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BOARD MEETING MINUTES
August 4, 2022

The Arkansas Tobacco Control Board met on Thursday, August 4, 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 seven (7) Board members present.

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

CALL TO ORDER.

- Chairman Gary Proffitt called the ATC Board meeting to order and opened the meeting welcoming the guests and staff.
- There were no hearings set for today’s Board Meeting. As a result, neither a hearing officer nor a court reporter was present.

BOARD MEETING MINUTES

Chairman Gary Proffitt requested a motion to approve the Board Meeting Minutes from July 14, 2022. A motion was made by Mr. Kerry Lott and seconded by Mr. Brent Summerhill to approve the July 14, 2022 minutes. Motion passed with six (6) yes votes and two (2) absent. Dr. Shabbir Dharamsey arrived after the vote on the motion to approve the Board Meeting Minutes from July 2022 at 10:02 A.M.

WHOLESALE PERMIT APPLICATIONS

Chairman Proffitt presented one (1) new Wholesale Tobacco and Vapor product Permit application to the Board for approval.

- **Arkansas Tobacco and Grocery Wholesale, LLC. – Fayetteville, AR**
 - Mr. Brent Summerhill asked ATC Staff for clarity on Question 19 of the Wholesale Permit regarding the THC content of the Wholesaler’s hemp-derived vapor products and/or e-liquid products. Director Sled responded by stating that the Wholesaler in question is attesting on the form that all of its vapor products or e-liquid products that contain cannabidiol (CBD) or hemp contain no more than 0.3% THC.

- A motion was made by Mr. Sam Stathakis to approve Arkansas Tobacco and Grocery Wholesale, LLC. application and it was seconded by Dr. Brad Mayfield. Motion passed with seven (7) yes votes.

NEW NON-WHOLESALE PERMITS ISSUED

- Director Greg Sled presented the list of thirty-three (33) new permits (those permits other than wholesale permits) issued from July 11, 2022 through July 29, 2022, and one (1) additional new manufacturer permit issued on or about August 4, 2022, to the Board for review and approval.
 - Mr. Brent Summerhill asked Director Sled whether the manufacturer who was issued the permit on or about August 4, 2022 is manufacturing in Arkansas and intends to manufacture CBD products. Director Sled answered “yes” to both questions and noted that the company has assured the agency that all of its CBD products contain no more than 0.3% THC. Director Sled also noted that a representative of the company was in the audience and could answer questions from the Board. No questions were asked of the representative.
 - A motion was made to accept and approve the list of thirty-four (34) new permits issued by Mr. David Hendrix, Jr. and seconded by Dr. Shabbir Dharamsey. The motion passed with seven (7) yes votes.

DEFAULT JUDGMENTS

- Director Greg Sled presented the default judgement list to the Board to review and approve.
 - Director Sled also updated the Board on the status of the letter sent by ATC to Dollar General corporate headquarters regarding the recent increase in default judgments from the company, as requested by the Board at the last ATC Board Meeting, and noted that the letter was sent to Dollar General via U.S. mail on or about July 25, 2022.
 - A motion was made by Mr. Sam Stathakis and seconded by Mr. David Hendrix, Jr. to approve. The motion passed with seven (7) yes votes.

ACCEPTED OFFERS OF SETTLEMENT

- Director Greg Sled presented the Offers Accepted to the Board to review and approve.
 - Dr. Dharamsey asked Director Sled about the method by which ATC can determine that a permittee has sold to a person or entity that has no affiliation with the selling permittee. Director Sled noted that legal research software aids ATC in making such a determination.
 - On the Pick N Pay matter, Case No. 2022-01675, Chairman Proffitt asked ATC Staff whether the permittee had made any payments towards the accepted \$ 82,442.70 civil penalty. ATC Attorney

Will Olson stated that “No,” the permittee’s Legal Counsel is still reviewing the Promissory Note for the payment plan.

- A motion was made by Dr. Shabbir Dharamsey and seconded by Dr. Brad Mayfield to approve. The motion passed with seven (7) yes votes.

ENFORCEMENT ACTIVITY

- Director Sled reported for following results for compliance checks.

May - 35 / 367 = 9.54%

June - 60/647 = 9.27 %

July - 61 / 855 = 7.13 %

FY 2022 - 61 / 855 = 7.13 %

Results for Inspections for the month of June, with 47 out of 107 inspections totaled 65 violations = 43.9 %.

- Mr. Sam Stathakis asked Director Sled about whether or not retailers received any type of notice regarding cigarettes that are no longer listed on the Arkansas Attorney General’s Directory. Director Sled responded by explaining the general process regarding the Attorney General Directory listing and the applicable compliance grace periods.
- Director Sled stated that ATC Merchant Training Classes will be scheduled in Hot Springs on August 9th & 10th, Fayetteville on August 23rd, and Rogers on August 24th.

FDA ACTIVITY

- Deputy Director Ray Owens reported for the Month of July 2022, FDA Division Agents completed 199 inspections with thirteen (13) 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 (“CFU”) Inspections for June resulted in thirty-two (32) CFU Inspections with three (3) potential violations.
 - FDA CFU Inspections are checks with and without minors at locations where previous violations have occurred.
- 231 Total inspections were performed with sixteen (16) potential violations reported resulting in 6.92 % violation rate.

LEGAL UPDATE

- ATC Attorney Will Olson reported no new legal updates for this month.
 - Dr. Shabbir Dharamsey expressed concern about the current legal landscape pertaining to vapor products and e-liquid products, requesting future updates by ATC Staff on legislative steps to address various safety concerns pertaining to vapor products and e-liquid products, including labeling and manufacturing processes.

BOARD TRAINING

- Mr. Daniel Faulkner, Deputy Attorney General, Arkansas Attorney General, provided an administrative agency board and commission training presentation.

OPEN FORUM

- Chairman Gary Proffitt asked if there were any questions or comments from the Board members. There were no questions or comments made at that time.
- 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 September 8, 2022. A motion was made by Mr. David Hendrix, Jr. to adjourn, and it was seconded by Mr. Gary Proffitt. It was approved with six (6) yes votes. The meeting was adjourned.

Minutes prepared by:

Sharee Devore

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Dated: August 8, 2022