



ARKANSAS TOBACCO CONTROL

101 E. Capitol Ave., Suite 401

Little Rock, AR 72201

Phone: 501-682-9756

Fax: 501-682-9760

<https://www.atc.arkansas.gov>



Asa Hutchinson
Governor

Steve Goode
Director

BOARD MEETING MINUTES FEBRUARY 7, 2019

The Arkansas Tobacco Control Board met on Thursday, February 7, 2019 for its monthly meeting in the Main Street Mall Building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 10:00 a.m. in Suite 119. There were 6 Board members present. Those attending were Acting Chairman Mr. Sam Stathakis, Jr., Dr. Brad Mayfield, Mrs. Carol Dyer, Dr. Patricia Knott and Mr. Jay Hickey along with Dr. Shabbir Dharamsey arriving late.

Acting Chairman Sam Stathakis welcomed those attending and introduced Charlie Moulton serving as the Hearing Officer and Nicole Hartwick serving as Court Reporter.

Mr. Stathakis asked for a motion to approve the board meeting minutes from December 6, 2018. A motion was made to approve the December minutes and it was passed with 5 yes votes and 3 absent.

The Hearing Officer then opened the Disciplinary Hearings and asked Attorney Lindsey Burnette to present the following:

CONSENT ORDERS

IN THE MATTER OF

TOBACCO OUTLET – EAST END PERMIT #9506-02

CASE #2018-8219

SALE TO MINOR – 2ND OFFENSE

On December 11, 2018 Respondents' clerk sold a tobacco product to a minor for a second time within forty-eight months, in violation of A.C.A. §5-27-227(a)(1).

For Respondent' violation of Ark. Code Ann. §5-27-227(a)(1) Respondent is fined \$350.00 as a civil penalty; and any owners, managers, or employees of Tobacco Outlet located at 12400 Arch Street pike, Suite A, Little Rock, Arkansas who deal with tobacco sales must attend an ATC Merchant Education Training within six (6) months of the date of the order. Respondents shall

deliver the most recently filed Federal Form 941 and its accompanying State of Arkansas form to the ATC Trainer at the time of the Merchant Education Training class.

The Board shall retain jurisdiction of this matter for purposes of implementing and enforcing this Consent Order, and that Respondents; failure to comply with any provision herein shall constitute a violation of a Board's Order for which the Board may impose additional disciplinary action.

A motion was made to approve the Consent Order. The motion was seconded and passed with 5 yes votes and 3 absent.

DEFAULT LIST

Attorney Lindsey Burnett read off the list of violators on the default list that have failed to respond to their Offer of Settlement and found that none had appeared for the meeting. She reported to the board that a hearing for these in default will be heard at our next meeting on March 7th, 2019.

DEFAULT HEARINGS

IN THE MATTER OF

DHAMI ENTERPRISES, LLC DBA 777 TOBACCO – ROGERS

CASE #2018-5057

SELLING WITHOUT A PERMIT

CASE #2018-5068

**FAILURE TO MAINTAIN INVOICES
SELLING BELOW MINIMUM
NO SERVER AWARENESS FORMS**

Respondent held Retail Cigarette, Tobacco, Vapor and Alternative Nicotine Product Permit Number 13671-01 located at 803 West Poplar Street in Rogers, Arkansas, 72756. Respondent did not renew his permit before the June 30, 2018 deadline, and has yet to reapply for a new permit. On August 6, 2018, Respondent sold a tobacco product to an Arkansas Tobacco Control Agent despite his permit being expired. Upon further investigation, the ATC Agent discovered that Respondent did not have the required invoices or transfer paperwork to account for all of the tobacco products located on store premises. Additionally, Respondent was advertising/selling multiple brands of cigarettes below the state minimum price and did not have signed server awareness forms on file for employees dealing with tobacco sales.

A civil penalty in the amount of \$500.00 be imposed for the violation of Ark. Code Ann. § 26-57-226, a civil penalty in the amount of \$1000.00 and a 5-day permit suspension be imposed for the violation of Ark. Code Ann. § 26-57-213 (with the imposition of the suspension days dependent on Respondent's decision to apply for a new tobacco permit), a civil penalty in the amount of \$400.00 be imposed for the violations of Ark. Code Ann. § 4-75-408, and a civil penalty in the amount of \$100.00 be imposed for the violation of Arkansas Tobacco Control Rule 4.1.

This final Board action is subject to judicial review pursuant to A.C.A. § 25-15-212 et seq. This section provides for review of the Board's decision by a circuit court. Should you desire to seek judicial review of this decision, you are required to file a petition in the Pulaski County Circuit Court or the circuit court of the county in which you live or do business. The petition must be filed within 30 days of the date on which you receive a copy of this Order.

A motion was made to accept the Director's recommendation. The motion was seconded and passed with 6 yes votes and 2 absent.

IN THE MATTER OF

AMANDA TEDDER

DBA AMETHYST TANNING & CBD WELLNESS CENTER – BRYANT

CASE #2018-5766

SELLING WITHOUT A PERMIT

On August 29, 2018, Respondent's store sold an e-liquid product to an Arkansas Tobacco Control Investigator despite not having a license or permit with Arkansas Tobacco Control.

Destruction of the confiscated product be imposed for the violation of Ark. Code Ann. § 26-57-226.

This final Board action is subject to judicial review pursuant to A.C.A. § 25-15-212 et seq. This section provides for review of the Board's decision by a circuit court. Should you desire to seek judicial review of this decision, you are required to file a petition in the Pulaski County Circuit Court or the circuit court of the county in which you live or do business. The petition must be filed within 30 days of the date on which you receive a copy of this Order.

A motion was made to accept the Director's recommendation. The motion was seconded and passed with 6 yes votes and 2 absent.

WHOLESALE APPLICATIONS

Mr. Stathakis ask for approval of the following Wholesale Permit Applications:

Hub Inc. – Galena, KS	Cigarette Permit
Hub Inc. – Galena, KS	Tobacco Permit
Magic Vapor LLC – Rogers	Vapor Permit
Sha Ent LLC – Rogers	Vapor Permit

All 4 were approved with 6 yes votes and 2 absent.

Director Goode asked the Board members to review the list of new permits issued from December 6, 2018 through February 6, 2019. The new permits issued were approved by the board with 6 yes votes and 2 absent.

Director Goode then asked the board members to review the list of Accepted Offers of Settlement dated January 3rd & February 7th, 2019 which were approved by the board with 6 yes votes and 2 absent.

Deputy Director Greg Sled reported for FY 2019 the enforcement agents have completed 4099 compliance checks that resulted in 258 violations with a 6.29% violation rate. There were 730 Store Inspections preformed that resulted in 158 violations with a 21.64% violation rate.

Deputy Director Ray Owens reported that FDA performed 314 checks with 28 violations which gave them an 8.9% violation rate for the month of January. For FY 19, 1178 Routine Store Inspections have been completed along with 300 Follow-up Inspections.

Attorney Lindsey Burnette reported updates on only 2 outstanding appeal cases that are left with one that has been set up on a payment plan and the other case that will be brought back before the board at a later date.

Director Goode gave updates on the Legislative Session, the State Transformation and on a new Vapor tax that is being discussed.

ANNOUNCEMENTS

Discussion was made concerning moving the board meetings for June 6th to June 13th and also moving July 4th to July 11th, 2019.

ADJOURNMENT

In closing, Mr. Stathakis stated that the next Board Meeting will be March 7, 2019. A motion was made and seconded to adjourn. It was approved with 6 yes votes and 2 absent. The meeting was adjourned.

Minutes prepared by

February 7, 2019

Pat Dykes

Pat Dykes