



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 20, 2025

SUBJECT: Cigarette Labeling and Advertising Act  
File No. P854505

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

1. July 6, 2023 letter from Yancey Black, King Mountain Tobacco Company, Inc. to Serena Viswanathan.
2. July 10, 2023 letter from Serena Viswanathan to Yancey Black, King Mountain Tobacco Company, Inc.
3. July 7, 2023 letter from Erlind Hill, Native Wholesale Supply to Advertising Practices.
4. July 11, 2023 letter from Serena Viswanathan to Erlind Hill, Native Wholesale Supply.
5. July 3, 2023 letter from Barry M. Boren on behalf of Winner Tobacco Wholesale, Inc. to Serena Viswanathan.
6. July 17, 2023 letter from Serena Viswanathan to Barry M. Boren on behalf of Winner Tobacco Wholesale, Inc.
7. September 6, 2023 letter from Neal N. Beaton on behalf of Japan Tobacco International U.S.A., Inc. to Serena Viswanathan.
8. September 12, 2023 letter from Serena Viswanathan to Neal N. Beaton on behalf of Japan Tobacco International U.S.A., Inc.

9. September 12, 2023 letter from Barry M. Boren on behalf of Everything Tobacco, LLC to Serena Viswanathan.
10. September 13, 2023 letter from Serena Viswanathan to Barry M. Boren on behalf of Everything Tobacco, LLC.
11. September 19, 2023 letter from Ann Truscio, Joseph M. Anderson d/b/a Smokin' Joes to Serena Viswanathan.
12. September 19, 2023 letter from Serena Viswanathan to Ann Truscio, Joseph M. Anderson d/b/a Smokin' Joes.
13. September 22, 2023 letter from Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC to Serena Viswanathan.
14. September 22, 2023 letter from Serena Viswanathan to Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC.



P.O. BOX 422  
WHITE SWAN, WA 98952  
PHONE: (509) 874-9935  
FAX: (509) 874-3690

July 6, 2023

ATTN: Serena Viswanathan  
Bureau of Consumer Protection  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Ave NW  
Washington, DC 20580

RE: King Mountain Tobacco Company, Inc.

Dear Ms. Viswanathan:

This correspondence represents King Mountain Tobacco Company Inc,'s ("KMT") Cigarette Labeling Rotation Renewal pursuant to 15 U.S.C. §1333(c)(2) for annual approval of the plan of King Mountain Tobacco Company, Inc. for the display of the four health warnings on packaging for its King Mountain Cigarette brand. Your Office last approved King Mountain's plan for the display of the Health Warnings on the packaging of the King Mountain cigarettes on July 11, 2022, and there have been no changes in packaging since that time. Please note we manufacture Fire Safe Cigarettes ("FSC"). Fire Safe Cigarettes are identified by the letters "FSC" in bold above the UPC label on both the carton and cigarette boxes. All of King Mountain Tobacco's packaging is in the hard pack style.

Cigarette labeling in the United States is governed in part by the Federal Cigarette Labeling and Advertising Act, as amended. 15 U.S.C. §§1331 - 1341. The Commission may grant the twelve months simultaneous display label rotation cycle that KMT requests if KMT meets the exemption set forth in section 1333(c) of the FCLAA.

KMT confirms and warrants that it will conduct its operations so the four warnings specified in 15 U.S.C. §1333(a)(1) will appear an equal number of times on the packs and cartons of each of the ten brand styles of FSC King Mountain cigarettes it manufactures during the twelve-month period following approval of this application. To ensure equal distribution of the four warnings specified in 15 U.S.C. §1333(a)(1), KMT will require that one-fourth of each order of package and carton materials be printed with each of the four warnings. KMT runs two press runs on an alternating sequence to ensure an equal amount of the Surgeon General Warning Labels per order of packaging. Should there be any residual or additional packaging that is needed to be



P.O. BOX 422  
WHITE SWAN, WA 98952  
PHONE: (509) 874-9935  
FAX: (509) 874-3690

added or subtracted from inventory to obtain 100% compliance of the proper Surgeon General Warning rotation as specified in 15 U.S.C. § 1333 (c)(2), that will be done manually as needed by King Mountain employees before the expiration of the plan. The warnings will appear exactly as shown on the samples of King Mountain packs and cartons submitted with KMT's letter to the FTC dated June 18, 2018.

KMT will keep records demonstrating compliance with this plan.

KMT's fiscal year is the calendar year. Sales of King Mountain cigarettes did not exceed one-fourth of one percent of cigarettes sold in the United States during the calendar year 2022, which should qualify the company for the exemption set forth in section 1333(c) of the FCLAA. [REDACTED]

[REDACTED] was the highest selling style with [REDACTED] sold in 2022. Sales for 2023 are projected to be approximately [REDACTED] for all KMT brand styles, with [REDACTED] sales estimated to be [REDACTED] of total KMT sticks.

KMT manufactures King Mountain cigarettes under Tobacco Manufacturing license TP-WA-15000. King Mountain is the only brand of cigarettes KMT manufactures, and KMT does not import any cigarettes into the United States.

A brand style is defined as "a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavorings used, size of the cigarette, filtration on the cigarette, or packaging." 15 U.S.C. § 1332 (8). KMT manufactures the following brand styles of the King Mountain brand:

Red King (Fire Safe)	Red 100s (Fire Safe)
Gold King (Fire Safe)	Gold 100s (Fire Safe)
Blue King (Fire Safe)	Blue 100s (Fire Safe)
Menthol King (Fire Safe)	Menthol 100s (Fire Safe)
Menthol Gold King (Fire Safe)	Menthol Gold 100s (Fire Safe)

These are the exact same brand styles that were the subject of the equalization plan submitted by KMT on July 6, 2022, as approved by the FTC on July 11, 2022; KMT does not manufacture any cigarettes beyond these ten (10) brand styles.

Based on the foregoing, KMT requests approval to use the rotation option provided in Section 1333(c)(2) of the FCLAA (*i.e.*, the alternative to quarterly rotation). KMT is aware that the Food and Drug Administration may assume jurisdiction at any time for warning label compliance.

KMT originally received approval for our advertising plan on June 25, 2009. There have been no changes in KMT's advertising plan since that time. KMT will continue to maintain compliance with that plan.



P.O. BOX 422  
WHITE SWAN, WA 98952  
PHONE: (509) 874-9935  
FAX: (509) 874-3690

If any additional information is required, please contact Paige Fitzgerald at 804-697-1404 or [Paige.Fitzgerald@troutman.com](mailto:Paige.Fitzgerald@troutman.com)

Sincerely,

Yancey Black  
General Manager

# *King Mountain Tobacco Company Inc.*

**P. O. Box 422**

**White Swan, Washington 98952**

**Phone: (509) 874-9935 Fax: (509) 874-3690**

## ATTACHMENT A

### **KING MOUNTAIN – SGW ROTATION**

#### **Press Run A**

##### **85MM CPBs FSC – Run 30 UP**

	Warning A	Warning B	Warning C	Warning D
Red	8	8	7	7
Gold	7	7	8	8
Menthol	8	8	7	7
Blue	7	7	8	8
Menthol	8	8	7	7
Gold				
TOTAL:	38	38	37	37

##### **100MM CPBs FSC – Run 20 UP**

	Warning A	Warning B	Warning C	Warning D
Red	5	5	5	5
Gold	5	5	5	5
Menthol	5	5	5	5
Blue	5	5	5	5
Menthol	5	5	5	5
Gold				
TOTAL:	25	25	25	25

