



Division of  
Advertising Practices

United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

MEMORANDUM

TO: Public Records  
Office of the Secretary

FROM: Bonnie McGregor  
Division of Advertising Practices

DATE: June 5, 2023

SUBJECT: Rotational Health Warnings for Cigarettes  
File No. P854505

Please place the attached documents on the public record in the above-captioned matter.

1. September 14, 2020 letter from Barry M. Boren on behalf of Everything Tobacco, LLC to Serena Viswanathan.
2. October 1, 2020 letter from Serena Viswanathan to Barry M. Boren on behalf of Everything Tobacco, LLC.
3. October 14, 2020 letter from Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC to Bonnie McGregor.
4. October 14, 2020 letter from Serena Viswanathan to Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC.
5. October 13, 2020 letter from J. Conrad Seneca d/b/a Six Nations Manufacturing to Serena Viswanathan.
6. October 15, 2020 letter from Serena Viswanathan to J. Conrad Seneca d/b/a Six Nations Manufacturing.
7. October 14, 2020 letter from Ben Fenner on behalf of Thompson Deer Management Group, LLC to Serena Viswanathan.
8. October 20, 2020 letter from Serena Viswanathan to Ben Fenner on behalf of Thompson Deer Management Group, LLC.

9. October 21, 2020 letter from Melanie Holloway on behalf of Philip Morris USA Inc. to Serena Viswanathan.
10. October 28, 2020 letter from Serena Viswanathan to Melanie Holloway on behalf of Philip Morris USA Inc.
11. November 19, 2020 letter from Kanim James, Lone Warrior Holdings, Inc. to Mary K. Engle.
12. November 19, 2020 letter from Serena Viswanathan to Kanim James, Lone Warrior Holdings, Inc.
13. November 16, 2020 letter from Barry M. Boren on behalf of Ohserase Manufacturing, LLC to Serena Viswanathan.
14. November 24, 2020 letter from Serena Viswanathan to Barry M. Boren on behalf of Ohserase Manufacturing, LLC.
15. November 24, 2020 letter from Karen E. Delaney, NASCO Products, LLC to Serena Viswanathan.
16. November 25, 2020 from Serena Viswanathan to Karen E. Delaney, NASCO Products, LLC.
17. December 1, 2020 letter from Mary Najjar, Marketing Group USA, Inc. to Mary K. Engle.
18. December 2, 2020 letter from Serena Viswanathan to Mary Najjar, Marketing Group USA, Inc.

LAW OFFICES OF  
**BARRY M. BOREN**

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September 14, 2020

Ms. Serena Viswanathan, Associate Director  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., #CC-10528  
Washington, D.C. 20580

Attention: Ms. Bonnie McGregor

Expansion  
to Surgeon General's Health Warning  
Rotation Plan for Everything Tobacco, LLC

Dear Ms. Viswanathan:

Please be advised that we are the attorneys for an importer of tobacco products, Everything Tobacco, LLC ("ET"), a Florida limited liability company with offices located at 7351 NW 35<sup>th</sup> Street, Miami, Florida 33122. ET wishes to expand their Surgeon General's Health Warning Rotation Plan as required by the Federal Cigarette Labeling and Advertising Act of 1964, as amended, ("Act") (15 U.S.C. §1331 *et seq.*) for cigarettes they wish to import into the United States under the brand name "Westport." The contact person for the company will be its President, Michael Vazquez, who can be reached at the above address. His telephone number is (305) 406-2305.

ET wishes to expand its existing Surgeon General's Health Warning Rotation Plan for its Seneca, Couture, and Opal brand cigarettes<sup>1</sup> by adding ten new brand styles of Westport cigarettes. ET intends to equalize the display of the warnings on packaging as required by 15 U.S.C. § 1333(c) for the "Westport" cigarettes they wish to import into the United States.

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<sup>1</sup> The current plan for the Seneca, Couture, and Opal brand cigarettes was approved by the FTC on June 4, 2020.

The brand styles of Westport cigarettes ET intends to import are listed on Exhibit "A" attached hereto. Actual production packs and cartons for the ten new Westport brand styles which show exactly where and how the four (4) Surgeon General's health warnings will appear on the individual packs and cartons ET will be importing were sent with our letter of July 31, 2020.

In fiscal year 2019, ET neither imported nor manufactured any Westport brand cigarettes. In fiscal year 2020<sup>2</sup> to date, ET neither imported nor manufactured Westport brand cigarettes. In fiscal year 2020, ET anticipates importing approximately [REDACTED] cigarettes sticks of the Westport brands and styles.

No one brand style of Seneca, Couture, Opal, and Westport cigarettes sold by ET has, for the past fiscal year, constituted more than 1/4 of 1% of all the cigarettes sold in the United States in such year, and not one of these brand styles will constitute more than 1/4 of 1% of all the cigarettes sold in the United States in the next fiscal year. In addition, more than one-half of the cigarettes imported by ET for sale in the United States are packaged into brand styles which meet the requirements of 15 U.S.C. §1333(c)(2)(A)(I).

As a small importer as defined by the Act, ET wishes to equalize the four health warning statements on the ten brand styles of Westport cigarettes as required by 15 U.S.C. §1333(c). Each of the four warning statements will appear on the packs and cartons of each brand style of the Westport brands of cigarettes imported by ET an equal number of times in the one-year period beginning on the date this plan is approved.

The individual packs of Seneca, Couture, Opal and Westport cigarettes to be imported by ET will have the proper health warnings printed by the manufacturer directly on the packs under the cellophane. The cartons will also have the proper health warnings printed directly on the cartons by the manufacturer. ET will keep a running total of the number of cartons and packs it imports with each warning label for each brand style.

ET agrees to maintain records to demonstrate that they are in compliance with, and are properly implementing their plan.

ET will print all four (4) health warnings in equal numbers on each printed sheet of packaging for all of its cartons and packs so that when the sheets are die cut, each shipment should be approximately equalized for each brand style as imported. If, toward the end of the one year period, it appears that the warnings are not equalized on the packs and cartons for each brand style, ET will place special orders for packaging with the specific health warnings needed to ensure that the display of all four warnings is equalized on the packs and cartons for each brand style by the plan's anniversary date.

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<sup>2</sup> ET's fiscal year coincides with the calendar year.

Ms. Serena Viswanathan, Associate Director  
Division of Advertising Practices

September 14, 2020  
Page 3

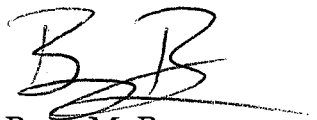
ET does not plan to advertise its Westport brand cigarettes at this time. If this should change, we will notify the FTC and modify the plan accordingly.

We believe this plan complies in all respects with the Federal Cigarette Labeling and Advertising Act, as amended, (15 U.S.C. §1331 *et seq.*) including any modifications made by the Public Health Cigarette Smoking Act of 1969, the Comprehensive Smoking Education Act of 1984, the Nurses' Education Amendments of 1985 and the Imported Cigarette Compliance Act of 2000. For this reason, we hereby request that you approve this plan as soon as possible.

Should you have any further questions regarding this matter, please do not hesitate to contact us.

Sincerely yours,

LAW OFFICES OF BARRY M. BOREN



Barry M. Boren

BMB: md

**EXHIBIT "A" TO EXPANDED PLAN**  
**EVERYTHING TOBACCO, LLC**

**Westport Brand Styles**

Westport Red 100 Box  
Westport Blue 100 Box  
Westport Sky Blue 100 Box  
Westport Green 100 Box (Menthol)  
Westport Bright Green 100 Box (Menthol)  
Westport Red King Box  
Westport Blue King Box  
Westport Sky Blue King Box  
Westport Green King Box (Menthol)  
Westport Bright Green King Box (Menthol)

Selected packaging samples from those  
submitted with the plan.

WESTPORT™

Premium Quality

Manufactured Under  
Authority of  
Trademark Owner  
Made in Canada  
54-TL-25



SURGEON GENERAL'S WARNING:  
Smoking Causes Lung Cancer,  
Heart Disease, Emphysema,  
And May Complicate Pregnancy.

10

WESTPORT™

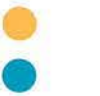


Premium Quality

F2-KB-WP-SKYBLUE-BL

WESTPORT™

Filter Cigarettes



UNDERAGE SALE  
PROHIBITED



WP™





**WESTPORT**<sup>TM</sup>

*200 Class A  
Filter Cigarettes*

**WESTPORT**<sup>TM</sup>

*200 Class A  
Filter Cigarettes*

SURGEON GENERAL'S WARNING:  
Quitting Smoking Now Greatly  
Reduces Serious Risks to Your Health.

**WESTPORT**<sup>TM</sup>



*200 Class A  
Filter Cigarettes*

**WESTPORT**

*200 Class A  
Filter Cigarettes*



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

October 1, 2020

Barry M. Boren, Esq.  
One Datran  
9100 South Dadeland Boulevard  
Suite 402  
Miami, FL 33156

Dear Mr. Boren:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed on behalf of Everything Tobacco, LLC (“ET”) dated September 14, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Westport brand of cigarettes.

ET’s sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted on July 31, 2020 appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup>

Accordingly, ET’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following ten box varieties of the Westport brand: Red (Kings & 100’s), Blue (Kings & 100’s), Sky Blue (Kings & 100’s), Green (Menthol) (Kings & 100’s), and Bright Green (Menthol) (Kings & 100’s).<sup>2</sup>

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<sup>1</sup> ET stated in its September 14, 2020 letter that the four health warnings will appear exactly as shown on the samples submitted on this date.

<sup>2</sup> As set forth in its September 14, 2020 letter, ET is using colors to identify its varieties of the Westport brand of cigarettes (*e.g.*, “Red 100 Box”). We note that the color names are not printed on the packaging (*e.g.*, the word “Red” does not appear on the packaging of the “Red 100 Box” variety); however, the color referenced in a variety’s name does conform to the color used in its packaging. We also note that the word “Menthol” is not printed on the packaging of the Green (Menthol) (Kings & 100’s) and Bright Green (Menthol) (Kings & 100’s) varieties.

Barry M. Boren, Esq.

October 1, 2020

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Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>1</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

If ET decides to advertise in the future, it must submit a plan detailing how it will comply with the requirements of the Cigarette Act with respect to display of the health warning statements in advertisements.

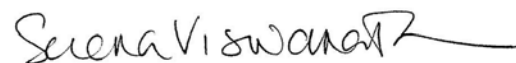
Please note that this letter only approves ET's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging for ET's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of ET's packaging under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

**This approval is effective on the date of this letter and runs through September 30, 2021 or until the new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact Bonnie McGregor at (202) 326-2356.

Very truly yours,



Serena Viswanathan  
Acting Associate Director

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<sup>1</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.



October 14, 2020

*CONFIDENTIAL CONTAINS TRADE SECRETS  
AND PROPRIETARY BUSINESS INFORMATION*

Bonnie McGregor  
Investigator  
Federal Trade Commission  
Bureau of Consumer Protection  
Division of Advertising Practices  
600 Pennsylvania Avenue, NW  
Mail Drop CC10528  
Washington, DC 20580

**Re: Wind River Tobacco Company, LLC  
Teton Brand Cigarettes Renewal**

Dear Ms. McGregor:

This renewal of the plan for the simultaneous display of health warnings on the packaging of Teton brand cigarettes (the "**Plan**") is submitted to the Federal Trade Commission ("**FTC**") on behalf of Wind River Tobacco Company, LLC ("**WRT**"), located at 4792 Potato House Court, Wilson, NC 27893. WRT's Senior Vice President, Manufacturing Operations is Bennett Lee Welchons.

WRT's most recent plan for the simultaneous display of health warnings on the packaging of the Teton brand of cigarettes was approved by the FTC on October 23, 2019. WRT wishes to renew the Plan.

**I. Background**

Pursuant to the Federal Cigarette Labeling and Advertising Act (the "**Act**"), manufacturers of cigarettes are required to submit a label statement rotation plan to the FTC for approval. 15 U.S.C. §1333(c). Section 1333(a) sets forth the wording of the warning labels required for all packaging and advertising of cigarettes sold, distributed, or advertised in the United States. Section 1333(b)(1) provides the placement and size requirements for the warning labels on cigarette packaging. Section 1333(b)(2) sets forth the requirements for warnings in advertisements, except for outdoor billboards, which are covered in Section 1333(b)(3).

WRT intends to manufacture the Teton brand of cigarettes in the seven (7) varieties listed in Schedule A, attached hereto. WRT seeks continued approval for the simultaneous display of health warnings on the packaging of the Teton brand of cigarettes for the varieties listed in Schedule A. This Plan sets forth the manner in which WRT shall comply with the warning label requirements of the Act.

