



**State of Arkansas
Department of Finance
And Administration**

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**BOARD MEETING MINUTES
July 14, 2022**

The Arkansas Tobacco Control Board met on Thursday, July 14, 2022, 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 six (6) Board members present.

- **Board Members Present:** Chairman Gary Proffitt Jr., Mr. Kerry Lott, Mr. David Hendrix Jr., Dr. Brad Mayfield, Mr. Brent Summerhill, and Dr. Shabbir Dharamsey.
- **Absent Board Members:** Dr. Patricia Knott & Mr. Sam Stathakis

CALL TO ORDER.

- Chairman Gary Proffitt called the ATC Board meeting to order and opened the meeting welcoming the guests and staff.

BOARD MEETING MINUTES

Chairman Gary Proffitt requested a motion to approve the board meeting minutes from June 2, 2022. A motion was made by Dr. Brad Mayfield and seconded by Dr. Shabbir Dharamsey to approve the June 2, 2022 minutes. Motion passed with six (6) yes votes and two (2) absent.

WHOLESALE PERMIT APPLICATIONS

Chairman Proffitt presented three (4) new Wholesale Tobacco and Vapor product Permit applications to the Board for review and approval.

- **SS. Vape Brands, Inc. – Orlando, FL**
 - A motion was made by Mr. Kerry Lott to approve SS. Vape Brands, Inc. application and it was seconded by Dr. Brad Mayfield. Motion passed with six (6) yes votes.
- **The Cigarette Store, LLC. – New Port Richey, FL**
 - A motion was made by Mr. David Hendrix, JR. to approve The Cigarette Store, LLC. application and it was seconded by Mr. Brent Summerhill. Motion passed with six (6) yes votes.

- **Ritchie Grocery Company - El Dorado, AR**
 - A motion was made by Mr. Kerry Lott to approve Ritchie Grocery Company application and it was seconded by Dr. Brad Mayfield. Motion passed with six (6) yes votes.
- **Speed Wholesale, Inc. - Bensenville, IL**
 - A motion was made by Dr. Shabbir Dharamsey to approve Speed Wholesale, Inc. application and it was seconded by Dr. Brad Mayfield. Motion passed with six (6) yes votes.

NEW NON-WHOLESALE PERMITS ISSUED

- Director Greg Sled requested the Board members to review and approve the list of eighty-nine (89) new permits (those permits other than wholesale permits) issued from May 31, 2022 through July 11, 2022.
 - A motion was made to accept and approve the list of eighty-nine (89) issued new permits by Dr. Shabbir Dharamsey and seconded by Mr. Kerry Lott. The motion passed with six (6) yes votes.

DEFAULT JUDGMENTS

- Director Greg Sled presented the default judgement list to the board to review and approve.
 - Dr. Dharamsey asked ATC Staff about the steps of notifying permittees or non-permittees who receive violations and are in default. Director Sled responded by explaining the process of sending notice via U.S. Mail to the address on file and subsequent follow-up via the email on file.
 - Chairman Proffitt noted the prevalence of Dollar General on the default list and requested that ATC staff send a letter to Dollar General regarding recent prevalence of default judgments.
 - A motion was made by Dr. Shabbir Dharamsey and seconded by Dr. Brad Mayfield to approve. The motion passed with six (6) yes votes.

ACCEPTED OFFERS OF SETTLEMENT

- Director Greg Sled present the Offers Accepted for this Board month to the Board for review and approval.
- In reviewing the accepted offer for Super United, LLC dba United Tobacco for a fourth (4th) Offense Sale to Minor violation and No Server Awareness Forms, Chairman Gary Proffitt requested the Board members to make a motion on the removal of the Accepted Offer of

Settlement for Super United, LLC. dba United Tobacco to be held for further review and separate consideration until the August 4, 2022 Board Meeting.

- A motion was made by Mr. Brent Summerhill and seconded by Mr. Kerry Lott to approve the remaining Accept Offer of Settlements with the Super United LLC. dba United Tobacco matter set to the side. The motion passed with six (6) yes votes.
- A separate motion was made by Dr. Shabbir Dharamsey to hold the Accepted Offer of Settlement for Super United, LLC. dba United Tobacco for a decision until the next Board meeting and was seconded by Mr. David Hendrix. The motion passed with six (6) yes votes.