##### **85MM Outer Cartons FSC – Run 6 UP**

	Warning A	Warning B	Warning C	Warning D
Red	2	2	1	1
Gold	1	1	2	2
Menthol	2	2	1	1
Blue	2	2	1	1
Menthol	1	1	2	2
Gold				
TOTAL:	8	8	7	7

##### **100MM Outer Cartons FSC – Run 6 UP**

	Warning A	Warning B	Warning C	Warning D
Red	2	2	1	1
Gold	1	1	2	2
Menthol	2	2	1	1
Blue	1	1	2	2
Menthol	2	2	1	1
Gold				
TOTAL:	8	8	7	7

# ***King Mountain Tobacco Company Inc.***

**P. O. Box 422**

**White Swan, Washington 98952**

**Phone: (509) 874-9935 Fax: (509) 874-3690**

## **KING MOUNTAIN – SGW ROTATION**

### **Press Run B**

#### **85MM CPBs FSC – Run 30 UP**

	Warning A	Warning B	Warning C	Warning D
Red	7	7	8	8
Gold	8	8	7	7
Menthol	7	7	8	8
Blue	8	8	7	7
Menthol	7	7	8	8
Gold				
TOTAL:	37	37	38	38

#### **100MM CPBs FSC – Run 20 UP**

	Warning A	Warning B	Warning C	Warning D
Red	5	5	5	5
Gold	5	5	5	5
Menthol	5	5	5	5
Blue	5	5	5	5
Menthol	5	5	5	5
Gold				
TOTAL:	25	25	25	25

#### **85MM Outer Cartons FSC – Run 6 UP**

	Warning A	Warning B	Warning C	Warning D
Red	1	1	2	2
Gold	2	2	1	1
Menthol	1	1	2	2
Blue	1	1	2	2
Menthol	2	2	1	1
Gold				
TOTAL:	7	7	8	8

#### **100MM Outer Cartons FSC – Run 6 UP**

	Warning A	Warning B	Warning C	Warning D
Red	1	1	2	2
Gold	2	2	1	1
Menthol	1	1	2	2
Blue	2	2	1	1
Menthol	1	1	2	2
Gold				
TOTAL:	7	7	8	8

***King Mountain Tobacco Company Inc.***

**P. O. Box 422**

**White Swan, Washington 98952**

**Phone: (509) 874-9935 Fax: (509) 874-3690**

<b>TOTALS (Between Press Run A &amp; B)</b>	<b>Warning A</b>	<b>Warning B</b>	<b>Warning C</b>	<b>Warning D</b>
<b>85MM CPBs FSC – Run 30 UP</b>	<b>75</b>	<b>75</b>	<b>75</b>	<b>75</b>
<b>100MM CPBs FSC – Run 20 UP</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>50</b>
<b>85MM Outer Cartons FSC- Run 6 UP</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>
<b>100MM Outer Cartons FSC- Run 6 UP</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>
<b>GRAND TOTAL</b>	<b>155</b>	<b>155</b>	<b>155</b>	<b>155</b>

## King Mountain Tobacco Warnings

**A**

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

**C**

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.

**D**

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



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

Division of  
Advertising Practices

July 10, 2023

Mr. Yancey Black  
King Mountain Tobacco Company, Inc.  
P.O. Box 422  
White Swan, WA 98952

Dear Mr. Black:

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 King Mountain Tobacco Company, Inc. (“KMTC”) on July 6, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the King Mountain brand of cigarettes.

KMTC’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 June 18, 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.

Accordingly, KMTC’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following ten hard pack varieties of the King Mountain brand: Red (Kings and 100’s), Gold (Kings and 100’s), Blue (Kings and 100’s), Menthol (Kings and 100’s), and Menthol Gold (Kings and 100’s).

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.

Please note that this letter only approves KMTC’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 KMTC’s cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of KMTC’s packaging and advertising under the TCA or

---

<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.

Mr. Yancey Black

July 10, 2023

Page 2

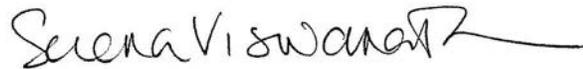
any regulations that have been or might be promulgated by the Department of Health and Human Services under that statute, including but not limited to, the “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents” (published March 19, 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 July 9, 2024 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,

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

Serena Viswanathan  
Associate Director



July 7, 2023

Federal Trade Commission  
Advertising Practices  
600 Pennsylvania Avenue North West  
Washington, D.C. 20580  
Mail Drop CC-10528

Dear Ms. Serena Viswanathan:

Native Wholesale Supply imports the Seneca and Opal brand of cigarettes manufactured by Grand River Enterprises Six Nations LTD. Native Wholesale Supply requests approval for its 2023 plan for Surgeon General Warning Display, as provided by Section 1333C(2) of the cigarette Act on packaging for its Seneca and Opal brands of cigarettes. Native Wholesale Supply no longer imports the Couture brand. We are located at 10955 Logan Road, Perrysburg, NY 14129. The president of Native Wholesale Supply is Elmer Steeprock.

Please be advised that Native Wholesale Supply does not manufacture. At this time, Native Wholesale Supply does not import any brand styles other than those below.

Our previous plan for the simultaneous display of the four health warnings on packages was approved on July 11, 2022. To date all warnings have been equalized according to date. We no longer have the Couture brand, Seneca Chill King Box and Seneca 72's full Flavor, Blue and Menthol, we now wish to renew our approval for the following brand Styles:

Seneca Full Flavor Soft King  
Seneca Blue Soft King  
Seneca Silver Soft King  
Seneca Menthol Soft King  
Seneca Smooth Menthol Soft King

Seneca Full Flavor Box King  
Seneca Medium Box King  
Seneca Blue Box King  
Seneca Silver Box King  
Seneca Menthol Box King  
Seneca Smooth Menthol Box King  
Seneca Non-Filter Box King

Seneca Full Flavor Box 120's  
Seneca Smooth Box 120's  
Seneca Ultra Box 120's  
Seneca Menthol Box 120's  
Seneca Smooth Menthol Box 120's

Seneca Full Flavor Soft 100's  
Seneca Blue Soft 100's  
Seneca Silver Soft 100's  
Seneca Menthol Soft 100's  
Seneca Smooth Menthol Soft 100's  
Seneca Extra Smooth Menthol Soft 100's

Seneca Full Flavor Box 100's  
Seneca Medium Box 100's  
Seneca Blue Box 100's  
Seneca Silver Box 100's  
Seneca Menthol Box 100's  
Seneca Smooth Menthol Box 100's  
Seneca Extra Smooth Menthol Box 100's

Opal Full Flavor Box 120's  
Opal Smooth Box 120's  
Opal Ultra Box 120's  
Opal Menthol Box 120's  
Opal Smooth Menthol Box 120's

We have carefully read the Act and feel our products will still be in full compliance with the "Cigarette Act" Warning Label Display Requirements.

Our sales for 2022 by brand style is attached. Native Wholesale Supply's fiscal year coincides with the calendar year.

We comply with the "Cigarette Act" by having our supplier, White House Graphics, print the four surgeon general warnings simultaneously in equal numbers at the 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 Seneca and Opal brands listed above an equal number of times during the one year period following the date of approval of this plan by the Federal Trade Commission. We will keep records demonstrating compliance with this plan. The Warnings will appear exactly as shown on the sample packs and cartons for the Seneca and Opal brands submitted with our June 5, 2019 letter.