## **II. Packaging**

A. Beginning on the date of renewal of this Plan (the “**Effective Date**”) the following label statements required by 15 U.S.C. §1333(a)(1), shall be displayed on the packs and cartons of the Teton varieties manufactured by WRT:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

B. WRT intends to utilize the label statement rotation option provided by 15 U.S.C. §1333(c)(2), to display the four warnings an equal number of times on the packs and cartons of each of the Teton varieties it manufactures. WRT will ensure equal use of the warning label statements by ordering equal quantities of packaging (packs and cartons) containing each of the four (4) warning label statements. The packaging will be delivered to WRT on pallets. Each pallet will contain a designated quantity of the packaging (e.g., 10,000 units) with an equal quantity of packaging on each pallet containing each of the four (4) warning statements (e.g., 2500 units with warning A, 2500 units with warning B, 2500 units with warning C and 2500 with warning D). WRT will load the packaging inventory from each pallet into the packaging machines and thus, produce finished packages containing the four health warnings in an equal number. Accordingly, the packs and cartons will be printed and distributed using an equal number of all four (4) warning labels. WRT shall maintain records accounting for the number of packs and cartons using each warning label. WRT will equalize the use of the four (4) warning labels on the packs and cartons of all seven (7) Teton varieties for the one-year period beginning on the Effective Date.

WRT’s fiscal year is the calendar year from January 1 to December 31. The annual sales volumes for fiscal year 2019 (January 1, 2019 to December 31, 2019) for the Teton varieties are set forth in Schedule A. WRT also manufactures American Bison and Nashville brand cigarettes, which are subject to separate health warning display plans approved by the FTC. The annual sales volumes for the American Bison (King box varieties) and Nashville varieties for fiscal year 2019 (January 1, 2019 to December 31, 2019) and the estimated sales volumes for American Bison (100’s box varieties) also are set forth in Schedule A. WRT does not import or manufacture any other brand of cigarettes. For fiscal year 2019, the sales volume for any one variety of cigarettes manufactured or imported by WRT did not exceed one-fourth of one percent of all cigarettes sold in the United States in that year. Further, WRT does not anticipate that the sales volume for any one variety of cigarettes it manufactures or imports for the one-year period beginning on the Effective Date shall exceed one-fourth of one percent of all cigarettes sold in the United States in that year.

The label statements required by 15 U.S.C. §1333(a)(1), shall be printed on the packaging prior to WRT’s manufacturing the Teton cigarettes. The warning labels will appear on the packs and cartons of each of the Teton No. 18 varieties and on the packs of each of the Teton No. 6 varieties exactly as they appear on the packaging submitted to the FTC with WRT’s letter dated September 14, 2018. The warning labels will appear on the cartons of the Teton No. 6 varieties exactly as they appear on the packaging submitted to the FTC with WRT’s letter dated October 5, 2018.



**III. Advertising**

WRT currently has approved advertising plans in place for Teton brand cigarettes and continues to be in compliance with those plans. WRT has a plan for the display of health warnings on certain advertisements for Teton brand cigarettes that was approved on October 26, 2018, and a plan for the display of health warnings on internet advertising for Teton brand cigarettes that was approved on July 31, 2019. Any advertising of the Teton brand cigarettes shall be conducted in accordance with the above-referenced advertising plans.

**IV. Miscellaneous**

A. Nothing herein shall be construed to require the manufacture, packaging, distribution or importation of any cigarettes during any period of time.

B. Please be advised that the sales volume information contained in this Plan is confidential and contains trade secrets and proprietary business information of WRT. WRT does not authorize the release of this sales volume information to anyone without WRT's permission, except as specifically required by law.

If you have any further questions regarding the Plan, please do not hesitate to contact me by email at [ckoenigs@ralaw.com](mailto:ckoenigs@ralaw.com) or by telephone at (202) 216-8317. As always, your prompt attention and assistance in this matter are greatly appreciated.

Sincerely,

ROETZEL & ANDRESS, LPA

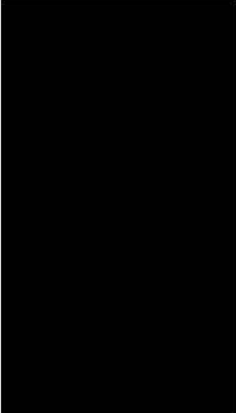
  
Craig A. Koenigs

**SCHEDULE A**

The following is a list of the American Bison (King box), Nashville and Teton cigarette varieties that WRT manufactures and the annual sales volume in cigarettes for fiscal and calendar year 2019 (January 1, 2019 to December 31, 2019) for each variety. In addition, this Schedule includes the American Bison 100's varieties for which the FTC approved a health warning display plan on July 9, 2020, and the estimated sales volume in cigarettes for the one-year period beginning on the date of approval of that plan (July 9, 2020 to July 8, 2021).

<u>Brand</u>	<u>Size / Packaging</u>	<u>Variety</u>	<u>Fiscal Year Sales Volume</u>
American Bison	King / Box	Blue (Blue Packaging) Blue (Red Packaging) Gold Yellow Green (Menthol) Dark Green (Menthol)	

<u>Brand</u>	<u>Size / Packaging</u>	<u>Variety</u>	<u>Estimated Sales Volume</u>
American Bison	100's / Box	Blue Gold Yellow Green (Menthol) Dark Green (Menthol)	

<u>Brand</u>	<u>Size / Packaging</u>	<u>Variety</u>	<u>Fiscal Year Sales Volume</u>
Nashville	Kings / Box	Red Gold Silver Green (Menthol) Black (Menthol)	
	100's / Box	Red Gold Silver Green (Menthol) Black (Menthol)	

<u>Brand</u>	<u>Size / Packaging</u>	<u>Variety</u>	<u>Fiscal Year Sales Volume</u>
Teton	Kings / Box	No. 18 Blue Kings No. 18 Yellow Kings No. 18 Green Menthol Kings	
	100's / Box	No. 6 Red 100's No. 6 Gold 100's No. 6 Green Menthol 100's No. 6 Black Menthol 100's	



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

October 14, 2020

Craig A. Koenigs, Esq.  
Roetzel & Andress, LPA  
1300 Pennsylvania Avenue NW, Suite 700  
Washington, D.C. 20004

Dear Mr. Koenigs:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan submitted on behalf of Wind River Tobacco Company, LLC (“WRT”) on October 14, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Teton brand of cigarettes.

WRT’s sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted with your letters dated September 14, 2018 and October 5, 2018 continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup> Accordingly, WRT’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following seven box varieties of the Teton brand: No. 18 Blue Kings, No. 18 Yellow Kings, No. 18 Green Menthol Kings, No. 6 Red 100’s, No. 6 Gold 100’s, No. 6 Green Menthol 100’s, and No. 6 Black Menthol 100’s.

Approval of this plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

Please note that this letter only approves WRT’s cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act (“TCA”). Moreover, it

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<sup>1</sup> Although the warnings on some of the sample cartons initially submitted were not sufficiently conspicuous, corrected samples were submitted. This approval pertains only to packaging that meets the requirements of the Cigarette Act.

<sup>2</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.



Craig A. Koenigs, Esq.

October 14, 2020

Page 2

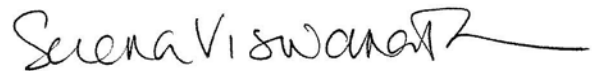
is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for WRT's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of WRT's packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

**This approval is effective on the date of this letter and runs through October 13, 2021 or until the new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact Bonnie McGregor at (202) 326-2356.

Very truly yours,



Serena Viswanathan  
Acting Associate Director

# Six Nations Manufacturing

11359 Southwestern Blvd.

Irving, New York 14081

(716) 934-5130

October 13, 2020

Ms. Serena Viswanathan  
Associate Director, Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: Cigarette Health Warning Equalization plan

Dear Ms. Viswanathan:

This letter is being submitted for the approval of the Surgeon General Warning Rotation Plans for the packaging for the Senate, Gator, Buffalo, Tribal Pride and TallChief brands. Six Nations Manufacturing's letter dated April 20, 2018 for health warning statement plans for "Senate", "Gator", "Buffalo", "Tribal Pride", "Bronco" and "Stallion" was approved on April 20, 2018. Six Nations no longer manufactures the Bronco and Stallion Brands or the Senate Non Filter King or the Senate Menthol Smooth King Brand Styles and therefore they have been dropped from this submission. The brand styles of each brand that Six Nations Manufacturing intends to sell (Senate, Gator, Buffalo, Tribal Pride TallChief) are listed and submitted as Schedule A. The Senate, Gator, Buffalo, Tribal Pride and TallChief cigarette brands are the only cigarette brands currently being manufactured by J Conrad Seneca, d.b.a. Six Nations Manufacturing. Six Nations also does not import cigarettes.

These cigarettes will be packaged in 200 count cartons ("Outer Cartons"). Each Outer Carton will contain 10 packs of 20 cigarettes each ("Pack"). The warnings will appear on the packs and cartons for the Senate, Gator, Buffalo, Tribal Pride and TallChief brands exactly as shown on the samples submitted with the letters dated April 9, 2020, June 19, 2020, and July 23, 2020. For samples that were revised and resubmitted, the warnings will appear as on the samples most recently submitted.

Ms. Viswanathan  
October 13, 2020

Page 2

Under Section 1333(c)(2) J Conrad Seneca, d.b.a. Six Nations Manufacturing will display the four surgeon general health warnings an equal number of times on the packs and cartons for each brand style of Senate, Gator, Buffalo, Tribal Pride and TallChief brands for the one year period beginning on the date of approval of this plan. Thru the date of this application, the Surgeon General Warning Labels on the packages and cartons of the Gator, Senate, Buffalo and Tribal Pride brand styles have been equalized in accordance with our previously approved plan. Six Nations Manufacturing assures the printing of an equal number of the four Warning labels produced throughout the year by working with its packaging vendors to design pre-printing layouts by purchase order in equal amounts of the four warning labels for the packs and cartons of each brand style per production run. We will keep records demonstrating compliance with this plan. The total sales for our fiscal year 2020 are estimated to be [REDACTED] cigarettes as shown in Schedule "B". J Conrad Seneca, d.b.a. Six Nations Manufacturing has attached Schedule "C" showing Actual Production volume for all the Brands that we sold in our prior fiscal year 2019.

J Conrad Seneca, d.b.a. Six Nations Manufacturing advertising plan for Senate, Gator and Buffalo brands was most recently approved on December 17, 2012. We will remain in compliance with this advertising plan. Tribal Pride and TallChief do not currently have an advertising plan but Six Nations Manufacturing will prepare one, and prior to engaging in advertising for the Tribal Pride and TallChief brand, the company will submit the advertising plan for approval.

J Conrad Seneca, d.b.a. Six Nations Manufacturing is aware of the requirements set forth by the Federal Cigarette Labeling and Advertising Act and the company's efforts are always to be fully compliant with the act. J Conrad Seneca, d.b.a. Six Nations Manufacturing will maintain records of compliance with the approved plan. If there are any questions or concerns regarding these plans, please contact David J. Spara, Controller at (716) 934-5130 ext. 110.

