



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

DFA – ARKANSAS TOBACCO CONTROL

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**BOARD MEETING MINUTES
August 01, 2024**

The Arkansas Tobacco Control Board met on Thursday, August 01, 2024, 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, Dr. Patricia Knott, David Hendrix, Jr., Mr. Brent Summerhill, Mr. Kerry Lott, 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.

BOARD MEETING MINUTES

Chairman Gary Proffitt requested a motion to approve the board meeting minutes from July 11, 2024. A motion was made by Dr. Shabbir Dharamsey and seconded by Dr. Patricia Knott to approve the July 11, 2024, minutes. It passed with six (6) yes votes and zero (0) opposing votes.

LENIENCY HEARINGS

- ❖ Case No. 2023-13502 (Fine Paid & ME Training Complete)
PJ EXPRESS, LLC. - Permit No. 20484-01
Auday Alshohatee (Reyad Mothana Repeated)
311 South Airbase Highway
Blytheville, AR 72315

Violations: (1) Sell to Minor - A.C.A. § 5-27-227(A)(1)

In light of the evidence and testimony submitted before the Board, a motion was made by Dr. Shabbir Dharamsey to increase the penalty to \$ 1,000.00 from the recommended penalty of \$700.00 civil penalty, increase the suspension to seven (7) day permit suspension from the recommended five (5) days, and Mandatory Merchant Education Training for all employees within six months for the violation of Sell to Minor - A.C.A. § 5-27-227(A)(1). Motion failed due to no second of the motion.

Mr. Brent Summerhill made a motion to uphold the recommended penalty of \$ 700.00 and five (5) day permit suspension, and Mandatory Merchant Education Training for all employees

within six months and was seconded by Dr. Patricia Knott. During motion suggestions, Dr. Shabbir Dharamsey amended the motion to increase the civil penalty to \$ 1,000.00 from the recommended \$ 700.00, keeping the recommended five (5) day permit suspension, and Mandatory Merchant Education Training for all employees within six months. The motion was seconded by Mr. David Hendrix, Jr. and the Motion passed with six (6) yes votes and zero (0) opposing votes.

FULL HEARINGS

- ❖ Case No. 2024-01936 (Fine Paid)
PJ EXPRESS, LLC. - Permit No. 20484-01
Auday Alshohatee
311 South Airbase Highway
Blytheville, AR 72315

Violations: (1) Sell to Minor - A.C.A. § 5-27-227(A)(1)
(2) No Server Awareness Form – ATC Rule 4.1.

Reyad Mothana, the manager for this store, represented PJ Express and requested a Continuance in order to retain legal counsel. A motion was made by Mr. Brent Summerhill and was seconded by Dr. Shabbir Dharamsey. The motion passed with six (6) yes votes and zero (0) opposing votes.

WHOLESALE PERMIT APPLICATIONS

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

- ❖ **Lightfire Holdings, LLC. - Tamarac, FL**
 - ❖ **Performance Food Group, Inc. dba Core-Mark, LLC. - Carroll, IA**
 - ❖ **Performance Food Group, Inc. dba Core-Mark, LLC. - Forrest City, AR**
 - ❖ **Stephenson Wholesale Co., Inc. dba Indian Nation Wholesale - Sapulpa, OK**
- A motion was made by Mr. Kerry Lott to approve the wholesale applications and seconded by Dr. Shabbir Dharamsey. The motion passed with six (6) yes votes and zero (0) opposing votes.

NEW RETAIL PERMITS ISSUED

- Director Christy Bjornson requested the Board members to review and approve the list of sixty-four (64) new permits (those permits other than wholesale permits) issued from July 1, 2024 through July 31, 2024.

- A motion was made to accept and approve the list of sixty-four (64) new permits issued by Mr. Brent Summerhill and seconded by Mr. Kerry Lott. The motion passed with six (6) yes votes and zero (0) opposing votes.

DEFAULT OFFERS OF SETTLEMENT

- ATC Attorney Cameron Coker requested the Board members to review and approve the list of Default Offers of Settlement for the month of July 2024. A motion was made to accept the Default Offers of Settlement by Dr. Shabbir Dharamsey and seconded by Mr. David Hendrix, Jr. The motion passed with six (6) yes votes and zero (0) opposing votes.

ACCEPTED OFFERS OF SETTLEMENT

- Director Christy Bjornson requested the Board members to review and approve the list of Accepted Offers of Settlement for the month of July 2024 with the exception of case 2024-02927 for Pic-N-Tote accepted offer. A motion was made to accept the Accepted Offers of Settlement by Mr. Brent Summerhill and seconded by Dr. Shabbir Dharamsey. The motion passed with six (6) yes votes and zero (0) opposing votes.
 - A motion was made to reject the Accepted Offer for Pic-N-Tote case 2024-02927 due to the penalty paid was outside the maximum penalty allotment. A motion was made by Mr. Brent Summerhill and was seconded by Mr. Kerry Lott. The motion was passed with six (6) yes votes and zero (0) opposing votes.

EVIDENCE DESTRUCTION LIST

- ATC Attorney Cameron Coker presented a list of evidence for older cases that was in need of being destroyed. A motion was made by Mr. David Hendrix Jr., to approve the evidence to be destroyed and the motion was seconded by Mr. Brent Summerhill. The motion was passed with six (6) yes votes and zero (0) opposing votes.

ENFORCEMENT ACTIVITY

- CID Director David Potter reported for following results for compliance checks.

May FY 24 - 20 / 410 = 4.89 %

June FY 24 - 24 / 374 = 6.42 %

July FY 25 - 26 / 577 = 4.51 %

FY 2025 - 26 / 577 = 4.51 %

Results for Inspections for the month of July 2024, with 71 inspections totaled 25 violations = 35.2 %.

FDA ACTIVITY

Deputy Director Ray Owens reported for the month of July 2024 FDA Agents completed 226 routine inspections with 4 potential violations resulting in a 1.77 % violation. FDA Agents completed 61 follow-up Inspections with 2 potential violations resulting in a 3.23 % violation rate for the month of July 2024.

LEGAL UPDATE

ATC Attorney Cameron Coker provided a memorandum to the Board outlining the current maximum penalties for sale to minor violations available under Arkansas law. The Board discussed with the staff what they expected from negotiations of offers of settlement prior to these violations coming to the Board for a hearing. The Board discussed the possibility of doing away with leniency hearings all together. The Board agreed to continue to consider further options that may be appropriate to take a stronger stance on sale to minor violations.

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.

ADJOURNMENT

In closing, Chairman Gary Proffitt stated that the next ATC Board meeting is scheduled for September 12, 2024. A motion was made by Chairman Gary Proffitt and seconded by Mr. Brent Summerhill to adjourn. It was approved with six (6) yes votes and zero (0) opposing votes. The meeting was adjourned.

Minutes prepared by:

Sharee Felts

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Dated: August 02, 2024