





State of Arkansas  
Department of Finance  
And Administration

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## BOARD MEETING MINUTES May 4, 2023

The Arkansas Tobacco Control Board met on Thursday, May 4, 2023, 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 (8) Board members present.

- **Board Members Present:** Chairman Gary Proffitt Jr., Mr. Brent Summerhill, Mr. Kerry Lott, Mr. Sam Stathakis, Mr. David Hendrix, Jr., Dr. Brad Mayfield, Dr. Patricia Knott (arrived at 10:04), and Dr. Shabbir Dharamsey.

### CALL TO ORDER.

- Chairman Gary Proffitt called the ATC Board meeting to order and opened the meeting welcoming the guests and staff.
- There was one hearing set for today's Board Meeting. As a result, a hearing officer, Mr. Michael Bynum, and court reporter, Ms. Marcy McKenzie, were present.

### BOARD MEETING MINUTES

Chairman Gary Proffitt requested a motion to approve the board meeting minutes from March 2, 2023. A motion was made by Mr. Sam Stathakis and seconded by Mr. David Hendrix, Jr. to approve the March 2, 2023, minutes. It passed with seven (7) yes votes and zero (0) opposing votes.

### FULL HEARINGS

- ❖ Case No.2021-12531  
**ALYZ MANAGEMENT, INC., Permit No. 003780-06**  
Amar Knowaja  
261 Highway 18  
Manila, AR 72442

- Violations:**
- (1) Purchasing Tobacco Products from an Unlicensed Dealer A.C.A. § 26-57-228
  - (2) Possession of Untaxed Tobacco A.C.A. § 26-57-245
  - (3) Reuse of Container Unlawful A.C.A. § 26-57-241
  - (4) Failure to Maintain Invoices for a 3 Year Period A.C.A. § 26-57-213

Attorney Will Olson noted that the parties had settled the matter and would present a Consent Order at a later ATC Board Meeting.

A motion was made by Dr. Dharamsy and seconded by Mr. Summerhill to pull the schedule Full Hearing in this matter from the Agenda and sent for a Consent Order. It passed with seven (7) yes votes and zero (0) opposing votes.

### **CONSENT ORDER**

ATC Attorney Will Olson presented to the Board a Consent Order for Southern Cafe & Mart, LLC, Case No. 2022-15678. Chairman Gary Proffitt requested a motion to approve the Consent Order for entity Southern Café & Mart, LLC. A motion was made by Mr. David Hendrix, Jr. and seconded by Dr. Brad Mayfield. It passed with eight (8) yes votes and zero (0) opposing votes.

### **WHOLESALE PERMIT APPLICATIONS**

Chairman Proffitt presented five (5) new Wholesale Tobacco and Vapor product Permit applications to the Board for approval.

- ❖ **Am Quality Wholesale, INC. - Texarkana, TX**
- ❖ **Definition Cigars, LLC. - Farmers Branch, TX**
- ❖ **Associated Wholesale Grocers, INC. - Hernando, MS**
- ❖ **AR Cigarette Buying Pool, LLC. - Hernando, MS**
- ❖ **Mag Industries, LTD - Tyrone, PA**

- A motion was made by Mr. Brent Summerhill to approve all five (5) wholesale applications and seconded by Mr. Kerry Lott. The motion passed with eight (8) yes votes and zero (0) opposing votes.

### **NEW RETAIL PERMITS ISSUED**

- Director Greg Sled requested the Board members to review and approve the list of one hundred and forty-five (145) new permits (those permits other than wholesale permits) issued from March 1, 2023 through April 30, 2023.
- A motion was made to accept and approve the list of one hundred and forty-five (145) new permits issued by Mr. Sam Stathakis and seconded by Mr. David Hendrix, JR. The motion passed with eight (8) yes votes and zero (0) opposing votes.

### **DEFAULT JUDGMENTS**

- Director Greg Sled presented the March 2023 and April 2023 default judgments list to the Board to review and approve.
  - A motion was made to exclude the Default Judgment of entity SNS DISTRIBUTION dba CLOUD 9 FORT SMITH and sent out a Notice of Hearing to set a hearing in this matter. Dr. Shabbir Dharamsey and was seconded by Mr. Brent Summerhill to approve. The motion passed with eight (8) yes votes and zero (0) opposing votes.

- A motion was made to approve the remaining Default Judgments by Dr. Shabbir Dharamsey and was seconded by Dr. Brad Mayfield to approve. The motion passed with eight (8) yes votes and zero (0) opposing votes.

### **ACCEPTED OFFERS OF SETTLEMENT**

- Director Greg Sled requested the Board members to review and approve the list of Accepted Offers of Settlement for March 2023 and April 2023. A motion was made to accept the Accepted Offers of Settlement by Dr. Shabbir Dharamsey and seconded by Mr. Sam Stathakis. The motion passed with eight (8) yes votes and zero (0) opposing votes.

### **ENFORCEMENT ACTIVITY**

- Director David Potter introduced a new employee, Lauren Little, for the CID Senior Intelligence Agent position.
- Director Sled reported for following results for compliance checks.

February -  $58 / 530 = 10.94 \%$

March -  $60 / 576 = 10.42 \%$

April -  $57 / 480 = 11.88 \%$

FY 2023 -  $557 / 5771 = 9.65 \%$

Results for Inspections for the month of March 2023 and April 2023, with 20 out of 69 inspections totaled 41 violations = 28.98 %.

### **FDA ACTIVITY**

Deputy Director Ray Owens reported for the month of March 2023 FDA Agents completed 419 inspections with 15 potential violations and April 2023 FDA Agents completed 272 inspections with 14 potential violations. FDA March 2023 violation rate was 3.6 % and April 2023 violation rate was 5.1 %.

### **LEGISLATIVE UPDATE**

- Attorney Will Olson and Director Sled presented legislative updates on bills impacting ATC matters that passed or failed this past legislative session.

### **LEGAL UPDATE**

- ATC Attorney Will Olson reported no new legal updates for this month.

### **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 June 1, 2023. A motion was made by Dr. Shabbir Dharamsey and seconded by Mr. David Hendrix, Jr. to adjourn. It was approved with eight (8) yes votes and zero (0) opposing votes. The meeting was adjourned.

**Minutes prepared by:**

Sharee Devore

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**Dated:** May 15, 2023