The four warnings that will appear on the packs and cartons are:

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.

#### **ADVERTISING**

NWS currently has an advertising plan on file with the FTC and will maintain compliance with its May 2, 2006 plan approved May 3, 2006 and its November 19, 2009 plan approved December 9, 2009.

Please advise as quickly as possible of the approval of this plan. Thank you for your kind and prompt attention to this matter.

Yours truly,



Erlind Hill, Manager

**Native Wholsale Supply  
2022 Brand Sales**

Description	Totals
Seneca 72's Full Flavor	
Seneca 72's Blue	
Seneca 72's Menthol	
Seneca Full Flavor S/P King FSC	
Seneca Blue S/P King FSC	
Seneca Silver Lt S/P King FSC	
Seneca Menthol S/P King FSC	
Seneca Smooth Menthol S/P King FSC	
Seneca Full Flavor H/L King FSC	
Seneca Blue H/L King FSC	
Seneca Silver H/L King FSC	
Seneca Menthol H/L King FSC	
Seneca Smooth Menthol H/L King FSC	
Seneca Non Filter H/L King FSC	
Seneca Chill H/L King	
Seneca Medium H/L King	
Seneca Full Flavor S/P 100 FSC	
Seneca Blue S/P 100 FSC	
Seneca Silver Lt S/P 100 FSC	
Seneca Menthol S/P 100 FSC	
Seneca Smooth Menthol S/P 100 FSC	
Seneca Extra Smooth Menthol S/P 100 FSC	
Seneca Full Flavor H/L 100 FSC	
Seneca Blue H/L 100 FSC	
Seneca Silver H/L 100 FSC	
Seneca Menthol H/L 100 FSC	
Seneca Smooth Menthol H/L 100 FSC	
Seneca Extra Smooth Menthol H/L 100 FSC	
Seneca Medium H/L 100 FSC	
Seneca 120's FF H/L FSC	
Seneca 120's Smooth H/L FSC	
Seneca 120's Ultra H/L FSC	
Seneca 120's MN H/L FSC	
Seneca 120's Smooth Menthol H/L FSC	
Opal FF H/L 120 FSC	
Opal Smooth H/L 120 FSC	
Opal Ultra H/L 120 FSC	
Opal MN H/L 120 FSC	
Opal Smooth Menthol H/L 120 FSC	
Couture Ruby FSC	
Couture Amethyst FSC	
Couture Diamond FSC	
Couture Sapphire FSC	
Couture Turquoise FSC	
Couture Aquamarine FSC	



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

Division of  
Advertising Practices

July 11, 2023

Mr. Erlind Hill  
Native Wholesale Supply  
P.O. Box 214  
Gowanda, NY 14070

Dear Mr. Hill:

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 Native Wholesale Supply (“NWS”) on July 7, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Seneca and Opal brands of cigarettes.

NWS’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 June 5, 2019 continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.

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

- Thirty varieties of the Seneca brand: Non-filter Kings box, Full Flavor box (Kings, 100’s, and 120’s), Full Flavor soft pack (Kings and 100’s), Blue box (Kings, and 100’s), Blue soft pack (Kings and 100’s), Medium box (Kings and 100’s), Menthol box (Kings, 100’s, and 120’s), Menthol soft pack (Kings and 100’s), Silver box (Kings and 100’s), Silver soft pack (Kings and 100’s), Smooth box 120’s, Smooth Menthol Box (Kings, 100’s, and 120’s), Smooth Menthol soft pack (Kings and 100’s), Extra Smooth Menthol soft pack 100’s, Extra Smooth Menthol box 100’s, and Ultra box 120’s;
- Five 120’s box varieties of the Opal brand: Super Thins Full Flavor, Super Thins Smooth, Super Thins Ultra, Super Thins Menthol, and Super Thins Smooth Menthol.

Mr. Erlind Hill

July 11, 2023

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>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

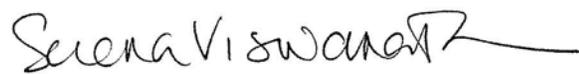
Please note that this letter only approves NWS's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for NWS's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of NWS'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 July 10, 2024 or until new health warnings required under the TCA take effect, whichever comes first.**

If you have any questions regarding this approval, please contact Kenneth Chrzanowski at (202) 326-2127.

Very truly yours,



Serena Viswanathan  
Associate Director

---

<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**

[borenlaw@bellsouth.net](mailto:borenlaw@bellsouth.net)

One Datan  
9100 South Dadeland Boulevard  
Suite 402  
Miami, Florida 33156

Telephone  
(305) 670-2200  
Facsimile  
(305) 670-5221

July 3, 2023

Sent via email: [bmcgregor@ftc.gov](mailto:bmcgregor@ftc.gov)

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 Winner Cigarettes for Winner Tobacco Wholesale, Inc.

Dear Ms. Viswanathan:

Please be advised that we are the attorneys for Winner Tobacco Wholesale, Inc ("Winner"), a Minnesota corporation, with offices located at 675 Stinson Ave, Minneapolis, MN 55413. The phone number is (612) 701-5900. Winner wishes to file a Surgeon General's Warning Packaging Equalization Plan for their Winner cigarettes. All their Winner cigarettes are manufactured by Ohserase Manufacturing, LLC, located at 26 Eagle Drive, Akwesasne, NY 13655. All of the Winner cigarettes are and will be manufactured in the United States. None will be imported. 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 President, Elias Yazbeck, who can be reached at the above address and phone number.

**Packaging Health Warning Equalization Plan**

Winner wishes to file a plan to equalize the display of the warnings on packaging as required by 15 U.S.C. § 1333(c) for all the Winner brand cigarettes they have contract manufactured.

Actual production packs and cartons for the Winner brand styles which show exactly

where and how the four (4) Surgeon General's health warnings will appear on the individual packs and cartons were submitted on March 28, 2022.

In fiscal year 2022<sup>1</sup>, Winner had [REDACTED] Winner brand cigarettes manufactured. In fiscal year 2023 to date, Winner has [REDACTED] Winner brand cigarettes manufactured. In fiscal year 2023, Winner anticipates having approximately [REDACTED] sticks of its Winner brand styles manufactured. Winner does not import, manufacture, or cause to be manufactured any other brand of cigarettes.

No one brand style of cigarettes Winner sold in 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 the United States in the next fiscal year. In addition, more than one-half of the cigarettes Winner had manufactured for sale in the United States were packaged into brand styles which meet the requirements of 15 U.S.C. §1333(c)(2)(A)(I).

Pursuant to 15 U.S.C. §1333(c)(2) Winner wishes to equalize the four health warning statements on all the brand styles listed in Exhibit A of the Winner brand cigarettes as required by 15 U.S.C. §1333(c)(2). Each of the four warning statements will appear on the packs and cartons of each brand style of the Winner brand of cigarettes an equal number of times in the one-year period beginning on the date this plan is approved.

The individual packs of Winner cigarettes 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. Winner will keep a running total of the number of cartons and packs with each warning label for each brand style.

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

Winner will have printed 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 manufactured. 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, Winner 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.

Winner does not plan to advertise the Winner 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

---

<sup>1</sup> Winner's fiscal year coincides with the calendar year.

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.

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

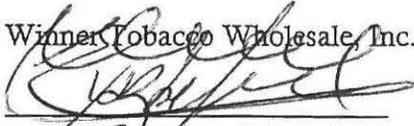
Sincerely yours,

LAW OFFICES OF BARRY M. BOREN

*Barry Boren*

Barry M. Boren

Winner Tobacco Wholesale, Inc.