Sincerely,



J Conrad Seneca, Owner

Enclosures



**Native Tribal Pride**  
**Schedule A**  
**Brand Styles intended to be Sold**

**Brand Style**

Buffalo Full Flavor King Box FSC  
Buffalo Smooth King Box FSC  
Buffalo Ultra Smooth King Box FSC  
Buffalo Menthol King Box FSC  
Buffalo Menthol Smooth King Box FSC  
Buffalo Full Flavor 100's Box FSC  
Buffalo Smooth 100's Box FSC  
Buffalo Ultra Smooth 100's Box FSC  
Buffalo Menthol 100's Box FSC  
Buffalo Menthol Smooth 100's Box FSC  
Buffalo Non Filter Kings Box FSC  
Gator Full Flavor King Box FSC  
Gator Smooth King Box FSC  
Gator Ultra Smooth King Box FSC  
Gator Menthol King Box FSC  
Gator Menthol Smooth King Box FSC  
Gator Full Flavor 100's Box FSC  
Gator Smooth 100's Box FSC  
Gator Ultra Smooth 100's Box FSC  
Gator Menthol 100's Box FSC  
Gator Menthol Smooth 100's Box FSC  
Gator Non Filter King Box FSC  
Tribal Pride Robust King Box FSC  
Tribal Pride Smooth King Box FSC  
Tribal Pride Menthol King Box FSC  
Tribal Pride Robust 100's Box FSC  
Tribal Pride Smooth 100's Box FSC  
Tribal Pride Ultra Smooth 100's Box FSC  
Tribal Pride Menthol 100's Box FSC  
Tribal Pride Menthol Smooth 100's Box FSC  
Senate Full Flavor King Box FSC  
Senate Smooth King Box FSC  
Senate Menthol King Box FSC  
Senate Full Flavor 100's Box FSC  
Senate Smooth 100's Box FSC  
Senate Menthol 100's Box FSC  
TALLCHIEF FULL FLAVOR KING  
TALLCHIEF SMOOTH KING  
TALLCHIEF MENTHOL KING  
TALLCHIEF FULL FLAVOR 100  
TALLCHIEF SMOOTH 100  
TALLCHIEF MENTHOL 100

---

**Native Tribal Pride  
Schedule B  
Estimated Stick Sales for 2020**

Brand Style	Total Sticks Sold
Buffalo Full Flavor King Box FSC	
Buffalo Smooth King Box FSC	
Buffalo Ultra Smooth King Box FSC	
Buffalo Menthol King Box FSC	
Buffalo Menthol Smooth King Box FSC	
Buffalo Full Flavor 100's Box FSC	
Buffalo Smooth 100's Box FSC	
Buffalo Ultra Smooth 100's Box FSC	
Buffalo Menthol 100's Box FSC	
Buffalo Menthol Smooth 100's Box FSC	
Buffalo Non Filter Kings Box FSC	
Gator Full Flavor King Box FSC	
Gator Smooth King Box FSC	
Gator Ultra Smooth King Box FSC	
Gator Menthol King Box FSC	
Gator Menthol Smooth King Box FSC	
Gator Full Flavor 100's Box FSC	
Gator Smooth 100's Box FSC	
Gator Ultra Smooth 100's Box FSC	
Gator Menthol 100's Box FSC	
Gator Menthol Smooth 100's Box FSC	
Gator Non Filter King Box FSC	
Tribal Pride Robust King Box FSC	
Tribal Pride Smooth King Box FSC	
Tribal Pride Menthol King Box FSC	
Tribal Pride Robust 100's Box FSC	
Tribal Pride Smooth 100's Box FSC	
Tribal Pride Ultra Smooth 100's Box FSC	
Tribal Pride Menthol 100's Box FSC	
Tribal Pride Menthol Smooth 100's Box FSC	
Senate Full Flavor King Box FSC	
Senate Smooth King Box FSC	
Senate Menthol King Box FSC	
Senate Full Flavor 100's Box FSC	
Senate Smooth 100's Box FSC	
Senate Menthol 100's Box FSC	
TALLCHIEF FULL FLAVOR KING	
TALLCHIEF SMOOTH KING	
TALLCHIEF MENTHOL KING	
TALLCHIEF FULL FLAVOR 100	
TALLCHIEF SMOOTH 100	
TALLCHIEF MENTHOL 100	
Total Sticks	

**Native Tribal Pride  
Schedule C  
Sticks sold by Brand Style 2019**

Brand Style	Total Sticks Sold
Buffalo Full Flavor King Box FSC	
Buffalo Smooth King Box FSC	
Buffalo Ultra Smooth King Box FSC	
Buffalo Menthol King Box FSC	
Buffalo Menthol Smooth King Box FSC	
Buffalo Full Flavor 100's Box FSC	
Buffalo Smooth 100's Box FSC	
Buffalo Ultra Smooth 100's Box FSC	
Buffalo Menthol 100's Box FSC	
Buffalo Menthol Smooth 100's Box FSC	
Buffalo Non Filter Kings Box FSC	
Bronco Menthol Gold King Box FSC	
Bronco Red 100's Box FSC	
Bronco Gold 100's Box FSC	
Bronco Silver 100's Box FSC	
Bronco Menthol 100's Box FSC	
Bronco Menthol Gold 100's Box FSC	
Gator Full Flavor King Box FSC	
Gator Smooth King Box FSC	
Gator Ultra Smooth King Box FSC	
Gator Menthol King Box FSC	
Gator Menthol Smooth King Box FSC	
Gator Full Flavor 100's Box FSC	
Gator Smooth 100's Box FSC	
Gator Ultra Smooth 100's Box FSC	
Gator Menthol 100's Box FSC	
Gator Menthol Smooth 100's Box FSC	
Gator Non Filter King Box FSC	
Tribal Pride Robust King Box FSC	
Tribal Pride Smooth King Box FSC	
Tribal Pride Menthol King Box FSC	
Tribal Pride Robust 100's Box FSC	
Tribal Pride Smooth 100's Box FSC	
Tribal Pride Ultra Smooth 100's Box FSC	
Tribal Pride Menthol 100's Box FSC	
Tribal Pride Menthol Smooth 100's Box FSC	
Senate Full Flavor King Box FSC	
Senate Smooth King Box FSC	
Senate Menthol King Box FSC	
Senate Full Flavor 100's Box FSC	
Senate Smooth 100's Box FSC	
Senate Menthol 100's Box FSC	
Stallion Full Flavor Red 100's Box FSC	
Stallion Menthol 100's Box FSC	
TALLCHIEF FULL FLAVOR KING	
TALLCHIEF SMOOTH KING	
TALLCHIEF MENTHOL KING	
TALLCHIEF FULL FLAVOR 100	
TALLCHIEF SMOOTH 100	
TALLCHIEF MENTHOL 100	
Total Sticks	



Selected packaging samples from those  
submitted with the plan.

**SURGEON GENERAL'S WARNING:**  
Cigarette Smoke Contains  
Carbon Monoxide.

MADE IN USA

# BUFFALO



# BUFFALO

KINGS ULTRA SMOOTH

CTP0618 15/1  
#69682 160-01  
KBA

MADE IN USA

15

# BUFFALO



CLASS A CIGARETTES



MADE IN USA

KINGS ULTRA SMOOTH

# BUFFALO



PRODUCED BY  
SIX NATIONS  
MANUFACTURING  
ON SOVEREIGN  
ONONDOWA'GA'  
TERRITORY.

MADE IN USA



CLASS A CIGARETTES

UNDERAGE  
SALE  
PROHIBITED  
TP-NY-15033





8 13065 01016 3

# BUFFALO<sup>®</sup>

100s FULL FLAVOR



PREMIUM BLENDED TOBACCO



# BUFFALO<sup>®</sup>

MADE IN USA

**SURGEON GENERAL'S WARNING:**  
Smoking By Pregnant Women May  
Result in Fetal Injury, Premature  
Birth, And Low Birth Weight.

# BUFFALO<sup>®</sup>

100s FULL FLAVOR

200 CLASS A  
CIGARETTES  
UNDERAGE SALE  
PROHIBITED  
PRODUCED BY SIX NATIONS  
MANUFACTURING ON SOVEREIGN  
ONONDOWA/GA. TERRITORY.  
TP-NY-15033

# GATOR™



100's  
MENTHOL

MADE IN USA

**SURGEON GENERAL'S WARNING:**  
Quitting Smoking Now Greatly  
Reduces Serious Risks to Your Health.

**GATOR™**

PRODUCED BY S.W. WATKINS, TAMPA, FLORIDA  
A DIVISION OF WATKINS OF THE SEVENTH  
FEDERATION OF THE SEVENTH  
LAWYERS  
11-21-1988  
11-21-1988



6N-FS-01075  
OS

MADE IN USA  
**GATOR™**  
100's

MENTHOL BOX

043037  
M&B

MADE IN USA

100's  
MENTHOL



# GATOR™

BOX

20  
CLASS A CIGARETTES

MADE IN USA  
**GATOR™**  
100's

MENTHOL BOX

16

UNDERAGE  
SALE  
PROHIBITED

20  
CLASS A CIGARETTES

BOX

CLASS A  
20  
CIGARETTES



6N-FS-01070



MADE IN USA

# GATOR

SMOOTH

100'S

CTP0618 1/1  
#69676 160-04\_KBA

**SURGEON GENERAL'S WARNING:**  
Cigarette Smoke  
Contains Carbon Monoxide.

# GATOR

200 CLASS A CIGARETTES

SMOOTH

100'S

BOX



# GATOR

200 CLASS A CIGARETTES

BOX

SMOOTH

1,001

# GATOR

200 CLASS A CIGARETTES

200



SIX NATIONS  
MANUFACTURING  
A NATIVE COMPANY ON THE SOVEREIGN  
TERRITORY OF THE SENECA NATION  
Underage Sale Prohibited



6N-FS-01155  
CM

15



T R I B A L  
**PRIDE**



T R I B A L  
**PRIDE**



T R I B A L  
**PRIDE**

A FULL BODIED  
MENTHOL FLAVOR

MADE IN USA

T R I B A L  
**PRIDE**

MADE IN USA

A FULL BODIED  
MENTHOL FLAVOR

SURGEON GENERAL'S WARNING:  
Cigarette Smoke Contains Carbon Monoxide.

CTP0618 15/1  
#69690 160-01  
KBA



TP-NY-15033  
20  
CLASS A  
CIGARETTES



MADE IN USA

MADE IN USA

T  
R  
I  
B  
A  
L

**PRIDE**

A ROBUST FULL BODIED FLAVOR



6N-FS-01150 PW

**SURGEON GENERAL'S WARNING:**  
Smoking By Pregnant Women May  
Result in Fetal Injury, Premature  
Birth, And Low Birth Weight.



MADE IN USA

T  
R  
I  
B  
A  
L  
**PRIDE**

A ROBUST  
FULL BODIED FLAVOR



A ROBUST FULL BODIED FLAVOR

**PRIDE**



MADE IN USA



**PRIDE**

TRIBAL

CLASS A  
20  
CIGARETTES



# SENATE

Box

Full Flavor  
100's  
Filter Cigarettes

**SURGEON GENERAL'S WARNING:**  
Smoking Causes Lung Cancer, Heart Disease,  
Emphysema, And May Complicate Pregnancy.

6N-FS-01018  
LC

# SENATE

100's Box  
Full Flavor

Filter Cigarettes  
100's  
Full Flavor

CT50919 10/1  
#75805 160-03  
KBA

10

# SENATE

Box



Made in USA  
\*\*\*

# SENATE

100's Box  
Full Flavor



UNDERAGE  
SALE  
PROHIBITED

\*\*\*  
Made in USA

MADE IN USA  
TP-NY-15033



# SENATE

Box

Menthol  
Kings

200 CLASS A FILTER CIGARETTES

# SENATE

Menthol  
Kings Box

**SURGEON GENERAL'S WARNING:**  
Smoking By Pregnant Women May  
Result in Fetal Injury, Premature  
Birth, And Low Birth Weight.

FSC



# SENATE

Box

Menthol  
Kings

200 CLASS A FILTER CIGARETTES



Made in USA

Made in USA

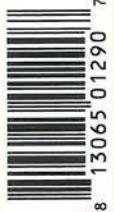
Kings

**SURGEON GENERAL'S WARNING:**  
Smoking Causes Lung Cancer,  
Heart Disease, Emphysema, And  
May Complicate Pregnancy.



**TALLCHIEF**  
20 CLASS A CIGARETTES

PRODUCED BY SIX NATIONS MANUFACTURING,  
A NATIVE COMPANY ON THE SOVEREIGN  
TERRITORY OF THE SENECA NATION.  
MADE IN USA TP-NY-15033



LC  
6N-FS-01290

**TALLCHIEF**  
20 CLASS A CIGARETTES  
KING SMOOTH BOX

CTP1118 1/1  
#71783 160-01  
KBA

**TALLCHIEF**  
20 CLASS A CIGARETTES



AMERICAN MADE  
SMOOTH



**TALLCHIEF**  
20 CLASS A CIGARETTES  
KING SMOOTH BOX



20 CLASS A  
CIGARETTES

AMERICAN MADE  
SMOOTH



UNDERAGE  
SALE  
PROHIBITED



6N-FS-01294 CM



# TALLCHIEF

## 200 CLASS A CIGARETTES

KING

AMERICAN MADE  
MENTHOL

BOX



# TALLCHIEF

## 200 CLASS A CIGARETTES

KING

MENTHOL

BOX



SURGEON GENERAL'S  
WARNING:  
Cigarette Smoke Contains  
Carbon Monoxide.

BOX

AMERICAN MADE  
MENTHOL

KING

## 200 CLASS A CIGARETTES

# TALLCHIEF



# TALLCHIEF



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

October 15, 2020

Mr. J. Conrad Seneca  
Six Nations Manufacturing  
11359 Southwestern Blvd.  
Irving, NY 14081

Dear Mr. Seneca:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed by J. Conrad Seneca d/b/a Six Nations Manufacturing (“Six Nations”) on October 13, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Buffalo, Gator, Senate, Tall Chief, and Tribal Pride brands of cigarettes.

Six Nations’ sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted on April 9, June 19, and July 23, 2020 appear to meet the requirements of the Cigarette Act in force as of the date of this letter:<sup>1</sup>

Accordingly, Six Nations’ plan for simultaneous display of the four health warnings on packaging is hereby approved for the following varieties:

- Eleven box varieties of the Buffalo brand: Full Flavor (Kings and 100’s), Smooth (Kings and 100’s), Ultra Smooth (Kings and 100’s), Menthol (Kings and 100’s), Menthol Smooth (Kings and 100’s), and Non-Filter Kings;
- Eleven box varieties of the Gator brand: Full Flavor (Kings and 100’s), Smooth (Kings and 100’s), Ultra Smooth (Kings and 100’s), Menthol (Kings and 100’s), Menthol Smooth (Kings and 100’s), and Non-Filter Kings;
- Six box varieties of the Senate brand: Full Flavor (Kings and 100’s), Smooth (Kings and 100’s), Menthol (Kings and 100’s);

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<sup>1</sup> Although some of the warnings previously submitted did not meet the size requirements of the Cigarette Act, corrected samples were submitted. This approval pertains only to packaging that meets the requirements of the Cigarette Act.

