all those appeals, which may be denied, costs may be taxed against the appellant at the discretion of the court. In no case shall costs be taxed against the state, its officers, or agents. A party aggrieved by a final order of the court may seek review of the order in the supreme court by writ of certiorari in accordance with the procedures contained in § 42-35-16.

CERTIFICATION

I hereby certify that on the 28th day of May, 2026 a copy of the above Decision and Notice of Appellate Rights was sent by first class mail, postage prepaid and by electronic delivery to the Taxpayer's attorney's address on record with the Division and by electronic delivery to Matthew Williamson, Esquire, Department of Revenue, Division of Taxation, One Capitol Hill, Providence, RI 02908.

Neil Belasco