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Department of Finance
And Administration

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BOARD MEETING MINUTES
September 8, 2022

The Arkansas Tobacco Control Board met on Thursday, September 8, 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, Dr. Brad Mayfield, Mr. Sam Stathakis, Dr. Patricia Knott, and Dr. Shabbir Dharamsey with Mr. David Hendrix Jr. and Mr. Brent Summerhill attending virtually.
 - **Please note:** While Mr. Brent Summerhill and Mr. David Hendrix Jr. attended virtually, they did not participate in the votes.
 - **Absent Board Members:** None
- **Hearing Officer:** Mr. Charlie Moulton

CALL TO ORDER.

- Chairman Gary Proffitt called the ATC Board meeting to order and opened the meeting welcoming the guests and staff.
- Chairman Gary Proffitt introduced and welcomed Mr. Charlie Moulton as the Hearing Officer.
- There were no administrative hearings set for today's Board Meeting. As a result, a court reporter was not present.

BOARD MEETING MINUTES

Chairman Gary Proffitt requested a motion to approve the Board Meeting Minutes from August 4, 2022. A motion was made by Mr. Sam Stathakis and seconded by Mr. Gary Proffitt to approve the August 4, 2022 minutes. Motion passed with six (6) yes votes and two (2) attended Virtually.

PROPOSED ATC RULES - PUBLIC COMMENT PERIOD HEARING

- Hearing Officer Charlie Moulton presented the proposed "Online Cigars Sales and Delivery, Section 4" rules to the Board and noted that ATC had not received any written comments or objections on the rules. Next, Hearing Officer Moulton opened the floor for comments on the

rules Hearing and seeing no comments or objections, Mr Moulton turned over to the Chair of the ATC Board the review for approval of the final proposed rules

- Chairman Proffitt entertained a motion to approve the final proposed ATC Board Rules for "Online Cigar Sales and Delivery, Section 4" A motion was made to approve the proposed rules by Dr Shabbir Dharamsey and was seconded by Dr Brad Mayfield The motion passed with six (6) yes votes and zero (0) opposing

WHOLESALE PERMIT APPLICATIONS

Chairman Proffitt presented five (5) new Wholesale Tobacco and Vapor Product Permit Applications to the Board for approval

- UV DISTRIBUTION AND WHOLESALE, LLC - JOPLIN, MO
- VAPE GUYS, INC , dba VGI DISTRIBUTION - COLONIAL HIEGHTS, VA
- GLOBAL SOURCE DISTRIBUTION, LLC - URBAN DALE, IA
- A & U WHOLESALE, INC - FORT SMITH, AR
- AR WHOLESALE EXPRESS, LLC - LITTLE ROCK, AR
 - A motion was made by Mr Sam Stathakis to approve the five (5) Wholesale Applicants listed above and it was seconded by Dr Brad Mayfield Motion passed with six (6) yes votes

NEW NON-WHOLESALE PERMITS ISSUED

- Director Greg Sled presented the list of one hundred and four (104) new permits (those permits other than wholesale permits) issued from July 30, 2022 through September 2, 2022, to the Board for review and approval
 - A motion was made to accept and approve the list of one hundred and four (104) new permits issued by Mr Kerry Lott and seconded by Dr Shabbir Dharamsey The motion passed with six (6) yes votes

Mad Hatter Permit Request

- Director Sled presented Mad Hatter Hemp's Retail Permit Application (Application No 38174) and administrative violation history for the Board's review, in light of recent administrative violations prior to receiving approval of an ATC permit Director Sled responded to questions from Chairman Proffitt and Mr Sam Stathakis regarding Mad Hatter's administrative violation history
- Mr Jeremy Dennis, owner and representative of Mad Hatter Hemp, spoke to the Board about Mad Hatter Hemp's recent administrative violations and responded to a question from Chairman Proffitt regarding the THC content of Mad Hatter Hemp's hemp-derived e-liquid products

- A motion to approve the Mad Hatter Permit Application was made by Mr Sam Stathakis and was seconded by Dr Brad Mayfield The permit was granted with six (6) yes votes

DEFAULT JUDGMENTS

- Director Greg Sled presented the default judgement list to the Board to review and approve
 - A motion was made to approve the Default Judgments by Dr Shabbir Dharamsey and was seconded by Mr Kerry Lott to approve The motion passed with six (6) yes votes

ACCEPTED OFFERS OF SETTLEMENT

- Director Greg Sled presented the Offers Accepted to the Board to review and approve
 - A motion was made to approve the Accepted Offers of Settlement by Mr Sam Stathakis and seconded by Dr Brad Mayfield to approve The motion passed with six (6) yes votes

ENFORCEMENT ACTIVITY

- Director Sled reported for following results for compliance checks

June - 60 / 647 = 9 27%

July - 61/855 = 7 13 %

August - 53 / 690 = 7 13 %

FY 2023 - 115 / 1545 = 7 44 %

Results for Inspections for the month of June, with 37 out of 119 inspections totaled 53 violations = 31 09 %

- Director Sled stated that ATC Merchant Training Classes will be scheduled in Barling/ Fort Smith on September 27-28, Jonesboro on October 5-6, Conway on October 11-12, and Texarkana on October 19th
- Director Sled also updated the Board on the upcoming administrative hearings scheduled for October, November, and December

FDA ACTIVITY

- Deputy Director Ray Owens reported for the Month of August 2022, FDA Division Agents completed 257 inspections with seventeen (17) 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 seventy-nine (79) CFU Inspections with seven (7) potential violations
 - FDA CFU Inspections are checks with and without minors at locations where previous violations have occurred
- 336 Total inspections were performed with twenty-four (24) potential violations reported resulting in 7 14 % violation rate

LEGAL UPDATE

- ATC Attorney Will Olson updated the Board on the AEBA, LLC dba Stop N Buy Administrative Appeal In doing so, Attorney Olson noted that a hearing was held last Tuesday before Judge Ellington in the Mississippi County Circuit Court – Osceola Division Because the hearing arose out of an administrative appeal under the APA ("Administrative Procedures Act"), the Judge was limited to the record as preserved at the ATC Board Hearing in question The Judge modified the Board's initial civil penalty to a lower amount ATC plans to appeal the Court's Decision

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 October 6, 2022 A motion was made by Dr Shabbir Dharamsey 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

Dated September 12, 2022

Sharee Devore

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