Mr. J. Conrad Seneca

October 15, 2020

Page 2

- Six box varieties of the Tall Chief brand: Full Flavor (Kings and 100's), Smooth (Kings and 100's), Menthol (Kings and 100's); and
- Eight box varieties of the Tribal Pride brand: Robust (Kings and 100's), Smooth (Kings and 100's), Menthol (Kings and 100's), Menthol Smooth 100's, and Ultra Smooth 100's.

Approval of Six Nations' plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

If Six Nations decides to advertise the Tall Chief or Tribal Pride brands in the future, it must submit a plan detailing how it will comply with the requirements of the Cigarette Act with respect to display of the health warning statements in advertisements.

Please note that this letter only approves Six Nations' cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for Six Nations' cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Six Nations' packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

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<sup>2</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

Mr. J. Conrad Seneca

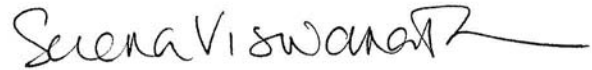
October 15, 2020

Page 3

**This approval is effective on the date of this letter and runs through October 14, 2021 or until the new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact Bonnie McGregor at (202) 326-2356.

Very truly yours,

A handwritten signature in black ink that reads "Serena Viswanathan" followed by a long, sweeping horizontal line.

Serena Viswanathan  
Acting Associate Director



**BEN FENNER**  
401 9<sup>TH</sup> STREET, NW, SUITE 700  
Washington, DC 20004  
T: (202) 450-4887  
F: (202) 450-5106  
E: [bfenner@ndnlaw.com](mailto:bfenner@ndnlaw.com)  
[www.ndnlaw.com](http://www.ndnlaw.com)

October 14, 2020

**Via email to: [bmcgregor@ftc.gov](mailto:bmcgregor@ftc.gov)**

Serena Viswanathan, Acting Associate Director  
Federal Trade Commission  
Division of Advertising Practices  
600 Pennsylvania Ave, NW  
Washington, DC 20580

**Re: Plan for Compliance with the Federal Cigarette Labeling and Advertising Act for Thompson Deer Management Group, LLC**

Dear Ms. Viswanathan:

Our firm represents Thompson Deer Management Group, LLC (TDMG), a distributor of cigarettes contract manufactured by Seneca Manufacturing Company (SMC) under the authority of the Alcohol & Tobacco Tax and Trade Bureau (Manufacturer of Tobacco Products License TP-NY-15007). As a contract manufacturer, SMC is manufacturing these cigarettes at the direction of TDMG. The chairman of TDMG is Vance Thompson. The business address for TDMG is 134 Racquette Point Road, Hogansburg, NY 13655.

Please find enclosed TDMG's submission of its warning plan for the Deer brand of cigarette pursuant to 15 U.S.C. § 1331 et. seq. (FCLAA).

**I. PACKAGING**

This section addresses the plan for compliance with respect to the "Packaging" requirements of the FCLAA with regards to Deer, including a discussion of the warning label size and location, the warning label equalization, and records of compliance.

**A. Warning Label Size and Location**

TDMG seeks approval of the following brand styles of the Deer brand manufactured in the United States for TDMG by Seneca Manufacturing Company:



Deer Red Kings Hard Pack  
Deer Blue Kings Hard Pack  
Deer Green Kings Hard Pack

ALL WARNINGS WILL APPEAR EXACTLY AS SHOWN ON THE SAMPLES SUBMITTED WITH SENECA MANUFACTURING COMPANY'S AUGUST 6, 2020 LETTER CONTAINING SAMPLE PACKAGING FOR THE DEER BRAND OF CIGARETTES.

**B. Warning Label Rotation: 1332(c)(2) Election**

TDMG wishes to employ the option for simultaneous display of the four health warnings by displaying the four required warning labels an equal number of times on the packages and cartons of each of the foregoing brand styles of the Deer brand for the one year period beginning on the date of approval of this plan.

TDMG has not sold Deer in the past. TDMG does not manufacturer or import any other brands of cigarettes. It anticipates that any volume of the Deer brand of cigarettes listed herein which are manufactured and sold in any single fiscal year will not exceed [REDACTED] sticks (i.e. [REDACTED] cartons containing 200 cigarettes each) for any single brand style.

TDMG will comply with the FCLAA by having its supplier for packaging for the Deer brand, Ketmoy Printing, print the four surgeon general warnings simultaneously in equal numbers at a time of both the pack and carton print runs. The four warnings will be displayed on the packs and cartons of each brand style of the Deer brand an equal number of times during the one year period following the date of approval of this plan by the Federal Trade Commission. TDMG will keep records demonstrating compliance with this plan.

According to the foregoing formula, a company may choose to equalize when (1) the company's annual sales of that brand style were less than one-fourth (1/4<sup>th</sup>) of one percent (1%) of all of the cigarettes sold in the United States in the previous fiscal year and (2) more than half of the cigarettes manufactured or imported by that company are packaged into brand styles that meet this low sales threshold.

Based on the lack of past sales and anticipated future sales volume, it seems that each of the forgoing brand styles qualifies for warning label equalization as our sales of each brand style were less than one-fourth (1/4<sup>th</sup>) of one percent (1%) of all of the cigarettes sold in the United States.

**C. Records of Compliance**

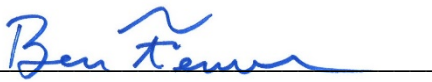
TDMG will maintain records demonstrating compliance with this plan at its principal place of business.

## II. ADVERTISING

TDMG does not at this time intend to advertise the Deer brand of cigarettes. TDMG will submit a plan for advertising to FTC prior to engaging in any advertising.

Thank you for your prompt attention to this matter and for your assistance. If you have any questions or comments with respect to any of the foregoing, please do not hesitate to contact me.

Sincerely,  
PEEBLES KIDDER BERGIN & ROBINSON

By:   
Ben Fenner, Esq.

Cc: William Ducklow (wducklow@ftc.gov)

Selected packaging samples from those  
submitted with the plan.



SURGEON GENERAL'S WARNING:  
Quitting Smoking Now Greatly  
Reduces Serious Risks to Your Health.



MADE IN THE USA  
TP - NY-15007



FSC

M

**DEER** **RED**  
OSKENON:TON



**DEER**  
OSKENON:TON

KING SIZE

**DEER** **RED**  
OSKENON:TON

**DEER**  
OSKENON:TON

KING SIZE

UNDERAGE  
SALE  
PROHIBITED

**BLUE**

**KING SIZE**

**DEER**<sup>TM</sup>

OSKENON:TON

**SURGEON GENERAL'S WARNING:**  
Smoking Causes Lung Cancer, Heart Disease,  
Emphysema, And May Complicate Pregnancy.

MADE IN THE USA  
TP - NY-15007

FSC



**200 CLASS A CIGARETTES**



**DEER**<sup>TM</sup>

OSKENON:TON

**BLUE**

**KING SIZE**

**UNDERAGE SALE PROHIBITED**

**DEER**<sup>TM</sup>

OSKENON:TON

**BLUE**

**KING SIZE**

**UNDERAGE SALE PROHIBITED**

**200 CLASS A CIGARETTES**

**KING SIZE**



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

October 20, 2020

Ben Fenner, Esq.  
Peebles Kidder  
401 9<sup>th</sup> Street, Suite 700  
Washington, DC 20004

Dear Mr. Fenner:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed on behalf of Thompson Deer Management Group, LLC (“TDMG”) on October 14, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Deer brand of cigarettes.

TDMG’s sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted on August 6, 2020 appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup> Accordingly, TDMG’s plan for simultaneous display of the four health warnings on packaging for the following three hard pack varieties of the Deer brand is hereby approved: Red Kings, Blue Kings, and Green Kings.

Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

If TDMG decides to advertise in the future, it must submit a plan detailing how it will comply with the requirements of the Cigarette Act with respect to display of the health warning statements in advertisements.

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<sup>1</sup> TDMG stated in its October 14, 2020 letter that the four health warnings will appear exactly as shown on the sample packs and cartons submitted on this date.

<sup>2</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.



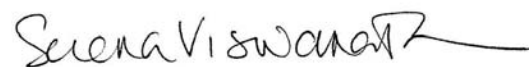
Please note that this letter only approves TDMG's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging for TDMG's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of TDMG's packaging under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

**This approval is effective on the date of this letter and runs through October 19, 2021 or until new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact William Ducklow at (202) 326-2407.

Very truly yours,



Serena Viswanathan  
Acting Associate Director



Melanie Holloway  
Senior Counsel

October 21, 2020

*Via Email Only*

Ms. Serena Viswanathan  
Acting Director  
U.S. Federal Trade Commission  
Bureau of Consumer Protection  
Division of Advertising Practices  
600 Pennsylvania Avenue, N.W., CC-10528  
Washington, D.C. 20580

RE: Philip Morris USA Inc. Warning Rotation Plan for HeatSticks Products

Dear Ms. Viswanathan:

On September 13, 2019, the Federal Trade Commission (“FTC”) approved Philip Morris USA Inc.’s (“PM USA”) warning rotation plan for display of warnings on advertising for Marlboro HeatSticks and for display of warnings on packaging for two varieties of Marlboro HeatSticks (Non-menthol and Smooth Menthol) sold in packs only. On November 13, 2019, FTC approved PM USA’s warning rotation plan for display of warnings on packs for one additional variety of Marlboro HeatSticks (Fresh Menthol) and display of warnings on cartons for Non-menthol, Smooth Menthol, and Fresh Menthol varieties of Marlboro HeatSticks. Marlboro HeatSticks are for use exclusively with the IQOS tobacco heating system. Pursuant to section 4 of the Federal Cigarette Labeling and Advertising Act (“FCLAA”) (15 U.S.C. § 1333), PMUSA seeks approval of this warning rotation plan for the revised packs and the revised and new cartons of the three varieties of HeatSticks listed in the chart below, which are updated names for the three authorized Marlboro HeatSticks variants<sup>1</sup>. Blue Menthol is the new style name for the Fresh Menthol variant. Green Menthol is the new style name for Smooth Menthol variant. Amber is the new style name for Non-menthol (silver pack) variant. We anticipate that these varieties will be in the market concurrently until the former style names sell through at retail, which we anticipate to be approximately six months after the new style names enter the market.

As described in our previously approved warning rotation plan, the FDA’s order authorizing the marketing of Marlboro HeatSticks, Marlboro Fresh Menthol HeatSticks and Marlboro Smooth Menthol HeatSticks, requires the removal of the Surgeon General’s carbon monoxide warning. Consistent with FCLAA’s requirements and FDA’s marketing order, PM USA plans to rotate the required warning statements quarterly on packs and cartons for the three brand styles of HeatSticks listed below in accordance with the following schedule (which is identical to the schedule approved on September 13, 2019 and November 13, 2019), based on the date on which the products are packaged:

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<sup>1</sup>See Marketing Order, dated April 30, 2019 authorizing the marketing and sale of three varieties of Marlboro HeatSticks.

HeatSticks Brand	Styles	Q2 2020 (Apr-Jun)	Q3 2020 (July-Sept)	Q4 2020 (Oct-Dec)	Q1 2021 (Jan-March)	Q2 2021 (Apr-Jun)	Q3 2021 (Jul-Sept)
MARLBORO	Blue Menthol						
	Green Menthol						
	Amber	C	A	B	C	A	B

Statement rotation sequence will continue in the pattern established for subsequent years.

Marlboro brand HeatSticks are available in one size, 45 millimeters, and in hard packs only. All varieties of Marlboro HeatSticks will be sold in packs and 2 different cartons (a 1X10 pack configuration and a 2X5 pack configuration). The 1X10 pack configuration is the same size as the cartons the FTC approved by letter dated November 13, 2019. The 2X5 pack configuration is new. Each carton will contain 10 packs of HeatSticks.

The warnings are as follows:

A	<b>SURGEON GENERAL'S WARNING:</b> Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.
B	<b>SURGEON GENERAL'S WARNING:</b> Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.
C	<b>SURGEON GENERAL'S WARNING:</b> Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

PM USA will maintain records that show compliance with this warning rotation plan. For each product referenced above, we provided sample packaging displaying each of the warning statements as enclosures to our letter dated June 8, 2020. The warning statements will appear exactly as shown on the samples provided on that date.