By: Elias Yazbeck, President

**EXHIBIT "A"**  
**BRAND STYLES FOR WINNER CIGARETTES**

**WINNER**

Winner Full Flavor Kings Box  
Winner Menthol Full Flavor Kings Box  
Winner Blue Kings Box

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



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

Division of  
Advertising Practices

July 17, 2023

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 proposed plan filed by Winner Tobacco Wholesale, Inc. (“Winner”) dated July 3, 2023 calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Winner brand of cigarettes.

Winner’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 March 28, 2022 continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.

Accordingly, Winner’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following eight Box varieties of the Winner brand: Full Flavor (Kings and 100’s), Blue (Kings and 100’s), Menthol Full Flavor (Kings and 100’s), Menthol Gold 100’s, and Silver 100’s.

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 Winner 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 Winner’s cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009

---

<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.

Barry M. Boren, Esq.

July 17, 2023

Page 2

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 Winner’s cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Winner’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 July 16, 2024 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 Kiara Beverly at (202) 326-2467.

Very truly yours,



Serena Viswanathan  
Associate Director

# Holland & Knight

31 West 52nd Street | New York, NY 10019 | T 212.513.3200 | F 212.385.9010  
Holland & Knight LLP | www.hkllaw.com

Neal N. Beaton  
(212) 513-3470  
neal.beaton@hkllaw.com

September 6, 2023

## **VIA FTC SECURE MAIL**

Ms. Serena Viswanathan  
Associate Director  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Mail Drop CC 10528  
Washington, D.C. 20580

**Re: Application Pursuant to 4(c)(2) of the Federal  
Cigarette Labeling and Advertising Act, as amended**

Dear Ms. Viswanathan:

On behalf of Japan Tobacco International U.S.A., Inc., a California corporation with its principal office at Glenpointe Centre West, 300 Frank W. Burr Boulevard, Suite 70, Teaneck, New Jersey 07666 ("JTI USA"), we respectfully submit an application pursuant to Section 4(c)(2) of the Federal Cigarette Labeling and Advertising Act, as amended (the "Act"), seeking approval for JTI USA to continue to display the warning labels specified in Section 4(a)(1) of the Act in the manner provided in Section 4(c)(2)(C) of the Act, on previously approved packages and cartons of cigarettes for the following brands and brand styles for one year following approval of this plan, namely:

Four slide and shell varieties of the "Export 'A'" brand: Full Flavor 72's, Rich Taste 72's, Smooth Taste 72's and Ultra Smooth Taste 72's;

Sixteen hard pack varieties of the "LD By L. Ducat" brand: Red (Kings and 100's), Menthol (Kings and 100's), Blue (Kings and 100's), Silver (Kings and 100's), Menthol Green (Kings and 100's), Red Club (Kings and 100's), Menthol Club (Kings and 100's) and Blue Club (Kings and 100's);

Atlanta | Austin | Birmingham | Boston | Century City | Charlotte | Chattanooga | Chicago | Dallas | Denver | Fort Lauderdale  
Houston | Jacksonville | Los Angeles | Miami | Nashville | Newport Beach | New York | Orlando | Philadelphia  
Portland | Richmond | San Francisco | Stamford | Tallahassee | Tampa | Tysons | Washington, D.C. | West Palm Beach

Ten hard pack varieties of the "Wave" brand: Full Flavor (Kings and 100's), Menthol (Kings and 100's), Blue (Kings and 100's), Silver (King and 100's), and Menthol Green (Kings and 100's); and

Six hard pack varieties of the "Wings" brand: Red (Kings and 100's), Gold (Kings and 100's), and Menthol (Kings and 100's),

The individual packages contain twenty cigarettes each. Each is and will continue solely to be imported into the U.S. (rather than manufactured in the U.S.).

The Label Statement Rotation Plan of JTI USA submitted to the Federal Trade Commission on August 28, 1985 (the "Plan"), as subsequently amended, was approved most recently on September 13, 2022 for all of the brand styles above. For the brand styles above, the four health warnings will appear exactly as shown on the samples provided to the FTC in connection with the most recent prior approvals, namely on August 21, 2019 (for the "LD by L. Ducat" brand), December 18, 2019 (for the "Wave" brand) and March 5, 2020 (for the "Export 'A'" and "Wings" brands) except that the address that appears of the packaging of the sixteen "LD By L Ducat" varieties was updated (however, the address is located on the opposite panel from the health warning label statements and this change did not alter the size or conspicuousness of the health warning label statements).

The four warnings have been and will continue to be equalized on the packs and cartons for the brand styles listed above in accordance with JTI USA's previously approved Plan. JTI USA does not import or manufacture any other brands or brand styles for sale in the U.S. other than those listed above and the ten additional brand styles of the "LD by L. Ducat" brand that were approved on April 28, 2023 (all of which are imported into the U.S.).

In support of JTI USA's application for extension of FTC approval of its simultaneous display plan for packages and cartons to cover the brand styles listed above, JTI USA affirms as follows:

(a) the cigarettes sold by JTI USA in the U.S. continue to comply with the two-tiered test in Section 4(c)(2) of the Act. During JTI USA's last fiscal year ended December 31, 2022, the total number of cigarettes of any brand style sold by JTI USA in the United States during such year (all of which were imported) was less than [REDACTED] and therefore (i) each brand style of cigarettes which JTI USA imported (or manufactured) and sold accounted for less than one-fourth of one percent of all cigarettes sold in the United States during the most recent completed year and (ii) more than one-half (*i.e.* all) of the cigarettes for sale by JTI USA for sale in the United States (all of which were imported) are packaged into brand styles which meet the requirements of clause (i). If sales of any JTI USA brand style exceed the one-fourth of one percent threshold at the December 31, 2023 end of JTI USA's current 2023 fiscal year, JTI USA will be in further communication with the Federal Trade Commission with respect to transitioning at least such brand styles to quarterly rotation of the warnings;

(b) the statutorily mandated warnings will appear exactly as shown on the sample packages and cartons submitted to and approved by the Federal Trade Commission unless and until revised sample individual packages and cartons are submitted to the Federal Trade Commission on JTI USA's behalf and approved by the Federal Trade Commission; and

(c) JTI USA will equally display the four warning labels specified in Section 4(a)(1) of the Act on packages and cartons of cigarettes for each brand style for the one year period beginning on the date of approval hereof and JTI USA will keep records demonstrating compliance with the Plan.

We submitted under cover of our letter dated February 19, 2016 an amended Schedule A to the Plan entitled "Label Statement Rotational For Advertisement Purposes (Only) By Brand And Quarter" which will continue to be followed by JTI USA unless and until submitted and approved otherwise. JTI USA will maintain compliance with its approved advertising plan.

JTI USA will import and sell packages and cartons of each of the brand styles referred to in this letter in equal numbers of each warning label throughout the one-year period after this application is approved using the printing methods set forth on the Attachment 1 hereto. As a result, if requirements for new warnings were to become effective on any date, the current warnings will have been utilized in equal proportions prior to then on all brand styles.

If you should have any further questions in connection with this application, please call me at (917) 539-1651 or email me at [neal.beaton@hklaw.com](mailto:neal.beaton@hklaw.com). It would be appreciated if the approval letter could be faxed to me at 212-385-9010 or sent to me as a pdf attachment to an e-mail at [neal.beaton@hklaw.com](mailto:neal.beaton@hklaw.com).

Thank you for your cooperation in this matter.

