JURISDICTION: **OKLAHOMA TAX COMMISSION**
CITE: **2016-03-08-08 / NON-PRECEDENTIAL**
ID: **FD-15-032-K**
DATE: **MARCH 8, 2016**
DISPOSITION: **APPLICATION GRANTED**
TAX TYPE: **FORFEITURE AND DESTRUCTION OF CIGARRETTES**
APPEAL: **NO APPEAL TAKEN**

ORDER

The above matter comes on for entry of a final order of disposition by the Oklahoma Tax Commission. Having reviewed the files and records herein, the Commission hereby adopts the Recommendation of Forfeiture and Destruction made and entered by the Administrative Law Judge on the 18th day of February, 2016, appended hereto, together herewith shall shall constitute the Order of the Commission. So ordered

RECOMMENDATION OF FORFEITURE AND DESTRUCTION

Upon hearing held on January 20, 2016, the undersigned finds:

1. On January 27, 2015, an authorized agent seized tribal compact stamped packages of cigarettes from the retail inventory of Respondent, RESPONDENT d/b/a CONVENIENCE STORE, an Oklahoma licensed retailer of cigarettes.

2. The seized cigarettes were listed and appraised at the usual and ordinary retail price of such articles and turned over to the Oklahoma Tax Commission ("OTC"). Exhibit B.

3. A written report was made and filed with the OTC by the agent making the seizure showing the agent's name, and the place where and the person from whom the cigarettes were seized. Exhibit A.

4. Respondent's business is neither located in Indian Country nor is it licensed by an Indian tribe or nation.

5. Respondent was properly notified of the forfeiture hearing.

WHEREFORE, premises considered the undersigned concludes:

1. The OTC is vested with jurisdiction. 68 O.S. 2011, § 305(E)(2).

2. The seized cigarette packages did not bear tax stamps in the proper denomination and amount applicable to Respondent's retail establishment and therefore, were contraband cigarettes. 68 O.S. 2011, §§ 348(6), 348(7) and 348(8).

3. The cigarettes were properly seized. 68 O.S. 2011, § 305(E)(1).

THEREFORE, the application for an order maintaining the forfeiture of the cigarettes seized from Respondent and directing the destruction thereof should be granted.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.

NOTE: The distinction between a Commission Order designated as "Precedential" or "Non-Precedential" has been blurred because all OTC Orders resulting from cases heard by the Office of Administrative Law Judges are now published, not just "Precedential" Orders. *See* OKLA. STAT. ANN. tit.68, § 221(G) (West Supp. 2009) and OKLA. STAT. ANN. tit. 75, § 302 (West 2002). *See also* OTC Orders 2009-06-23-02 and 2009-06-23-03 (June 23, 2009), which also conclude the language of the Statute is "clear and unambiguous."