PM USA's warning rotation plan for advertising dated September 10, 2019 and approved by the Federal Trade Commission via letter dated September 13, 2019 indicates that our largest advertisement will not exceed 14 square feet. PM USA now intends to use advertisements inside retail stores that are greater than 14 square feet, but do not exceed 25 square feet.

As previously agreed, for all advertising for HeatSticks, including advertising for the IQOS system, PM USA will use the warning statement formats that were submitted to the Federal Trade Commission with the 1985 Plans of the five leading U.S. cigarette manufacturers (including PM USA). The warnings will follow the quarterly rotation sequence previously approved and will exclude the carbon monoxide warning. PM USA will maintain records that show compliance with this warning rotation plan.

October 21, 2020

Page 2 of 2

If you require additional information, please do not hesitate to contact me at (804) 307-7769 or by email at [Melanie.C.Holloway@altria.com](mailto:Melanie.C.Holloway@altria.com).

Sincerely,

/Melanie C. Holloway/

Melanie C. Holloway

Enclosures

cc: Ms. Bonnie McGregor (by email only)

Mr. Darren C. Broughton (by email only)

Selected packaging samples from those  
submitted with the plan.



DO NOT LIGHT:  
TO BE USED ONLY WITH  
IQOS®

Marlboro

UNDERAGE  
SALE  
PROHIBITED

1-877-  
6ET-1005

AMBER

HEATSTICKS®

SURGEON GENERAL'S WARNING:  
Smoking Causes Lung Cancer, Heart Disease,  
Emphysema, And May Complicate Pregnancy.

**WARNING: This product  
contains nicotine. Nicotine is  
an addictive chemical.**

USA MLB  
IDC 05  
2x4 (11/1)



MFD. FOR  
PHILIP MORRIS USA  
RICHMOND, VA 23261  
MADE IN ITALY

**WARNING: This product  
contains nicotine. Nicotine is  
an addictive chemical.**

20 CLASS A  
CIGARETTES

PLEASE  
DON'T LITTER

Designed for  
IQOS®

AMBER

HEATSTICKS®



DO NOT LIGHT:  
TO BE USED ONLY WITH  
IQOS®

USA-DC-1x10  
IDC 01  
RW2  
1x1 F2/3

**WARNING: This product contains nicotine.  
Nicotine is an addictive chemical.**

GREEN MENTHOL

UNDERAGE SALE PROHIBITED

SURGEON GENERAL'S WARNING:  
Quitting Smoking Now Greatly Reduces  
Serious Risks to Your Health.

HEATSTICKS®

DO NOT LIGHT:  
TO BE USED ONLY WITH  
IQOS®

# Marlboro

GREEN MENTHOL

Designed for  
IQOS®

**WARNING: This product contains nicotine.  
Nicotine is an addictive chemical.**



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

October 28, 2020

Ms. Melanie C. Holloway  
Senior Counsel  
Altria Client Services, LLC  
6603 West Broad Street  
Richmond, VA 23230

Dear Ms. Holloway:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, Philip Morris USA Inc.’s (“PM USA”) September 10, 2019 cigarette health warning display plan was approved on September 13, 2019 for Marlboro “HeatSticks,” which are part of and used exclusively with the IQOS “Tobacco Heating System.”<sup>1</sup> That plan provided for quarterly rotation of health warnings in advertising up to fourteen square feet in size, and for quarterly rotation of the warnings on packs for two varieties of Marlboro “HeatSticks.” Your November 12, 2019 plan for rotation of the warnings on cartons for two varieties of Marlboro “HeatSticks,” and on packs and cartons for a third variety was approved on November 13, 2019.

By letter dated October 21, 2020, you now propose to: (1) expand your plan for quarterly rotation of the health warnings in advertising for Marlboro “HeatSticks” to include advertisements up to 25 square feet in size; (2) modify the packaging and change the names of three varieties of Marlboro “HeatSticks”; and (3) expand your plan for quarterly rotation of the warnings on packaging to include an additional carton size for three varieties.

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<sup>1</sup> On April 30, 2019, the U.S. Food and Drug Administration (“FDA”) authorized the marketing of the IQOS Tobacco Heating System, including Marlboro “HeatSticks,” pursuant to Section 910(b) of the Food, Drug, and Cosmetics Act. The Marlboro “HeatSticks” were authorized as “cigarettes.” Among other things, FDA’s marketing order requires that the Cigarette Act warnings must appear on each package and advertisement, but specifically requires removal of the carbon monoxide warning from the required warnings to be displayed. Accordingly, the submitted expansion of PM USA’s warning plan provides for the display of the three Cigarette Act warning statements required under FDA’s marketing order.

PM USA's plan for quarterly rotation of the warnings in the aforementioned advertising for Marlboro "HeatSticks," including such advertising for the Marlboro IQOS system, is hereby approved. Approval of the plan assumes that the plan is implemented in good faith.

Your October 21, 2020 letter proposes to modify the packaging and change the names of the varieties of Marlboro "HeatSticks" as follows:

<u>Previous Name</u>	<u>New Name</u>
Non-Menthol	Amber
Smooth Menthol	Green Menthol
Fresh Menthol	Blue Menthol

It appears that the health warnings on the modified packs and cartons for the re-named varieties submitted with your letter dated June 8, 2020 continue to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>2</sup>

Lastly, your October 21, 2020 letter proposes to expand your plan to include quarterly rotation of the health warnings on "2x5 pack" cartons for the three re-named varieties. The warnings on the sample "2x5 pack" cartons for the Amber, Green Menthol, and Blue Menthol varieties of Marlboro "HeatSticks" submitted with your June 8, 2020 letter appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness. Accordingly, PM USA's plan for quarterly rotation of the health warnings on "2x5 pack" cartons for the 45 mm hard-pack Amber, Green Menthol, and Blue Menthol varieties of Marlboro "HeatSticks" is hereby approved effective on the date of this letter.

Approval of PM USA's plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>3</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

Please note that this letter only approves PM USA's modification and expansion of its cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA") and expires at such time new health warnings required under the TCA take

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<sup>2</sup> PM USA stated in its October 21, 2020 letter that the health warnings will appear exactly as shown on the packs and cartons submitted on June 8, 2020. PM USA also stated in its October 21, 2020 letter that it intends to run out its existing inventory of approved packaging for Marlboro "HeatSticks."

<sup>3</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

Ms. Melanie C. Holloway

October 28, 2020

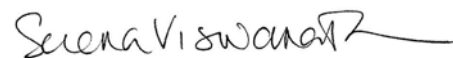
Page 3

effect. Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for PM USA's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of PM USA's packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010), FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020), or any requirement for Marlboro "HeatSticks" pursuant to FDA's marketing order.

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

If you have any questions regarding this approval, please contact Bonnie McGregor at (202) 326-2356.

Very truly yours,



Serena Viswanathan  
Acting Associate Director





2600 Business Parkway, Suite 300

Yakima, WA 98903

509-361-1623

VIA EMAIL

November 19, 2020

Ms. Mary K. Engle  
Associate Director  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Maildrop CC-10528  
Washington, DC 20580

*RE: Lone Warrior Holdings, Inc. – Request for Renewal of Health Warning Rotation Plan for Rainier and Yakama Brands*

Dear Ms. Engle:

Lone Warrior Holdings, Inc. is requesting approval to renew its plan for the simultaneous display of the four health warnings on all varieties of the Rainier and Yakama brands, which are sold in hard pack packaging. The Rainier and Yakama brands are manufactured in the United States for Lone Warrior Holdings, Inc. by Jacobs Tobacco Company. Upon approval of this plan, the contract manufacturer will manufacture these cigarettes under the authority of the Alcohol and Tobacco Tax and Trade Bureau (TTB Permit No. TP-NY-15047). Lone Warrior Holdings, Inc. does not have any other cigarette brands manufactured under contract and does not manufacture any other cigarette brands itself. Lone Warrior Holdings, Inc. does not import any cigarettes into the United States.

The four health warnings will appear exactly as shown on the sample packs and cartons that were enclosed in our August 16, 2019, submission.

Lone Warrior Holdings, Inc. will display the four health warnings an equal number of times on the packs and cartons for each of the brand styles listed below of the Rainier and Yakama brands for the one-year period beginning on the date of approval of this plan. Lone Warrior Holdings, Inc. will achieve equalization of the four warnings on the packs and cartons of each brand style listed below through its printing process. The contract printer will print four (4) cartons to a sheet



2600 Business Parkway, Suite 300

Yakima, WA 98903

509-361-1623

– each carton on the sheet will have a different one of the four health warnings. Similarly, the contract printer will print sixteen (16) packs to a sheet with four (4) of each of the health warnings repeated four (4) times. Every print run of cartons and packs will therefore have an equal distribution of health warnings and, accordingly, Lone Warrior Holdings, Inc.’s contract manufacturer’s print runs will have an equal distribution of health warnings. Lone Warrior Holdings Inc. will keep records demonstrating compliance with the plan. The warnings on all packs and cartons of the Rainier and Yakama brands have been equalized to date.

<b>Rainier Product Name</b>	<b>Yakama Product Name</b>
Rainier Blue 100’s	Yakama Blue 100’s
Rainier Gold 100’s	Yakama Gold 100’s
Rainier Menthol 100’s	Yakama Menthol 100’s
Rainier Menthol Gold 100’s	Yakama Menthol Gold 100’s
Rainier Red 100’s	Yakama Red 100’s
Rainier Blue Kings	Yakama Blue Kings
Rainier Gold Kings	Yakama Gold Kings
Rainier Menthol Kings	Yakama Menthol Kings
Rainier Menthol Gold Kings	Yakama Menthol Gold Kings
Rainier Red Kings	Yakama Red Kings

The four warnings that will be displayed are:

1. SURGEON GENERAL’S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.
2. SURGEON GENERAL’S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.
3. SURGEON GENERAL’S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.
4. SURGEON GENERAL’S WARNING: Cigarette Smoke Contains Carbon Monoxide.

Lone Warrior Holdings, Inc. will continue to comply with the advertising rotation plan previously approved.

Lone Warrior Holdings, Inc.’s fiscal year is the calendar year. In fiscal year 2019 Lone Warrior Holdings Inc.’s sold [REDACTED] cigarettes, all of which were of the Rainier and Yakama brands. To date, in fiscal year 2020, Lone Warrior’s has sold [REDACTED] cigarettes, all of which were of



2600 Business Parkway, Suite 300

Yakima, WA 98903

509-361-1623

the Rainier and Yakama brands. Lone Warrior anticipates selling approximately [REDACTED] cigarettes for the Rainier and Yakama brands in fiscal year 2021.

We submit that the foregoing complies with 15 U.S.C. §§ 1331-1341, and request approval of this plan. If there are any questions or concerns regarding this plan, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Kevin James'.

Lone Warrior Holdings, Inc.

By: Kanim James, Vice President

P.O. Box 188

Harrah, WA 98933

Telephone: (509) 361-1623

Email: [kanim@lonewarrior.net](mailto:kanim@lonewarrior.net)



Division of  
Advertising Practices

United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

November 19, 2020

Mr. Kanim James  
Lone Warrior Holdings, Inc.  
P.O. Box 188  
Harrah, WA 98933

Dear Mr. James:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed by Lone Warrior Holdings, Inc. (“Lone Warrior”) on November 19, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Rainier and Yakama brands of cigarettes.

Lone Warrior’s sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted with your August 16, 2019 letter continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup>

Accordingly, Lone Warrior’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following varieties:

- Ten hard pack varieties of the Rainier brand: Red (Kings and 100’s), Blue (Kings and 100’s), Gold (Kings and 100’s), Menthol (Kings and 100’s), and Menthol Gold (Kings and 100’s); and
- Ten hard pack varieties of the Yakama brand: Red (Kings and 100’s), Blue (Kings and 100’s), Gold (Kings and 100’s), Menthol (Kings and 100’s), and Menthol Gold (Kings and 100’s).

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<sup>1</sup> Lone Warrior stated in its November 19, 2020 plan that the four health warnings will appear exactly as shown on the packs and cartons submitted on August 16, 2019.

Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

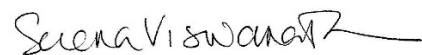
Please note that this letter only approves Lone Warrior's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for Lone Warrior's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Lone Warrior's packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

**This approval is effective on the date of this letter and runs through November 18, 2021 or until new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact Bonnie McGregor at (202) 326-2356.

Very truly yours,



Serena Viswanathan  
Acting Associate Director

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<sup>2</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.