Very truly yours,



Neal N. Beaton

## **Attachment 1**

### **Export 'A'**

Export 'A' is printed using the gravure method.

The shell of Export 'A' slide and shell format is printed using a 24-ups cylinder configuration. The cylinder prints one sheet per rotation; one sheet contains 24 packs. Warnings A, B, C and D each comprise 25% of the sheet. Each warning appears 6 times per sheet.

Export 'A' uses a foil bundle rather than a standard carton. The bundle is printed using two sets of cylinders, each configured with 6 ups. The two cylinders are rotated so that they are used equally and collectively have 12 ups in a rotation. Each warning is printed 3 times over the two sheets in a rotation, comprising 25% of the sheets.

### **Wave/Wings**

Wave and Wings are printed using the offset method. All packaging is preprinted and supplied to the factory where it is made into final consumer packaging.

The boxes utilize two printing plates, each configured with 22 facings. The two plates are rotated so that they are used equally and collectively have 44 ups in a rotation. Each warning is printed 11 times per set of two sheets in a rotation, comprising 25% of the sheets.

The cartons are printed using plates with 4 facings. Each sheet is printed with 4 ups per rotation. Each warning comprises 25% of the sheet, appearing once.

### **LD by L. Ducat**

LD by L. Ducat is printed using the gravure method. All packaging is preprinted and supplied to the factory where it is made into final consumer packaging.

The boxes are printed using plates with 24 facings in the case of King Size brand styles and 16 faces in the case of 100s brand styles. Each sheet is printed with 24 ups per rotation in the case of King Size brand styles and 16 ups per rotation in the case of 100s brand styles. Each warning comprises 25% of the sheet, appearing 6 times per sheet in the case of King Size brand styles and 4 times per sheet in the case of 100s brand styles.

The cartons are printed using plates with 4 facings. Each sheet is printed with 4 ups per rotation. Each warning comprises 25% of the sheet, appearing once.



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

Division of  
Advertising Practices

September 12, 2023

Neal N. Beaton, Esq.  
Holland & Knight, LLP  
31 West 52nd Street  
New York, NY 10019

Dear Mr. Beaton:

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 Japan Tobacco International U.S.A., Inc. (“JTI”) dated September 6, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Export ‘A’, “LD by L. Ducat,” Wave, and Wings brands of cigarettes.

JTI’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 21, 2019 (“LD By L. Ducat”), December 18, 2019 (Wave), and March 5, 2020 (Export ‘A’ and Wings) continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.

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

- Four slide and shell varieties of the Export ‘A’ brand: Full Flavor 72’s, Rich Taste 72’s, Smooth Taste 72’s, and Ultra Smooth Taste 72’s;
- Sixteen hard pack varieties of the “LD by L. Ducat” brand: Red (Kings and 100’s), Menthol (Kings and 100’s), Blue (Kings and 100’s), Silver (Kings and 100’s), Menthol Green (Kings and 100’s), Red Club (Kings and 100’s), Menthol Club (Kings and 100’s), and Blue Club (Kings and 100’s);
- Ten hard pack varieties of the Wave brand: Full Flavor (Kings and 100’s), Menthol (Kings and 100’s), Blue (Kings and 100’s), Silver (Kings and 100’s), and Menthol Green (Kings and 100’s); and

- Six hard pack varieties of the Wings brand: Red (Kings and 100's), Gold (Kings and 100's), and Menthol (Kings and 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>1</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

I wish to remind you that the Commission's April 28, 2023 approval of JTI's plan for simultaneous display of the warnings on packaging for certain varieties of the "LD by L. Ducat" brand of cigarettes runs through April 27, 2024 (or until new health warnings required under the TCA take effect, whichever comes first) and that this letter does not extend that approval period.

Please note that this letter only approves JTI'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 JTI's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of JTI'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>.

---

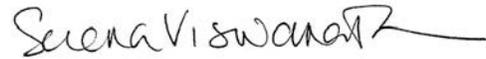
<sup>1</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

Neal N. Beaton, Esq.  
September 12, 2023  
Page 3

**This approval is effective on the date of this letter and runs through September 11, 2024 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,

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

Serena Viswanathan  
Associate Director

LAW OFFICES OF  
**BARRY M. BOREN**

[borenlaw@bellsouth.net](mailto:borenlaw@bellsouth.net)

One Datan  
9100 South Dadeland Boulevard  
Suite 402  
Miami, Florida 33156

Telephone  
(305) 670-2200  
Facsimile

September 12, 2023

Sent via email: [bmcgregor@ftc.gov](mailto:bmcgregor@ftc.gov)

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 Health Warning Equalization Plan  
for Everything Tobacco, LLC  
for Seneca and Westport Cigarettes

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 file a Surgeon General's Health Warning Equalization Plan for the display of the health warnings on packaging for its Seneca and Westport brands of cigarettes as required by 15 U.S.C. §1333(c)(1) for cigarettes they are importing into the United States. ET does not manufacture any cigarettes and does not import any other brands of cigarettes. The contact person for the company will continue to be its Manager, Michael Vazquez, who can be reached at the above address. His telephone number is (305) 406-2305. This plan is 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 brand styles of Seneca and Westport cigarettes ET intends to import are listed in the attachment marked as Exhibit "A." Actual samples of the packs and cartons for the various brand styles (listed in Exhibit "A") showing exactly where and how the four (4) Surgeon General's health warnings appear and will continue to appear on individual packs and cartons of the Seneca brand ET is importing were enclosed with our submission of March 23, 2018. Actual production packs and cartons for the Westport brand styles (listed in Exhibit "A") which show exactly where and how the four (4) Surgeon General's health warnings appear and will continue to appear on the individual packs and cartons ET is importing were enclosed with our submission of July 31, 2020. All the brand styles listed in Exhibit "A" have been equalized as of this date.

In fiscal year 2022, ET imported 1,054,134,000 Seneca brand cigarettes. To date, in fiscal year 2023<sup>1</sup>, ET imported 762,222,000 Seneca brand cigarettes. In fiscal year 2023, ET anticipates importing approximately 1,300,000,000 sticks of its Seneca brand styles.

In fiscal year 2022, ET imported 26,064,000 Westport brand cigarettes. To date, in fiscal year 2023, ET imported 14,676,000 Westport brand cigarettes. In fiscal year 2023, ET anticipates importing approximately 27,000,000 cigarette sticks of its Westport brand styles.

In fiscal year 2022, ET imported 313,236,000 sticks of its largest single brand style of Seneca and Westport cigarettes.

In fiscal year 2022, ET did not import, manufacture, or sell any Couture or Opal brand Cigarettes. ET has removed these brands from its FTC plan since it no longer imports, manufactures, or sells its Couture and Opal brand Cigarettes.

No one brand style of 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 no one brand style 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).

ET wishes to equalize the four health warning statements on all its Seneca and Westport brand styles. Each of the four warning statements will appear on the packs and cartons of each brand style of the Seneca and 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 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.

---

<sup>1</sup> ET's fiscal year coincides with the calendar year.

ET does not plan to advertise either its Seneca or 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.

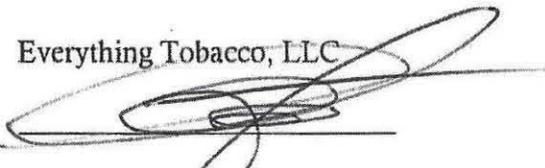
Sincerely yours,

LAW OFFICES OF BARRY M. BOREN

*Barry Boren*

Barry M. Boren

Everything Tobacco, LLC

A handwritten signature in black ink, appearing to read "Michael Vazquez", is written over a horizontal line. The signature is stylized and somewhat cursive.

