

Exhibit 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
Lexington Division

VAPOR TECHNOLOGY ASSOCIATION,)
et al.,)
)
Plaintiffs,)
)
v.)
)
U.S. FOOD AND DRUG ADMINISTRATION,)
et al.,)
)
Defendants.)

Case No. 5:19-cv-00330-KKC

DECLARATION OF JOHN DUNHAM

I, John Dunham, do hereby declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts set forth below such that I would be competent to testify as to the same if called.

2. I am an economist with over 30 years of professional experience studying the impacts of public policy on markets for products and services. I have conducted hundreds of studies on the impact of taxes and regulations and am a regular commentator on economic conditions in both national and regional broadcast and print media covering business and economics. My research has been published in a number of peer-reviewed academic journals, including Economic Inquiry. I have served as an expert witness in economic research and analysis in fifteen cases in state and federal courts over the years and have provided trial testimony in three cases, including in one federal district court trial.

3. I received my master's in arts (M.A.) in economics from the New School for Social Research and my master's in business administration (MBA) from Columbia University. I am a member of the American Economic Association and the National Association for Business Economics. Since 2000, I have been the Managing Partner of John Dunham & Associates

(“JDA”), a Brooklyn, New York-based economic research firm that uses econometric models to help our clients understand the economic outcomes of various public policy proposals. Prior to founding my own economic research firm, I held positions as the senior U.S. economist for Philip Morris, and as a senior economist for the New York City Mayor’s Office, the New York City Comptroller’s Office, and the Port Authority of New York and New Jersey.

4. In 2018, the Vapor Technology Association retained JDA to conduct a nationwide study on the economic contributions for the vapor products industry. At JDA, we conducted our research and completed our study using standard econometric models first developed by the federal government with data from industry sources, government publications (including data from FDA and the Centers for Disease Control and Prevention), and third-party providers of business and consumer data. The study was concluded in early 2019 and calculates the economic impact of the vapor industry in 2018, on a national basis, by state, by Congressional district, and by state legislative districts.

5. Our study concluded that the vapor industry is a dynamic part of the U.S. economy, accounting for \$24.46 billion annually in economic output. Overall, the vapor industry employs approximately 166,007 Americans who collectively earn annual wages and benefits totaling approximately \$7.90 billion.

6. As part of our study, our firm verified the existence and size of each vapor industry business in the United States. We found that there were 380 e-liquid manufacturers and 2,012 vape shop manufacturers, with a total of 11,469 retail vape shops that together employed a total of 64,125 individuals nationwide. These figures do not include tobacco shops and other general retail outlets that sell vapor products as part of their broader product offerings nor do they include the wholesalers that distribute these products.

7. While the above figures include some of the traditional integrated tobacco product manufacturers, the vast majority are small to medium sized firms specializing in the production, distribution and sale of vapor products.

8. The vapor industry, defined to include manufacturers of e-liquids and device components and distributors, wholesalers, and retailers, directly employs 87,581 Americans and generates \$9.15 billion in national economic activity on an annual basis. To put the direct economic impact of the vapor industry in context, it is slightly larger than the steel and iron forging industry and employs almost as many people as the commercial fishing industry.

9. Beyond the direct employment and economic impact of the vapor industry, we calculated that an additional 29,427 jobs are indirectly attributable to the vapor industry at companies that work as suppliers and service providers to the vapor industry. In addition to manufacturing merchandise sold by the vapor industry, individuals employed by these supplier firms provide a broad range of services to the vapor industry, including financial services, advertising services, consulting services, and transportation services. These firms generate approximately \$7.27 billion in economic activity annually.

10. Finally, what we call the “induced impact” of the vapor industry—that is, the economic impact beyond the direct economic activity of participants in the industry and their supplier firms—was \$8.03 billion in 2018 and generated approximately 48,999 jobs. These jobs and this economic activity are generated by the spending of vapor industry employees and by the spending of indirect firms whose jobs are directly dependent on the vapor industry.

11. In addition to providing employment for tens of thousands of Americans, the vapor industry is an important fiscal contributor. Vapor industry companies and their employees, as

outlined above, contribute over \$1.860 billion in Federal taxes, and almost \$1.451 billion in taxes to state and local governments.

12. Vapor product consumers contribute an additional \$1.674 billion in state and local sales and excise taxes on their purchases of vapor products.

13. While the vapor industry is clearly important to the economy of the United States, it is also important to Kentucky's economy. The industry provides 2,546 direct jobs in the Bluegrass State, along with 1,100 supplier and 1,542 induced jobs. Overall, the vapor products industry contributes \$942.2 million to the economy of Kentucky, and is responsible for the generation of nearly \$105.7 million in taxes. Vapor consumers provide an additional \$8.9 million in state sales taxes.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 26, 2019



John Dunham