ENFORCEMENT ACTIVITY

- Director Sled reported for following results for compliance checks.

Mar - 47 / 447 = 10.50%

Apr - 61 / 585 = 10.43%

May - 35 / 367 = 9.54%

June - 60/647 = 9.27%

FY 2022 - 599 / 5415 = 11.06%

Results for Inspections for the month of June, with 7 out of 50 inspections totaled 9 violations = 14%.

- ATC Merchant Training Classes will be scheduled in North Little Rock on July 12th & 13th and in Batesville on July 19th & 20th.
- Permit Renewals started on May 1, 2022, 77% renewed online. Out of the 4601 permits renewed, at least 2900 (63%) were delayed in mailing out.

Board Training

- Director Greg Sled noted that Mr. Daniel Faulkner from the Attorney General's Office will present the Board with agency board-related training at the August 4, 2022 Board meeting.

Agent of the Year Nominee

- Director Greg Sled presented three (3) Agent of the Year nominee's, Daniel Montgomery from Fayetteville, Doug Brooks from Fort Smith, and Blake Miller from Cabot. The Agent of the Year Award was presented to Agent Doug Brooks.

FDA ACTIVITY

- Deputy Director Ray Owens reported for the Month of June 2022, FDA Division agents completed 227 inspections with 9 potential violations being reported.
 - FDA Routine Inspections are minor checks where no previous violations exist or are old enough that a fresh inspection has been randomly generated.
- FDA Compliance Follow-Up Inspections for June resulted in 64 CFU Inspections with 3 potential violations.
 - FDA Compliance Follow-Up Inspections are checks with and without minors at locations where previous violations have occurred.

291 Total inspections were performed with 12 potential violations reported resulting in 4.12 % violation rate.

- Deputy Director Owens discussed a recently issued FDA publication regarding synthetic nicotine produces and the premarket authorization of certain regulated tobacco products. Chairman Proffitt asked Deputy Director Owens about the status of JUUL. Deputy Director Owens responded by noting that the FDA's recent decision to deny a premarket application is being litigated.

LEGAL UPDATE

- Prior to the legal update, Dr. Dharamsey made a motion on behalf of the ATC Board and Staff in a appreciation of Mrs. Pat Dykes, who is retiring, for her service to the agency. Dr. Brad Mayfield. Seconded. The Motion passed with six (6) yes votes.
- **Litigation Updates:**
 - ATC Attorney Will Olson updated the Board that briefing is now complete in the AEBA LLC dba Stop N Buy administrative appeal matter currently pending in the Mississippi County Circuit Court - Osceola District. The parties await a Court Order setting a hearing date.
- **Legislation Updates:**
 - ATC Attorney Olson noted that the next legislative session is in January 2023 and that the agency is in the brainstorming phase of working on potential ATC-related legislation.
 - ATC Attorney Olson also presented potential legislative ideas that parties may attempt to have passed during the 2023 General Legislative Session that impact ATC, including, but not limited to legislation to raise the tax caps on cigars, changing the Fire Safe Act governance, increasing temporary permit fee, and various vapor product and e-liquid changes (definition changes, changes to child-safety packaging requirements, ingredient listings, etc.). ATC

Attorney Olson further noted that requiring a safety analysis, testing for certain materials contained in vapor and e-liquid products, or compliance with federal law – such requiring proof of FDA premarket approval applications or orders, would necessitate legislation. Arkansas state agencies must act within their statutory authority.

- Mr. Brent Summerhill requested the Board to be mindful that adding additional requirements may also add the number of agents or resources required to enforce those additional requirements.
- Director Sled reminded the Board that members can contact ATC staff with any ideas or questions related to potential legislation or regulations.

OPEN FORUM

- Chairman Gary Proffitt asked if there were any questions or comments from the Board members.
- Chairman Gary Proffitt asked those in the public audience if there were any questions or comments. There were no questions or comments made at that time.

ADJOURNMENT

In closing, Chairman Gary Proffitt stated that the next ATC Board meeting is scheduled for August 4, 2022. A motion was made by Mr. Gary Proffitt to adjourn, and it was seconded by Mr. Brent Summerhill. It was approved with six (6) yes votes. The meeting was adjourned.

Minutes prepared by:

Sharee Devore

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Dated: July 15, 2022