LAW OFFICES OF  
**BARRY M. BOREN**

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November 16, 2020

Ms. Serena Viswanathan, Associate Director  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., #CC-10528  
Washington, D.C. 20580

Attention: Ms. Bonnie McGregor

Surgeon General's Warning Rotation Plan  
for Signal, Great Country, and Niagara's and  
Billboard and Internet Advertising Plan  
Great Country and Niagara's Cigarettes for  
Ohserase Manufacturing, LLC

Dear Ms. Viswanathan:

Please be advised that we are the attorneys for Ohserase Manufacturing, LLC ("Ohserase"), a New York limited liability corporation, with offices located at 393 Frogtown Rd., Hogansburg, New York 13655. The mailing address is P.O. Box 1221, Hogansburg, New York 13655 and the phone number is (513) 358-4229. Ohserase wishes to file a Surgeon General's Warning Rotation Plan for advertising for their Great Country and Niagara's cigarettes<sup>1</sup> and a packaging health warning Equalization Plan for their Signal, Great Country, and Niagara's cigarettes. All of these cigarettes are and will be manufactured in the United States. These plans are being submitted pursuant to the requirements of the Federal Cigarette Labeling and Advertising Act of 1964, as amended, ("Act") (15 U.S.C. §1331 *et seq.*).

The contact person for the company will be its Manager/Member, Justin Tarbell, who can be reached at the above address and phone number.

**Packaging Health Warning Equalization Plan**

The latest plan for the Signal brand was approved on October 2, 2019.<sup>2</sup> The latest plan

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<sup>1</sup> Advertising plans already exist for the Signal and da Rez brands.

<sup>2</sup> There is no current Packaging Plan in place for the da Rez brand cigarettes. No da Rez cigarettes are currently being manufactured by Ohserase.

for the Great Country cigarettes was approved on June 18, 2019.

Ohserase wishes to renew its Packaging Plan for its Signal and Great Country brands and expand its Surgeon General's Health Warning Equalization Plan by adding its Niagara's brand styles. Ohserase intends to equalize the display of the warnings on packaging as required by 15 U.S.C. § 1333(c) for all the Signal, Great Country, and Niagara's brand cigarettes they manufacture.

The brand styles of Signal, Great Country, and Niagara's cigarettes Ohserase intends to manufacture are listed on Exhibit "A" attached hereto. The brand styles listed on Exhibit "A" are the only cigarettes manufactured by Ohserase. Actual production packs and cartons for the Signal brand styles which show exactly where and how the four (4) Surgeon General's health warnings will appear on the individual packs and cartons Ohserase will be manufacturing were submitted on August 23, 2019. Actual production packs and cartons for the Great Country brand styles which show exactly where and how the four (4) Surgeon General's health warnings will appear on the individual packs and cartons Ohserase will be manufacturing were submitted on December 14, 2018, May 2, 2019, and May 24, 2019.

Actual production packs and cartons for the Niagara's brand styles were sent to the FTC under separate cover on September 15, 2020. These production packs and cartons for the Niagara's brand styles show exactly where and how the four (4) Surgeon General's health warnings will appear on the individual packs and cartons Ohserase will be manufacturing

In fiscal year 2019, Ohserase manufactured [REDACTED] Signal brand cigarettes. In fiscal year 2020<sup>3</sup> to date, Ohserase manufactured [REDACTED] Signal brand cigarettes. In fiscal year 2020, Ohserase anticipates manufacturing approximately [REDACTED] sticks of its Signal brand styles.

In fiscal year 2019, Ohserase manufactured [REDACTED] Great Country brand cigarettes. In fiscal year 2020 to date, Ohserase manufactured [REDACTED] Great Country brand cigarettes. In fiscal year 2020, Ohserase anticipates manufacturing approximately [REDACTED] cigarette sticks of its Great Country brand styles.

In fiscal year 2019, Ohserase manufactured [REDACTED] Niagara's brand cigarettes. In fiscal year 2020 to date, Ohserase manufactured [REDACTED] Niagara's brand cigarettes. In fiscal year 2020, Ohserase anticipates manufacturing approximately [REDACTED] cigarette sticks of its Niagara's brand styles.<sup>4</sup>

No one brand style of cigarettes manufactured by Ohserase has, for the past fiscal year, constituted more than 1/4 of 1% of all the cigarettes sold in the United States in such year, and no one brand style will constitute more than 1/4 of 1% of all the cigarettes sold in

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<sup>3</sup> Ohserase's fiscal year coincides with the calendar year.

<sup>4</sup> All the Niagara's brand cigarettes sold to date were sold exclusively on the Akwesasne Indian Reservation.

the United States in the next fiscal year. In addition, more than one-half of the cigarettes imported by Ohserase for sale in the United States are packaged into brand styles which meet the requirements of 15 U.S.C. §1333(c)(2)(A)(I).

As a small importer as defined by the Act, Ohserase wishes to equalize the four health warning statements on all the brand styles listed in Exhibit A of Signal, Great Country, and Niagara's brand cigarettes as required by 15 U.S.C. §1333(c). Each of the four warning statements will appear on the packs and cartons of each brand style of the Signal, Great Country, and Niagara's brands of cigarettes manufactured by Ohserase an equal number of times in the one-year period beginning on the date this plan is approved.

The individual packs of Signal, Great Country, and Niagara's cigarettes to be manufactured by Ohserase will have the proper health warnings printed by the manufacturer directly on the packs under the cellophane. The cartons will also have the proper health warnings printed directly on the cartons by the manufacturer. Ohserase will keep a running total of the number of cartons and packs it imports with each warning label for each brand style.

Ohserase agrees to maintain records to demonstrate that they are in compliance with, and are properly implementing their plan.

Ohserase will print all four (4) health warnings in equal numbers on each printed sheet of packaging for all of its cartons and packs so that when the sheets are die cut, each shipment should be approximately equalized for each brand style as imported. If, toward the end of the one year period, it appears that the warnings are not equalized on the packs and cartons for each brand style, Ohserase will place special orders for packaging with the specific health warnings needed to ensure that the display of all four warnings is equalized on the packs and cartons for each brand style by the plan's anniversary date.

We believe this plan complies in all respects with the Federal Cigarette Labeling and Advertising Act, as amended, (15 U.S.C. §1331 *et seq.*) including any modifications made by the Public Health Cigarette Smoking Act of 1969, the Comprehensive Smoking Education Act of 1984, the Nurses' Education Amendments of 1985 and the Imported Cigarette Compliance Act of 2000. For this reason, we hereby request that you approve this packaging plan as soon as possible.

### **Advertising Plan**

Ohserase proposes to amend its advertising, billboard advertising, and internet Advertising Rotation Plans by adding its Great Country and Niagara's brands of cigarettes to its existing advertising plan for the Signal and da Rez brands as required by Paragraphs 2 and 3 of Sub-section (a) of Section 4 of the Federal Cigarette Labeling and Advertising Act of 1964, as amended (15 U.S.C. §1331 *et seq.* (the "Act")). These sections provide for the placement of the Surgeon General Health Warnings in advertisements for cigarettes within

the United States. This Advertising Quarterly Rotation Plan is being submitted to the FTC pursuant to Section 4(c) of the Act.

The advertising plan for the Signal and da Rez brands was approved by the FTC on January 7, 2013. This plan included internet advertising and advertisements up to 40 square feet in size, as well as billboard advertising from 160 to 350 square feet in size. Ohserase now wishes to supplement its rotation and advertising plans to include Great Country and Niagara's brand cigarettes.

1. Advertisements (other than billboard advertisements):

- A. Pursuant to the requirements of Section 4(a)(2) of the Act, Ohserase will rotate quarterly, in alternating sequence, the four Surgeon General's Health Warnings on all advertisements it produces for the Great Country and Niagara's brands of cigarettes. The advertising rotation sequence for all the Ohserase brands is set forth in Exhibit "B."
- B. Any advertisement appearing in an issue of a newspaper, magazine or other periodical shall bear the health warning statement referenced in the plan for the quarter in which the cover date falls; provided that any advertisement appearing in an issue of a newspaper, magazine or other periodical having a cover date that encompasses a period of more than one calendar month shall bear the label statement for the quarter during which such issue is first scheduled for sale or distribution to the public.
- C. Any advertisement prepared for point-of-sale promotional materials for which a label statement is required, and non-point-of sale leaflets, and direct mail circulars as are lawful shall bear the label statement for the quarter in which mechanical artwork for such advertisement is first delivered in final form for engraving or comparable production, regardless of the date(s) on which such advertisement is thereafter published, distributed, installed or displayed.
- D. Any advertisements prepared for vending machines where such machines are lawful shall bear the label statement for the quarter in which mechanical artwork for such advertisement is first delivered in final form for engraving or comparable production, regardless of the date(s) on which such advertisement is thereafter distributed, installed or displayed.
- E. Each advertisement (other than advertisements in newspapers, magazines and other periodicals), shall bear a reference, in code or otherwise, indicating the calendar quarter in which the mechanical artwork therefor was first delivered in final form for engraving or comparable production.
- F. Ohserase will utilize the English language formats that were submitted with the



1985 plans of the five leading U.S. cigarette manufacturers and will place the warnings as specified in those plans. Copies of the formats we will be using were attached to our December 29, 2010 submission for the Signal and da Rez brands as Composite Exhibit “C.” These formats cover all advertising from zero square inches to 40 square feet (as printed on the FTC website as Cigarette Memo Exhibits 1 through 9). At this time, all of Ohserase’s advertising will be in English so only English language formats will be used. The dimensions of Ohserase’s largest ad, other than billboard advertising, will be 40 square feet. If this changes, Ohserase will notify the FTC and modify its plan accordingly. All the warning statements used by Ohserase in any of its advertising will use black print on a white background. Ohserase will use the formats on all its advertisements as follows:

CATEGORY	SIZE OF ADVERTISEMENT	WARNING STATEMENT
Category 1.	0 to 65 square inches	Exhibit 1 or 1(a)
Category 2.	Over 65 to 110 square inches	Exhibit 2 or 2(a)
Category 3.	Over 110 to 180 square inches	Exhibit 3
Category 4.	Over 180 to 360 square inches	Exhibit 4
Category 5.	Over 360 to 470 square inches	Exhibit 5
Category 6.	Over 470 to 720 square inches	Exhibit 6
Category 7.	Over 5 to 10 square feet	Exhibit 7
Category 8.	Over 10 to 20 square feet	Exhibit 8
Category 9.	Over 20 to 40 square feet	Exhibit 9

2. Outdoor Billboard Advertisements:

- (a) Ohserase will use the billboard health warnings set forth in 15 U.S.C. §1333(a)(3) on all its outdoor billboard advertising. It will utilize the formats it has produced based on the English language formats that were submitted with the 1985 plans of the five leading U.S. cigarette manufacturers and will use these formats on all their outdoor billboard advertising materials. These formats cover all advertising from 160 square feet to 350 square feet (as originally set forth as Cigarette Memo Exhibit 12). At this time, all of Ohserase’s advertising will be in English so only English

language formats will be used. The dimensions of Ohserase’s outdoor advertising will be between 160 and 350 square feet. If this changes, Ohserase will notify the FTC and modify its plan accordingly. All the warning statements used by Ohserase in any of its advertising will use black print on a white background. In all billboard advertising, the warnings will be centered horizontally at the bottom of the advertisement, with at least 3 inches of white space at each end. The warnings will be rotated as set forth in the chart attached hereto as Exhibit “C.”

CATEGORY	SIZE OF ADVERTISEMENT	WARNING STATEMENT
Category 12.	160 to 350 square feet	Exhibit 12

- (b) A printed sample of the Lung Cancer billboard health warning to be used by Ohserase was included with its submission of December 29, 2010 for the Signal and da Rez brands as composite Exhibit “E.” On January 27, 2011 Ohserase resubmitted the billboard health warnings for the Quitting Smoking and Carbon Monoxide warnings which were found acceptable. The Pregnant Women warning was re-done and sent to the FTC on October 3, 2012 and was found to be acceptable.
  - (c) Upon approval of this plan, any outdoor billboard advertisement shall bear the label statements referenced in Exhibit “C” for the appropriate brand and calendar quarter during which the first posting, painting or installation of such advertisement, as proposed at the time of delivery of mechanical artwork for such advertisement in final form for engraving, painting or comparable production shall fall. If, at any time, an outdoor billboard advertisement is substantially repainted or refurbished, the appropriate health warning for that calendar quarter, as set forth in Exhibit “C” shall be used on the billboard.
3. Multiple Brand Advertising: In advertisements within the United States for more than one brand of cigarettes, or which are not for a specific brand, including on billboards and internet advertising, the label statements required by the Act will follow the rotation specified for the Signal brand in the attached Exhibits “B” and “C”. The sequence for Signal will be used because it has more sales and was one of the two brands included in the first Ohserase plan approved by the FTC.
  4. Internet Advertising:  
  
On any cigarette advertising Ohserase conducts on the internet, Ohserase, will rotate its health warnings quarterly in an alternating sequence that complies with the rotation schedule set forth in Exhibit “B.” If one brand of cigarettes is advertised on an

individual web page, it shall contain the same quarterly warning rotation as will be approved for that brand by the FTC in its Surgeon General's Health Warning Rotation Plan as set forth in Exhibit "B".

