

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Center for Tobacco Products,  
(FDA No. FDA-2015-H-0317)

Complainant

v.

Unin Discount, Inc. / Hayat Abdirahman  
d/b/a Central Station,

Respondent,

Docket No. C-15-1141

Decision No. CR3752

Date: April 2, 2015

**INITIAL DECISION AND DEFAULT JUDGMENT**

The Center for Tobacco Products (CTP) began this matter by serving an administrative complaint on Respondent, Unin Discount, Inc. / Hayat Abdirahman d/b/a Central Station, at 806 South Central Avenue, New Albany, Mississippi 38652, and by filing a copy of the complaint with the Food and Drug Administration's (FDA) Division of Dockets Management. The complaint alleges that Central Station impermissibly sold cigarettes to minors, thereby violating the Federal Food, Drug, and Cosmetic Act (Act), 21 U.S.C. § 301 *et seq.*, and its implementing regulations, 21 C.F.R. pt. 1140. CTP seeks to impose a \$250 civil money penalty against Respondent Central Station.

As provided for in 21 C.F.R. §§ 17.5 and 17.7, on February 4, 2015, CTP served the complaint on Respondent Central Station by United Parcel Service. In the complaint and accompanying cover letter, CTP explained that, within 30 days, Respondent should pay the penalty, file an answer, or request an extension of time in which to file an answer. CTP warned Respondent that, if it failed to take one of these actions within 30 days, the

Administrative Law Judge could, pursuant to 21 C.F.R. § 17.11, issue an initial decision ordering it to pay the full amount of the proposed penalty.

Respondent Central Station has neither filed an answer within the time prescribed, nor requested an extension of time within which to file an answer. Pursuant to 21 C.F.R. § 17.11, I assume that the facts alleged in the complaint (but not its conclusory statements) are true. Specifically:

- At approximately 5:46 p.m. on April 7, 2014, at Respondent's business establishment, 806 South Central Avenue, New Albany, Mississippi 38652, an FDA-commissioned inspector observed Respondent's staff selling a package of Winston Red 100's Box cigarettes to a person younger than 18 years of age. The inspector also observed that staff failed to verify, by means of photographic identification containing a date of birth, that the purchaser was 18 years of age or older;
- In a warning letter dated June 5, 2014, CTP informed Respondent of the inspector's observations of April 7, 2014, and that such actions violate federal law, 21 C.F.R. § 1140.14(a) and (b)(1). The letter further warned that Respondent's failure to correct its violations could result in a civil money penalty or other regulatory action;
- At approximately 4:42 p.m. on August 19, 2014, at Respondent's business establishment, 806 South Central Avenue, New Albany, Mississippi 38652, FDA-commissioned inspectors documented Respondent's staff selling a package of Marlboro Menthol cigarettes to a person younger than 18 years of age.

These facts establish Respondent Central Station's liability under the Act. The Act prohibits misbranding of a tobacco product. 21 U.S.C. § 331(k). A tobacco product is misbranded if sold or distributed in violation of regulations issued under section 906(d) of the Act. 21 U.S.C. § 387f(d); *see* 21 U.S.C. § 387c(a)(7)(B); 21 C.F.R. § 1140.1(b).