By: Michael Vazquez, Manager

**EVERYTHING TOBACCO, LLC**  
**BRAND STYLES OF CIGARETTES**  
**EXHIBIT "A"**

**Seneca Brand Styles**

Full Flavor King Size Hard Pack  
Blue King Size Hard Pack  
Silver King Size Hard Pack  
Menthol King Size Hard Pack  
Smooth Menthol King Size Hard Pack  
Non-Filter Full Flavor King Size Hard Pack

Full Flavor 100's Hard Pack  
Blue 100's Hard Pack  
Silver 100's Hard Pack  
Menthol 100's Hard Pack  
Smooth Menthol 100's Hard Pack  
Extra Smooth Menthol 100's Hard Pack

Full Flavor 120's Hard Pack  
Smooth 120's Hard Pack  
Ultra 120's Hard Pack  
Menthol 120's Hard Pack  
Smooth Menthol 120's Hard Pack

Medium King Size Hard Pack  
Medium 100's Hard Pack  
Chill King Size Hard Pack

Full Flavor King Size Soft Pack  
Blue King Size Soft Pack  
Silver King Size Soft Pack  
Menthol King Size Soft Pack  
Smooth Menthol King Size Soft Pack

Full Flavor 100's Soft Pack  
Blue 100's Soft Pack  
Silver 100's Soft Pack  
Menthol 100's Soft Pack  
Smooth Menthol 100's Soft Pack

Full Flavor 72's Hard Pack  
Blue 72's Hard Pack  
Menthol 72's Hard Pack  
Extra Smooth Menthol 100's Soft Pack

### **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)



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

Division of  
Advertising Practices

September 13, 2023

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 by Everything Tobacco, LLC (“ET”) dated September 12, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Seneca and Westport brands 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 with your letters dated March 23, 2018 (for the Seneca varieties) and July 31, 2020 (for the Westport varieties) continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.

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

- Thirty-four varieties of the Seneca brand: Full Flavor hard pack (Kings and 100’s), Full Flavor soft pack (Kings and 100’s), Blue hard pack (Kings and 100’s), Blue soft pack (Kings and 100’s), Silver hard pack (Kings and 100’s), Silver soft pack (Kings and 100’s), Menthol hard pack (Kings and 100’s), Menthol soft pack (Kings and 100’s), Smooth Menthol hard pack (Kings and 100’s), Smooth Menthol soft pack (Kings and 100’s), Extra Smooth Menthol 100’s (hard pack and soft pack), Non-filter Full Flavor Kings hard pack, Full Flavor 120’s hard pack, Smooth 120’s hard pack, Ultra 120’s hard pack, Menthol 120’s hard pack, Smooth Menthol 120’s hard pack, Medium hard pack (Kings and 100’s), Chill Kings hard pack, Full Flavor 72’s hard pack, Blue 72’s hard pack, and Menthol 72’s hard pack; and

- 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>1</sup>

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 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>.

---

<sup>1</sup> As set forth in its September 12, 2023 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.

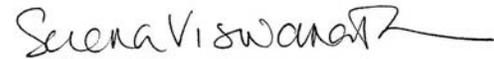
<sup>2</sup> Knowingly and willfully making false statements to a federal government agency is a crime punishable by a fine and/or imprisonment. 18 U.S.C. § 1001.

Barry M. Boren, Esq.  
September 13, 2023  
Page 3

**This approval is effective on the date of this letter and runs through September 12, 2024 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 stylized flourish.

Serena Viswanathan  
Associate Director

September 19, 2023

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



4900 Indian Hill Road  
Lewiston, NY 14092  
(716) 754-4064  
Fax (716) 754-4184

RE: Cigarette Health Warning Rotation Plan

Dear Ms. Viswanathan:

On behalf of Joseph M. Anderson dba Smokin Joes (“Smokin Joes”), we hereby submit a request to extend the Surgeon General's Equalization Plan for Smokin Joes as required under the Federal Cigarette Labeling and Advertising Act of 1984 (15 U.S.C. § 1331 (1998), et seq.), as amended (“FCLAA”), for the following:

- Fifteen (15) styles of the Exact cigarette brand;
- Twelve (12) styles of the Exact Elite cigarette brand;
- Eighteen (18) styles of the Lewiston cigarette brand;
- Twenty (20) style of the Market cigarette brand;
- One (1) style of the Maple Leaf cigarette brand;
- Two (2) styles of the Outdoor Freedom cigarette brand;
- Twenty-two (22) styles of the Smokin Joes cigarette brand;
- Nine (9) styles of the Smokin Joes (Natural) cigarette brand<sup>1</sup>;
- Eighteen (18) styles of the Smokin Joes Premium cigarette brand; and
- Two (2) styles of the Nightclub cigarette brand.

Smokin Joes requests a plan for the following:

---

<sup>1</sup> A business decision was made to remove the word “natural” from the packaging for these brand styles; the cigarettes otherwise remain the same. The new packaging for these brand styles was sent directly to the FTC from Smokin Joes’ factory. The packaging for these brand styles is now differentiated from “Smokin Joes” brand styles by inclusion of the following verbiage on the packaging, “First Native American Cigarette Factory.”

800-274-8010

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



<b>Exact Cigarette Brand</b>
1) Exact Canadian Red King Size Soft Pack
2) Exact Canadian Blue King Size Soft Pack
3) Exact Red 100 Size Soft Pack
4) Exact Red King Size Box
5) Exact Red King Size Soft Pack
6) Exact Gold 100 Size Soft Pack
7) Exact Gold 100 Size Box
8) Exact Gold King Size Box
9) Exact Gold King Size Soft Pack
10) Exact Menthol 100 Size Soft Pack
11) Exact Menthol 100 Size Box
12) Exact Menthol King Size Soft Pack
13) Exact Menthol Gold 100 Size Soft Pack
14) Exact Menthol Gold King Size Soft Pack
15) Exact Blue 100 Size Soft Pack
<b>Exact Elite Cigarette Brand</b>
1) Exact Elite Red 100 Size Soft Pack
2) Exact Elite Red King Size Box
3) Exact Elite Red King Size Soft Pack
4) Exact Elite Gold 100 Size Soft Pack
5) Exact Elite Gold King Size Box
6) Exact Elite Gold King Size Soft Pack
7) Exact Elite Menthol 100 Size Soft Pack
8) Exact Elite Menthol King Size Soft Pack
9) Exact Elite Menthol Gold 100 Size Soft Pack
10) Exact Elite Menthol Gold King Size Soft Pack
11) Exact Elite Non-Filter King Size Box
12) Exact Elite Blue 100 Size Soft Pack
<b>Lewiston Cigarette Brand</b>
1) Lewiston Red 100 Size Soft Pack
2) Lewiston Red 100 Size Box
3) Lewiston Red King Size Box
4) Lewiston Red King Size Soft Pack
5) Lewiston Gold 100 Size Soft Pack
6) Lewiston Gold 100 Size Box
7) Lewiston Gold King Size Box
8) Lewiston Gold King Size Soft Pack
9) Lewiston Menthol 100 Size Soft Pack
10) Lewiston Menthol 100 Size Box
11) Lewiston Menthol King Size Soft Pack
12) Lewiston Menthol King Size Box
13) Lewiston Menthol Gold 100 Size Soft Pack
14) Lewiston Menthol Gold 100 Size Box
15) Lewiston Menthol Gold King Size Soft Pack
16) Lewiston Non-Filter King Size Soft Pack