The warnings appearing on the Internet will be superimposed on the screen in an unavoidable manner on every Web page, where it may be viewed without scrolling, and will not be accessible or displayed through hyperlinks, pop-ups, interstitials or other similar means. Ohserase will use warning formats it has produced based upon the warning formats that were submitted with the 1985 plans of the five leading U.S. cigarette manufacturers and the size of the warnings will be proportionate to those warning formats. The health warnings for each brand of cigarettes advertised by Ohserase on the Internet will appear as set forth on Ohserase's current websites. The current websites are [www.signalcigarettes.com](http://www.signalcigarettes.com) and [www.ohserasemanufacturing.com](http://www.ohserasemanufacturing.com).

We believe this plan complies in all respects with the Federal Cigarette Labeling and Advertising Act, as amended, (15 U.S.C. §1331 *et seq.*) including any modifications made by the Public Health Cigarette Smoking Act of 1969, the Comprehensive Smoking Education Act of 1984, the Nurses' Education Amendments of 1985 and the Imported Cigarette Compliance Act of 2000. For this reason, we hereby request that you approve this plan as soon as possible.

Should you have any further questions regarding this matter, please do not hesitate to contact us.

Sincerely yours,

LAW OFFICES OF BARRY M. BOREN

/Barry Boren/

Barry M. Boren

**EXHIBIT "A"**  
**BRAND STYLES FOR SIGNAL, GREAT COUNTRY, AND NIAGARA**

**SIGNAL**

Bold King Size Box  
Full Flavor King Size Box  
Mellow King Size Box  
Smooth King Size Box  
Ultra Smooth King Size Box  
Menthol Max King Size Box  
Menthol King Size Box  
Menthol Smooth King Size Box

Bold 100's Box  
Full Flavor 100's Box  
Mellow 100's Box  
Smooth 100's Box  
Ultra Smooth 100's Box  
Menthol Max 100's Box  
Menthol 100's Box  
Menthol Smooth 100's Box

**GREAT COUNTRY**

Full Flavor King Size Box  
Gold King Size Box  
Silver King Size Box  
Menthol King Size Box  
Menthol Gold King Size Box

Full Flavor 100's Box  
Gold 100's Box  
Silver 100's Box  
Menthol 100's Box  
Menthol Gold 100's Box

**NIAGARA'S**

Full Flavor King Size Box  
Smooth King Size Box  
Ultra Smooth King Size Box  
Menthol King Size Box  
Menthol Smooth King Size Box

Full Flavor 100's Box  
Smooth 100's Box  
Ultra Smooth 100's Box  
Menthol 100's Box  
Menthol Smooth 100's Box



**EXHIBIT "B"**  
**OHSERASE MANUFACTURING, LLC**  
**CHART OF HEALTH WARNINGS**  
**FOR NON-BILLBOARD ADVERTISING**

<b>Brand Name</b>	<b>Quarter One Jan. 1<sup>st</sup> to March 31<sup>st</sup></b>	<b>Quarter Two April 1<sup>st</sup> to June 30<sup>th</sup></b>	<b>Quarter Three July 1<sup>st</sup> to Sept. 30<sup>th</sup></b>	<b>Quarter Four Oct. 1<sup>st</sup> to Dec. 31<sup>st</sup></b>
da Rez	A	B	C	D
Signal	B	C	D	A
Great Country	C	D	A	B
Niagara's	D	A	B	C

- A = SURGEON GENERAL'S WARNING:  
Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.
- B = SURGEON GENERAL'S WARNING:  
Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.
- C = SURGEON GENERAL'S WARNING:  
Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.
- D = SURGEON GENERAL'S WARNING:  
Cigarette Smoke Contains Carbon Monoxide.

**EXHIBIT "C"**  
**OHSERASE MANUFACTURING, LLC**  
**CHART OF WARNINGS FOR**  
**BILLBOARD ADVERTISING**

<b>Brand Name</b>	<b>Quarter One Jan. 1<sup>st</sup> to March 31<sup>st</sup></b>	<b>Quarter Two April 1<sup>st</sup> to June 30<sup>th</sup></b>	<b>Quarter Three July 1<sup>st</sup> to Sept. 30<sup>th</sup></b>	<b>Quarter Four Oct. 1<sup>st</sup> to Dec. 31<sup>st</sup></b>
da Rez	A	B	C	D
Signal	B	C	D	A
Great Country	C	D	A	B
Niagara's	D	A	B	C

A = SURGEON GENERAL'S WARNING:  
 PREGNANT WOMEN WHO SMOKE RISK FETAL INJURY AND PREMATURE BIRTH.

B = SURGEON GENERAL'S WARNING:  
 QUITTING SMOKING NOW GREATLY REDUCES SERIOUS HEALTH RISKS.

C = SURGEON GENERAL'S WARNING:  
 SMOKING CAUSES LUNG CANCER, HEART DISEASE, AND EMPHYSEMA.

D = SURGEON GENERAL'S WARNING:  
 CIGARETTE SMOKE CONTAINS CARBON MONOXIDE.

Selected packaging samples from those  
submitted with the plan.



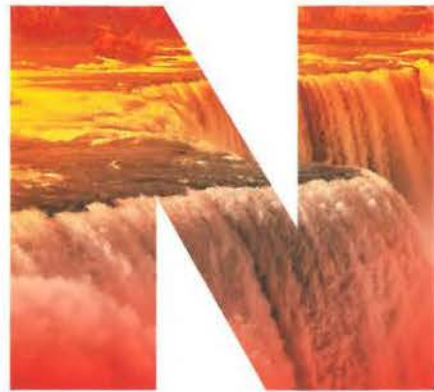
**OHM**  
**OH SERASE**  
 MANUFACTURING LLC  
 MIDVALE, VERMONT  
 1-888-631-4039  
 www.OHSERASE.com



FSC

UNDERAGE SALES  
 PROHIBITED

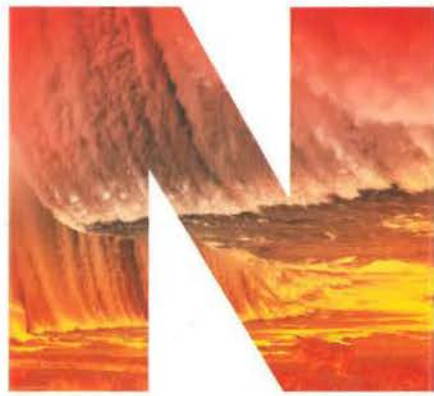
CTP1219 17/1  
 #77009 115-06A  
 KBA



TOBACCO AND WATER



TOBACCO AND WATER



FULL FLAVOR  
**NIAGARA'S**



ALL NATURAL TOBACCO DOES NOT MEAN A SAFER CIGARETTE.  
**SURGEON GENERAL'S WARNING:**  
 Smoking Causes Lung Cancer, Heart Disease,  
 Emphysema, And May Complicate Pregnancy.

TP NY-15042

R18-1000

**17**

20 CLASS A  
 CIGARETTES

**NIAGARA'S**  
 FULL FLAVOR



www.NIAGARASTOBACCO.com



# NIAGARA'S

TOBACCO AND WATER



SMOOTH

# NIAGARA'S

TOBACCO AND WATER

[www.niagarastobacco.com](http://www.niagarastobacco.com)



**OSERASE**  
MANUFACTURING, LLC  
MOHAWK TERRITORY  
1-888-631-4039  
[www.oserase.com](http://www.oserase.com)

TP NY-15042

ALL NATURAL TOBACCO DOES NOT MEAN A SAFER CIGARETTE.

**SURGEON GENERAL'S WARNING:**  
Quitting Smoking Now Greatly Reduces  
Serious Risks to Your Health.



SMOOTH  
**NIAGARA'S**  
TOBACCO AND WATER

KING BOX



CTP1119 4/1  
#76521 115-05\_KBA

# NIAGARA'S

TOBACCO AND WATER



SMOOTH



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

November 24, 2020

Barry M. Boren, Esq.  
One Datran  
9100 South Dadeland Boulevard  
Suite 402  
Miami, FL 33156

Dear Mr. Boren:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed on behalf of Ohserase Manufacturing, LLC (“Ohserase”) on November 16, 2020, calling for: (1) quarterly rotation of the four health warnings in advertising up to 40 square feet for the Great Country and Niagara’s brands; (2) quarterly rotation of the four health warnings in outdoor billboard advertising from over 160 to 350 square feet for the Great Country and Niagara’s brands; (3) quarterly rotation of the four health warnings in Internet advertising for the Great Country and Niagara’s brands; and (4) simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Signal, Great Country, and Niagara’s<sup>1</sup> brands of cigarettes.

Ohserase’s plan for rotation of the warnings in the aforementioned advertising for the Great Country and Niagara’s brands of cigarettes is hereby approved. Approval of the plan assumes that the plan is implemented in good faith. With respect to the question of whether it is legal to advertise cigarettes on the Internet, Section 1335 of the Cigarette Act prohibits advertising cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. The enforcement of that provision is the

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<sup>1</sup> Your November 16, 2020 letter states that the Niagara’s brand cigarettes sold to date were sold exclusively on the Akwesasne Indian Reservation. It is well settled that a general statute, such as the Cigarette Act, applies to tribes and their property interests unless (1) the law touches exclusive rights of self-governance in purely intramural matters; (2) the application of the law to the tribe would abrogate rights guaranteed by Indian treaties, or (3) there is clear proof, by legislative history or other means, that Congress did not intend the law to apply to Indians on a reservation. *Donovan v. Coeur d’Alene Tribal Farm*, 751 F.2d 1113, 1115-16 (9th Cir. 1985). None of those exceptions applies here.

responsibility of the Department of Justice and you should contact them directly (Lawrence C. Keller at 202-598-2781) to determine whether such advertising on the Internet is permissible.

Ohserase's sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted with your letters dated December 14, 2018, May 2, 2019, May 24, 2019, August 23, 2019, and September 15, 2020 appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>2</sup>

Accordingly, Ohserase's plan for simultaneous display of the four health warnings on packaging is hereby approved for the following varieties:

- Sixteen box varieties of the Signal brand: Bold (Kings and 100's), Full Flavor (Kings and 100's), Mellow (Kings and 100's), Smooth (Kings and 100's), Ultra Smooth (Kings and 100's), Menthol (Kings and 100's), Menthol Max (Kings and 100's), and Menthol Smooth (Kings and 100's);
- Ten box varieties of the Great Country brand: Full Flavor (Kings and 100's), Gold (Kings and 100's), Silver (Kings and 100's), Menthol (Kings and 100's), and Menthol Gold (Kings and 100's); and
- Ten box varieties of the Niagara's brand: Full Flavor (Kings and 100's), Smooth (Kings and 100's), Ultra Smooth (Kings and 100's), Menthol (Kings and 100's), and Menthol Smooth (Kings and 100's).

**This approval of Ohserase's plan for the display of the four health warnings on packaging is effective on the date of this letter and runs through November 23, 2021, or until new health warnings required under the TCA take effect, whichever comes first.**

Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>3</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

Please note that this letter only approves Ohserase's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA") and expires at such time new health warnings required under the TCA take effect. Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for Ohserase's cigarettes. Nor does this letter purport to interpret or express any

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<sup>2</sup> Ohserase stated in its November 16, 2020 letter that the four health warnings will appear exactly shown on the packs and cartons submitted on these dates.

<sup>3</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

Barry M. Boren, Esq.

November 24, 2020

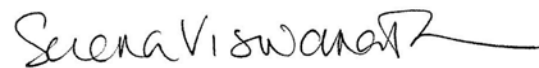
Page 3

opinion about the adequacy of Ohserase's packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

If you have any questions regarding this approval, please contact William Ducklow at (202) 326-2407.

Very truly yours,

A handwritten signature in black ink that reads "Serena Viswanathan" followed by a stylized flourish.

Serena Viswanathan  
Acting Associate Director





321 Farmington Road, Mocksville, North Carolina 27028 • Phone: 336-940-3769 • Fax: 336-940-3669

November 24, 2020

Ms. Serena Viswanathan  
Attn: Bonnie McGregor  
Federal Trade Commission  
Division of Advertising Practices  
600 Pennsylvania Avenue, N.W.  
Room CC-10528  
Washington, DC 20580

RE: Cigarette Health Warning Rotation Plan

Dear Ms. Viswanathan,

This letter is being submitted for the annual renewal approval of the alternative method to the quarterly Surgeon General Warning rotation plan on packaging of the following eleven (11) varieties of the SF cigarette brand:

Red King Box
Blue King Box
Gray King Box
Menthol Dark Green King Box
Menthol Pale Green King Box
Non-Filter King Soft Pack
Red 100's Box
Blue 100's Box
Gray 100's Box
Menthol Dark Green 100's Box
Menthol Pale Green 100's Box

The SF cigarette brand is manufactured in the United States by NASCO Products, LLC (“NASCO”). Upon approval of this plan, the manufacturer will continue to manufacture these cigarettes under the authority of the Alcohol & Tobacco Tax and Trade Bureau (Manufacturer of Tobacco Products License TP-NC-15033).

