



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

DFA – 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>



**BOARD MEETING MINUTES
November 3, 2022**

The Arkansas Tobacco Control Board met on Thursday, November 3, 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 eight (8) Board members present.

- **Board Members Present:** Chairman Gary Proffitt Jr., Mr. Kerry Lott, Dr. Brad Mayfield, Mr. Sam Stathakis, Mr. Brent Summerhill, Dr. Shabbir Dharamsey, Mr. David Hendrix Jr., and Dr. Patricia Knott arrived at 10:12 a.m.
- **Absent Board Members:** None

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 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 September 8, 2022. There was no ATC Board Meeting in October 2022. A motion was made by Mr. Sam Stathakis and seconded by Dr. Brad Mayfield to approve the September 8, 2022 minutes. Motion passed with seven (7) yes votes and zero (0) opposing votes.

CONSENT ORDERS

❖ Arabica Hookah Café, Case No. 2016-00227

- Director Sled presented the Consent Order in the Administrative Case No. 2016-00227. Chairman Gary Proffitt requested a motion to approve the consent order for Arabica Hookah Café. A motion was made by Mr. Sam Stathakis and seconded by Mr. David Hendrix, Jr. It passed with seven (7) yes votes and zero (0) opposing votes.

WHOLESALE PERMIT APPLICATIONS

Chairman Proffitt presented three (3) new Wholesale Tobacco and Vapor Product Permit Applications to the Board for approval.

- **HS GLOBAL DISTRIBUTION, LLC. - JACKSON, TN**
 - Pre-approved conditionally by Director Greg Sled in October.
- **BMH MARKETING, INC. - POMPANO BEACH, FL**
- **PATTERSON FOOD SERVICES, INC. dba SMOKES # 1 - MARION, AR**
 - A motion was made by Mr. Brent Summerhill to approve the three (3) Wholesale Applicants listed above and it was seconded by Dr. Shabbir Dharamsey. Motion passed with eight (8) yes votes and zero (0) opposing votes.

NEW NON-WHOLESALE PERMITS ISSUED

- Director Greg Sled presented the list of ninety-three (93) new permits (those permits other than wholesale permits) issued from September 03, 2022 through October 28, 2022, to the Board for review and approval.
 - A motion was made to accept and approve the list of ninety-three (93) new permits issued by Mr. Kerry Lott and seconded by Dr. Brad Mayfield. The motion passed with eight (8) yes votes and zero (0) opposing votes.

DEFAULT JUDGMENTS - SEPTEMBER 2022

- 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 Mr. David Hendrix, Jr. and was seconded by Mr. Sam Stathakis to approve. The motion passed with eight (8) yes votes and zero (0) opposing votes.

DEFAULT JUDGMENTS - OCTOBER 2022

- 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. David Hendrix, Jr. to approve. The motion passed with eight (8) yes votes and zero (0) opposing votes.

ACCEPTED OFFERS OF SETTLEMENT

- Director Greg Sled presented the September through October Accepted Offers 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 eight (8) yes votes.
 - In light of concerns raised by Chairman Proffitt regarding Dollar General's perceived high rate of violations and delay in responses from ATC, a motion was made to reject the Dollar General accepted Offers of Settlement and set for Hearings before the Board by Mr. Brent Summerhill and was seconded by Dr. Shabbir Dharamsey. The motion passed with eight (8) yes votes and zero (0) opposing votes.

ENFORCEMENT ACTIVITY

- Director Sled reported for following results for compliance checks.

August - $53 / 690 = 7.13 \%$

September - $59 / 540 = 10.93 \%$

October - $50 / 553 = 9.04 \%$

FY 2023 - $222 / 2636 = 8.42 \%$

Results for Inspections for the month of September, with 27 out of 69 inspections totaled 38 violations = 31.13 %.

Results for Inspections for the month of October, with 20 out of 68 inspections totaled 31 violations = 39.41 %.

- Director Sled also updated the Board on the upcoming administrative hearings scheduled for and December and January.

FDA ACTIVITY

- Deputy Director Ray Owens reported for the Month of October 2022, FDA Division Agents completed 150 inspections with eleven (11) 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 eighty-six (86) CFU Inspections with four (4) potential violations.

- FDA CFU Inspections are checks with and without minors at locations where previous violations have occurred.
- 236 Total inspections were performed with fifteen (15) potential violations reported resulting in 6.35 % violation rate.

LEGAL UPDATE

- Attorney Olson reported no new legal updates.

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 December 1, 2022. A motion was made by Dr. Shabbir Dharamsey to adjourn, and it was seconded by Mr. Gary Proffitt. It was approved with eight (8) yes votes. The meeting was adjourned.

Minutes prepared by:

Sharee Devore

Sharee Devore

Dated: November 16, 2022