17) Lewiston Blue 100 Size Soft Pack
18) Lewiston Blue 100 Size Box
<b>Maple Leaf Cigarette Brand</b>
1) Maple Leaf Canadian Blue King Size Box
<b>Market Cigarette Brand</b>
1) Market Red 100 Size Box
2) Market Red 100 Size Soft Pack
3) Market Red King Size Box
4) Market Red King Size Soft Pack
5) Market Gold 100 Size Box
6) Market Gold 100 Size Soft Pack
7) Market Gold King Size Box
8) Market Gold King Size Soft Pack
9) Market Menthol 100 Size Box
10) Market Menthol 100 Size Soft Pack
11) Market Menthol King Size Soft Pack
12) Market Menthol King Size Box
13) Market Menthol Gold 100 Size Box
14) Market Menthol Gold 100 Size Soft Pack
15) Market Menthol Gold King Size Soft Pack
16) Market Menthol Blue 100 Size Box
17) Market Non-Filter King Size Box
18) Market Blue 100 Size Box
19) Market Blue 100 Size Soft Pack
20) Market Blue King Size Box
<b>Outdoor Freedom Cigarette Brand</b>
1) Outdoor Freedom Original King Size Box
2) Outdoor Freedom Smooth King Size Box
<b>Smokin Joes Cigarette Brand</b>
1) Smokin Joes Red 100 Size Soft Pack
2) Smokin Joes Red 100 Size Box
3) Smokin Joes Red King Size Box
4) Smokin Joes Red King Size Soft Pack
5) Smokin Joes Gold 100 Size Soft Pack
6) Smokin Joes Gold 100 Size Box
7) Smokin Joes Gold King Size Box
8) Smokin Joes Gold King Size Soft Pack
9) Smokin Joes Menthol 100 Size Soft Pack
10) Smokin Joes Menthol 100 Size Box
11) Smokin Joes Menthol King Size Soft Pack
12) Smokin Joes Menthol King Size Box
13) Smokin Joes Menthol Gold 100 Size Soft Pack
14) Smokin Joes Menthol Gold 100 Size Box
15) Smokin Joes Menthol Gold King Size Soft Pack

16) Smokin Joes Menthol Gold King Size Box
17) Smokin Joes Non-Filter King Size Soft Pack
18) Smokin Joes Non-Filter King Size Box
19) Smokin Joes Blue 100 Size Soft Pack
20) Smokin Joes Blue 100 Size Box
21) Smokin Joes Blue King Size Soft Pack
22) Smokin Joes Blue King Size Box

<b>Smokin Joes (Natural) Cigarette Brand</b>
1) Smokin Joes (Natural) Purple 100 Size Box
2) Smokin Joes (Natural) Purple King Size Box
3) Smokin Joes (Natural) Silver 100 Size Box
4) Smokin Joes (Natural) Silver King Size Box
5) Smokin Joes (Natural) Menthol 100 Size Box
6) Smokin Joes (Natural) Menthol King Size Box
7) Smokin Joes (Natural) Red 100 Size Box
8) Smokin Joes (Natural) Red King Size Box
9) Smokin Joes (Natural) White 100 Size Box

<b>Smokin Joes Premium Cigarette Brand</b>
1) Smokin Joes Premium Canadian Red King Size Box
2) Smokin Joes Premium Canadian Blue King Size Box
3) Smokin Joes Premium Red 100 Size Soft Pack
4) Smokin Joes Premium Red 100 Size Box
5) Smokin Joes Premium Red King Size Box
6) Smokin Joes Premium Red King Size Soft Pack
7) Smokin Joes Premium Gold 100 Size Soft Pack
8) Smokin Joes Premium Gold 100 Size Box
9) Smokin Joes Premium Gold King Size Box
10) Smokin Joes Premium Gold King Size Soft Pack
11) Smokin Joes Premium Menthol 100 Size Soft Pack
12) Smokin Joes Premium Menthol 100 Size Box
13) Smokin Joes Premium Menthol King Size Soft Pack
14) Smokin Joes Premium Menthol Gold 100 Size Soft Pack
15) Smokin Joes Premium Menthol Gold King Size Soft Pack
16) Smokin Joes Premium Non-Filter King Size Soft Pack
17) Smokin Joes Premium Blue 100 Size Soft Pack
18) Smokin Joes Premium Blue King Size Soft Pack
<b>Nightclub Cigarette Brand</b>
1) Nightclub Rich King Size Box
2) Nightclub Smooth King Size Box

Through the date of this application, the Surgeon General's warnings on the packages for all of the above-referenced brand styles have been equalized in accordance with the Plan.

These cigarettes are manufactured by Joseph M. Anderson dba Smokin Joes; Smokin Joes does not import cigarettes. Upon approval of this plan, Smokin Joes will continue to sell these cigarettes under the authority of its Alcohol and Tobacco Tax and Trade Bureau Manufacturer of Tobacco Products License, TP-NY-168.

Smokin Joes 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. §§ 1333 *et seq.* In Smokin Joes' fiscal year 2022, which is the same as the calendar year, for the Exact, Exact Elite, Lewiston, Maple Leaf, Market, Outdoor Freedom, Smokin Joes, Smokin Joes (Natural), Smokin Joes Premium, and Nightclub brand styles, the number of sticks sold of any one of these brand styles was less than one-fourth of 1 percent of all the cigarettes sold in the United States in 2022, and sales of none of Smokin Joes' brand styles exceeded [REDACTED] sticks. Smokin Joes' top selling brand style for 2022 was [REDACTED] with [REDACTED] units. Finally, in fiscal year 2023, Smokin Joes does not anticipate sales of any single brand style of the Exact, Exact Elite, Lewiston, Maple Leaf, Market, Outdoor Freedom, Smokin Joes, Smokin Joes (Natural), Smokin Joes Premium, or Nightclub brands to exceed [REDACTED] sticks.

The products submitted with this Plan will continue to be packaged in 200 count cartons ("Outer Cartons"). Each Outer Carton will contain 10 packs of 20 cigarettes each ("Pack"). The warnings will appear exactly as they do on the actual Pack labels and Outer Cartons submitted to the Federal Trade Commission on June 28, 2018 and July 21, 2022.

If this plan for the alternative to quarterly rotation of warnings on packaging is approved, the four cigarette health warnings will appear on the packs and cartons of each of the cigarette brand varieties listed above an equal number of times for the one year period beginning on the date this plan is approved. To ensure the cigarette health warnings appear on the cigarette brand styles an equal number of times throughout the plan year, raw material packaging inventory will be stored and loaded into packaging machines alternating the four health warnings.

Smokin Joes will continue to comply with its May 1, 2007 amended plan for advertising the Exact, Lewiston, Market, Outdoor Freedom, and Smokin Joes cigarette brands as well as its February 19, 2008 plan for advertising the Nightclub cigarette brand and its April 16, 2009 plan for advertising the Maple Leaf cigarette brand.

Smokin Joes, as 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 Act. Smokin Joes will maintain record of compliance with the approved plan. The submitted carton and pack label for each brand style bearing each Surgeon General warning satisfies the requirement of package submission.

Please contact me at 716-261-9306 (direct line) or via e-mail at [atruscio@smokinjoe.com](mailto:atruscio@smokinjoe.com).