These cigarettes will be packaged in 200 count cartons (“Outer Cartons”). Each Outer Carton will contain 10 packs of 20 cigarettes each (“Pack”). The Surgeon General Warnings will be on each Pack and Outer Carton of cigarettes in the form and content dictated by the Federal Cigarette Labeling and Advertising Act and therefore satisfactory to the Federal Trade Commission (“FTC”). The warnings will be printed directly on the

packaging in a legible and conspicuous manner and will be of a size, format, and type required by the Cigarette Act. The warnings will be placed on the product in a location which complies with applicable labeling statutes. The warnings will appear exactly as they do on the packs and cartons submitted with our letters dated November 13, 2019 and our November 11, 2014 letter.

NASCO plans to run out the old packaging represented in our November 11, 2014 letter and introduce the new packaging that was submitted with our November 13, 2019 letter as the old packaging runs out.

NASCO Products, LLC believes that its low sales volume of cigarettes fits the criteria for the alternative to quarterly rotation of warnings on packaging, provided for in Section 1333 (c)(2) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331. Actual sales figures for the 2019 fiscal year and sales estimates for the 2020 fiscal year for all the brand styles that we manufacture are provided on Exhibit A of our November 3, 2020 letter.

If this plan for the alternative to quarterly rotation of warnings on packaging is approved, the four cigarette health warnings will continue to appear on the packs and cartons of each of the cigarette brand styles listed above an equal number of times throughout the one year period beginning on the date this plan is approved.

NASCO Products, LLC continues to be in compliance with its August 3, 2020, plan for the simultaneous display of the four health warnings on packaging for the MOONLIGHT cigarette brand approved on August 18, 2020. NASCO Products, LLC does not currently manufacture or import any cigarette brand other than the SF and Moonlight cigarette brands.

NASCO Products, LLC will continue to comply with its April 25, 2017 plan for Internet advertising of the SF brand of cigarettes and its August 3, 2020 plan for Internet advertising of the Moonlight cigarette brand. NASCO will follow the rotation schedule for Internet Advertising submitted with its letter dated August 3, 2020.

NASCO Products, LLC, the manufacturer, is aware of the requirements set forth in the Cigarette Labeling and Advertising Act and the company's efforts are always to be fully compliant with the Cigarette Act. NASCO Products, LLC will maintain record of compliance with the approved plan. If there are any questions or concerns regarding this plan, please contact me at 716-270-1523 (phone), 716-583-3134 (mobile), 716-877-3064 (fax), [kdelaney@xxiicentury.com](mailto:kdelaney@xxiicentury.com) (email), or 8560 Main Street, Ste 4, Williamsville, NY 14221 (mailing address).

Sincerely,  
Karen E.  
Delaney  
Karen E. Delaney  
Tax Compliance Manager

Digitally signed by  
Karen E. Delaney  
Date: 2020.11.24  
14:27:14 -05'00'

# EXHIBIT A

## Actual sales figures for Fiscal Year 2019

PRODUCT	STICKS
Moonlight King Box	
Moonlight Menthol King Box	
SF Red King Size Box	
SF Blue King Size Box	
SF Gray King Size Box	
SF Menthol Dark Green King Size Box	
SF Menthol Pale Green King Size Box	
SF Non-Filter King Size Soft Pack	
SF Red 100's Box	
SF Blue 100's Box	
SF Gray 100's Box	
SF Menthol Dark Green 100's Box	
SF Menthol Pale Green 100's Box	

## Estimated sales figures for Fiscal Year 2020

PRODUCT	STICKS
Moonlight King Box	
Moonlight Menthol King Box	
SF Red King Size Box	
SF Blue King Size Box	
SF Gray King Size Box	
SF Menthol Dark Green King Size Box	
SF Menthol Pale Green King Size Box	
SF Non-Filter King Size Soft Pack	
SF Red 100's Box	
SF Blue 100's Box	
SF Gray 100's Box	
SF Menthol Dark Green 100's Box	
SF Menthol Pale Green 100's Box	



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of  
Advertising Practices

November 25, 2020

Ms. Karen E. Delaney  
NASCO Products, LLC  
321 Farmington Road  
Mocksville, NC 27028

Dear Ms. Delaney:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed by NASCO Products, LLC (“NASCO”) on November 24, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the SF brand of cigarettes.

NASCO’s sales appear to qualify for the aforementioned alternative to quarterly rotation of warnings on packaging, and the warnings on the sample packs and cartons submitted with your November 13, 2019 letter continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup>

Accordingly, NASCO’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following eleven varieties of the SF brand: Red Box (Kings and 100’s), Blue Box (Kings and 100’s), Gray Box (Kings and 100’s), Menthol Dark Green Box (Kings and 100’s), Menthol Pale Green Box (Kings and 100’s), and Non-Filter Kings Soft Pack.<sup>2</sup>

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<sup>1</sup> NASCO stated in its November 24, 2020 letter that it intends to run out its existing inventory of previously approved packaging for the SF brand.

<sup>2</sup> As set forth in its November 24, 2020 letter, NASCO is using colors to identify its cigarette varieties (*e.g.*, “Menthol Dark Green 100’s Box”). We note that the color names and the word “menthol” are not printed on the packaging (*e.g.*, the words “Menthol Dark Green” do not appear on the packaging of the “Menthol Dark Green 100’s” variety); however, the color used for a variety’s packaging does conform to the color used in its name.



Ms. Karen E. Delaney

November 25, 2020

Page 2

Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>3</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

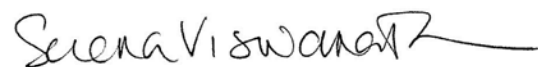
Please note that this letter only approves NASCO's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for NASCO's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of NASCO's packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (published March 19, 2010) or FDA's final rule, "Required Warnings for Cigarette Packages and Advertisements" (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

**This approval is effective on the date of this letter and runs through November 24, 2021 or until new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact Bonnie McGregor at (202) 326-2356.

Very truly yours,



Serena Viswanathan  
Acting Associate Director

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<sup>3</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

# MARKETING GROUP USA INC.

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2801 Camino Del Rio South  
Suite 304, San Diego CA 92108 USA  
email: nynycigarettes@gmail.com  
web: nynycigarettes.com

833 410-0255  
Office 619-291-1662 USA  
Cell: 619-328-7710



December 01, 2020

Ms. Mary K. Engle  
Federal Trade Commission,  
Division of Advertising Practices, ATTN: Ms. Bonnie McGregor  
600 Pennsylvania Avenue, N.W.  
Mail Drop CC-10528  
Washington, D.C. 20580

RE: Annual Extension for the Approved Cigarette Warning Equalization Plan.

Dear Ms. Engle;

This letter is being submitted by Marketing Group USA, INC, for the extension of the approval of the Surgeon General Warning Equalization Plan for the display of the four health warnings on packaging of the New York New York cigarette brand.

The initial approval was issued on January 27, 2009 valid to January 26, 2010.

A subsequent extension was granted on April 01, 2010 valid to March 31, 2011 for Full Flavor hard pack (Kings and 100's), Menthol hard pack (Kings and 100's), and Non Filter Kings soft pack.

Subsequent extension plans were submitted and approved.

Through the date of this application, the Surgeon General Warnings have been equalized on our packaging for the nine brand styles of New York New York Brand cigarettes.

The New York New York brand will continue to be manufactured in the United States by our contract manufacturer Joseph M. Anderson d/b/a Smokin Joes for Marketing Group USA, Inc. Upon approval of this extension, the contract manufacturer will continue to manufacture these cigarettes under the authority of the Bureau of Alcohol, Tobacco, Firearms and Explosives (Manufacturer of Tobacco Products License TP-NY-168).

Marketing Group USA, Inc. does not import cigarettes.

New York New York brand cigarettes will be manufactured in a variety of styles. The following varieties of New York New York cigarettes are the only brand styles of cigarettes that we manufacture and will be manufactured in accordance with both FTC and FSPTCA rules and regulations:

Red Box King Size, Red Box 100 Size  
Gold Box King Size, Gold Box 100 Size  
Silver Box 100 Size  
Menthol Box King Size, Menthol Box 100 size, Menthol Gold Box 100 Size  
Non-filter Box King Size

These cigarettes will be packaged in 200 count cartons ("Outer Cartons"). Each Outer Carton will contain 10 (10) packs ("Pack") of twenty (20) cigarettes each pack. The warnings will appear exactly as they do on the actual packs and cartons submitted by our contract manufacturer on September 08, 2017.

Marketing Group USA Inc. had [REDACTED] United States stick sales for the period January 01, 2019 to December 31, 2019. There were [REDACTED] United States stick sales for the period January 01, 2020 to October 01, 2020. There will be [REDACTED] manufacturing and sales for the remainder of the calendar year 2020.

Marketing Group USA Inc. uses the calendar year as the fiscal year.

United States sales estimates for the next one year period for the varieties of New York New York brand styles listed above are provided in **Exhibit 1**. Marketing Group USA, Inc. does not anticipate that the total of all brand styles of its cigarettes will exceed [REDACTED] sticks in sales for the one year period to be covered by this plan.

Upon approval of the extension, the four cigarette health warnings will appear on the packs and cartons of each of the brand styles listed above an equal number of times for the one year period beginning on the date of approval of this plan. To ensure the cigarette warnings appear on each of the above listed brand styles an equal number of times throughout the plan year, raw materials packaging inventory will be stored and loaded into packaging machines alternating the four health warnings equally.

Marketing Group USA will maintain compliance with the September 28, 2010 Plan for point of sale advertising for the New York New York Brand, and with the September 29, 2011 Plan for the internet advertising for the New York new York Brand

Marketing Group USA, Inc. is aware of the requirements set forth in the Cigarette Labeling and Advertising Act and the company's efforts are always to be fully compliant with the Act. Marketing Group USA, Inc. will maintain records of compliance with the approved plan.

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Thank you in advance for your kind attention to this important request for extension. If there are any questions or concerns regarding these plans, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Najjar". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping tail.

Mary Najjar  
President

**Exhibit # 1**

	Total Estimated Stick Sales Jan. 01, 2021 to Dec. 31, 2021
NYNY Red 100 Size Box	
NYNY Red King Size Box	
NYNY Gold 100 Size Box	
NYNY Gold King Size Box	
NYNY Menthol 100 Size Box	
NYNY Menthol King Size Box	
NYNY Menthol Gold 100 Size Box	
NYNY Silver 100 Size Box	
NYNY Non-Filter King Size Box	

**TOTAL**





Division of  
Advertising Practices

UNITED STATES OF AMERICA  
Federal Trade Commission  
Washington, D.C. 20580

December 2, 2020

Ms. Mary Najjar  
Marketing Group USA, Inc.  
2801 Camino Del Rio South, Suite 304  
San Diego, CA 92108

Dear Ms. Najjar:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed by Marketing Group USA, Inc. (“Marketing Group”) on December 1, 2020, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the “New York New York” brand of cigarettes.

Marketing Group’s sales appear to qualify for the aforementioned alternative to quarterly rotation of the warnings on packaging, and the warnings on the sample packs and cartons submitted with your letter dated September 8, 2017 continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup> Accordingly, Marketing Group’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following nine box varieties of the New York New York brand: Red (Kings and 100’s), Gold (Kings and 100’s), Silver 100’s, Menthol (Kings and 100’s), Menthol Gold 100’s, and Non-Filter Kings.

Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

Please note that this letter only approves Marketing Group’s cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22,

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<sup>1</sup> Marketing Group stated in its December 1, 2020 letter that the four health warnings will appear exactly as shown on the packs and cartons submitted on September 8, 2017.

<sup>2</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

Ms. Mary Najjar  
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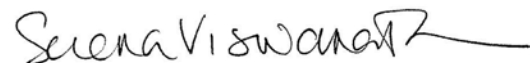
2009 enactment of the Family Smoking Prevention and Tobacco Control Act (“TCA”). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for Marketing Group’s cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Marketing Group’s packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents” (published March 19, 2010) or FDA’s final rule, “Required Warnings for Cigarette Packages and Advertisements” (published March 18, 2020).

Because the TCA imposes additional legal requirements on the marketing and sale of cigarettes, you should ensure that you are in compliance with those requirements. For example, since September 22, 2009, the use of certain characterizing flavors (other than tobacco or menthol) in cigarettes has been prohibited. You can find additional information at [www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm) and sign up for FDA email updates at <https://www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp>.

**This approval is effective on the date of this letter and runs through December 1, 2021 or until new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact William Ducklow at (202) 326-2407.

Very truly yours,



Serena Viswanathan  
Acting Associate Director