Sincerely,



Ann Truscio  
Tax Compliance Specialist



Division of  
Advertising Practices

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

September 19, 2023

Ms. Ann Truscio  
Smokin Joes  
4900 Indian Hill Road  
Lewiston, NY 14092

Dear Ms. Truscio:

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 Joseph M. Anderson d/b/a Smokin Joes (“Smokin Joes”) on September 19, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Exact, Exact Elite, Lewiston, Maple Leaf, Market, Nightclub, Outdoor Freedom, Smokin Joes, Smokin Joes (Natural), and Smokin Joes Premium brands of cigarettes.

Smokin Joes’ 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 June 28, 2018 and July 21, 2022 continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness. Accordingly, Smokin Joes’ plan for simultaneous display of the four health warnings on packaging is hereby approved for the following varieties:

- Fifteen varieties of the Exact brand: Canadian Red King Soft Pack, Canadian Blue King Soft Pack, Red King Box, Red Soft Pack (King and 100’s), Gold Box (King and 100’s), Gold Soft Pack (King and 100’s), Menthol Soft Pack (King and 100’s), Menthol 100’s Box, Menthol Gold Soft Pack (King and 100’s), and Blue 100’s Soft Pack;
- Twelve varieties of the Exact Elite brand: Non-Filter King Box, Red King Box, Red Soft Pack (King and 100’s), Gold King Box, Gold Soft Pack (King and 100’s), Menthol Soft Pack (King and 100’s), Menthol Gold Soft Pack (King and 100’s), and Blue 100’s Soft Pack;
- Eighteen varieties of the Lewiston brand: Non-Filter King Soft Pack, Red Box (King and 100’s), Red Soft Pack (King and 100’s), Gold Box (King and 100’s), Gold Soft Pack (King and 100’s), Menthol Box (King and 100’s), Menthol Soft Pack (King and 100’s),

Menthol Gold 100's Box, Menthol Gold Soft Pack (King and 100's), and Blue 100's (Box and Soft Pack);

- One variety of the Maple Leaf brand: Canadian Blue King Box;
- Twenty varieties of the Market brand: Non-Filter King Box, Red Box (King and 100's), Red Soft Pack (King and 100's), Blue Box (King and 100's), Blue 100's Soft Pack, Gold Box (King and 100's), Gold Soft Pack (King and 100's), Menthol Box (King and 100's), Menthol Soft Pack (King and 100's), Menthol Gold Soft Pack (King and 100's), Menthol Gold 100's Box, and Menthol Blue 100's Box;
- Two varieties of the Nightclub brand: Rich King Box and Smooth King Box;
- Two varieties of the Outdoor Freedom brand: Original King Box and Smooth King Box;
- Twenty-two varieties of the Smokin Joes brand: Non-Filter King (Soft Pack and Box), Red King (Soft Pack and Box), Red 100's (Soft Pack and Box), Blue King (Soft Pack and Box), Blue 100's (Soft Pack and Box), Gold King (Soft Pack and Box), Gold 100's (Soft Pack and Box), Menthol King (Soft Pack and Box), Menthol 100's (Soft Pack and Box), Menthol Gold King (Soft Pack and Box), and Menthol Gold 100's (Soft Pack and Box);
- Nine varieties of the Smokin Joes (Natural) brand (in "First Native American Cigarette Factory" packaging): Red Box (King and 100's), Purple Box (King and 100's), Silver Box (King and 100's), White 100's Box, and Menthol Box (King and 100's); and
- Eighteen varieties of the Smokin Joes Premium brand: Non-Filter King Soft Pack, Canadian Red King Box, Canadian Blue King Box, Red King (Soft Pack and Box), Red 100's (Soft Pack and Box), Blue Soft Pack (King and 100's), Gold King (Soft Pack and Box), Gold 100's (Soft Pack and Box), Menthol 100's Box, Menthol Soft Pack (King and 100's), and Menthol Gold Soft Pack (King and 100's).

Approval of Smokin Joes' 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.

Please note that this letter only approves Smokin Joes' 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 Smokin Joes' cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Smokin Joes' packaging and advertising under the TCA or any regulations that have been or might be promulgated by the Department of Health

---

<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.

Ms. Ann Truscio  
September 19, 2023  
Page 3

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 18, 2024 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,

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

Serena Viswanathan  
Associate Director

September 22, 2023

*CONFIDENTIAL CONTAINS TRADE SECRETS  
AND PROPRIETARY BUSINESS INFORMATION*

Serena Viswanathan  
Attn: Bonnie McGregor  
Federal Trade Commission  
Division of Advertising Practices  
Org. Code 1145, Mail Stop CC-6316  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

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

Dear Ms. Viswanathan:

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 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 September 26, 2022. A modification to the Plan was approved by the FTC on March 24, 2023. 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 six (6) brand styles listed in Schedule A, attached hereto. WRT has ceased manufacturing the Teton No. 6 Black Menthol 100's brand style. WRT seeks continued approval for the simultaneous display of health warnings on the packaging of the Teton brand of cigarettes for the brand styles 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 brand styles 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 brand styles 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 six (6) Teton brand styles for the one-year period beginning on the Effective Date.

WRT's fiscal year for 2022 was the calendar year (January 1, 2022 to December 31, 2022). Please note that WRT also manufactures American Bison and Nashville brand cigarettes, which brands and brand styles are subject to separate health warning display plans approved by the FTC.

The sales volume for any one brand style of cigarettes manufactured or imported by WRT in fiscal and calendar year 2022 did not exceed 18,036,000 cigarettes. WRT does not anticipate that the sales volume for any one brand style 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. WRT does not now and does not intend to manufacture or import any brands of cigarettes for sale in the United States for the one-year period beginning on the Effective Date, other than the American Bison, Nashville and Teton brand styles listed in Schedule A.

The label statements required by 15 U.S.C. §1333(a)(1), shall be printed on the packaging of the Teton cigarettes. The warning labels will appear on the packs and cartons of each of the Teton brand styles exactly as they appear on the packaging submitted to the FTC with WRT's letter dated February 16, 2023.

**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.

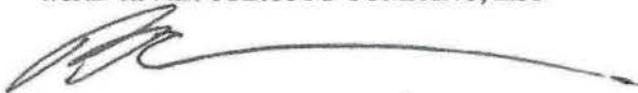
Sincerely,

ROETZEL & ANDRESS, LPA

  
Craig A. Koenigs

Reviewed and agreed by:

WIND RIVER TOBACCO COMPANY, LLC



Brian Tascher  
Chief Financial Officer

## SCHEDULE A

The following is a list of the American Bison, Nashville and Teton cigarette brand styles that WRT manufactures.

<u>Brand</u>	<u>Size / Packaging</u>	<u>Brand Style</u>
American Bison	King / Box	Blue (Blue Packaging) Blue (Red Packaging) Gold Yellow Green (Menthol) Dark Green (Menthol)
	100's / Box	Blue Gold Yellow Green (Menthol) Dark Green (Menthol)
<u>Brand</u>	<u>Size / Packaging</u>	<u>Brand Style</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>Brand Style</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



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

Division of  
Advertising Practices

September 22, 2023

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 by Wind River Tobacco Company, LLC (“WRT”) dated September 22, 2023, 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 February 16, 2023 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. Accordingly, WRT’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following six 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, and No. 6 Green 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>1</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 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

---

<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.

Craig A. Koenigs, Esq.  
September 22, 2023  
Page 2

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 21, 2024 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 stylized flourish.

Serena Viswanathan  
Associate Director