



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 26, 2025

SUBJECT: Rotational Health Warnings for Cigarettes  
File No. P854505

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

1. October 16, 2023 letter from Craig A. Koenigs on behalf of NASCO Products, LLC to Serena Viswanathan.
2. October 19, 2023 letter from Serena Viswanathan to Craig Koenigs on behalf of NASCO Products, LLC.
3. September 29, 2023 letter from Jennifer Straus, Farmers Tobacco Co. of Cynthiana, Inc. to Serena Viswanathan.
4. October 27, 2023 letter from Serena Viswanathan to Jennifer Straus, Farmers Tobacco Co. of Cynthiana, Inc.
5. October 26, 2023 letter from Geraldine Bowen Barker, Commonwealth Brands, LLC to Serena Viswanathan.
6. October 27, 2023 letter from Serena Viswanathan to Geraldine Bowen Barker, Commonwealth Brands, Inc.
7. November 1, 2023 letter from Craig A. Koenigs on behalf of NASCO Products, LLC to Serena Viswanathan.
8. November 2, 2023 letter from Serena Viswanathan to Craig Koenigs on behalf of NASCO Products, LLC.

9. November 27, 2023 letter from Tina M. Bardak, Lake Erie Tobacco Company to Bonnie McGregor.
10. December 5, 2023 letter from Serena Viswanathan to Tina M. Bardak, Lake Erie Tobacco Company.
11. December 14, 2023 letter from Craig A. Koenigs on behalf of NASCO Products, LLC to Serena Viswanathan.
12. December 14, 2023 letter form Serena Viswanathan to Craig Koenigs on behalf of NASCO Products, LLC.

1300 Pennsylvania Avenue NW  
Suite 700  
Washington, D.C. 20004  
DIRECT DIAL 202.216.8317  
PHONE 202.625.0600 FAX 202.338.6340  
ckoenigs@ralaw.com

WWW.RALAW.COM

October 16, 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: NASCO Products, LLC  
Moonlight Brand Cigarettes Renewal**

Dear Ms. Viswanathan:

This renewal of the plan for the simultaneous display of health warnings on the packaging of Moonlight brand cigarettes (the "**Plan**") is submitted to the Federal Trade Commission ("**FTC**") on behalf of NASCO Products, LLC ("**NASCO**"), located at 321 Farmington Road, Mocksville, NC 27028.

**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).

NASCO intends to manufacture the Moonlight brand of cigarettes in the two (2) brand styles listed in Schedule A, attached hereto. NASCO seeks continued approval for the simultaneous display of health warnings on the packaging of the Moonlight brand of cigarettes for the brand styles listed in Schedule A. This Plan sets forth the manner in which NASCO 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 Moonlight brand styles manufactured by NASCO:

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. NASCO 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 Moonlight brand styles it manufactures. To ensure the four cigarette health warnings appear on the Moonlight cigarette brand styles an equal number of times throughout the one-year period beginning on the Effective Date, packaging from the supplier will arrive to NASCO with an equal number of each of the four warnings. For small production runs, packaging will be loaded into packaging machines alternating the four health warnings. For large production runs, all packaging arriving from the supplier with an equal number of each of the four warnings, will be used in the production of product within the period. Accordingly, the packs and cartons will be printed and distributed using an equal number of all four (4) warning labels. NASCO shall maintain records accounting for the number of packs and cartons using each warning label. NASCO will equalize the use of the four (4) warning labels on the packs and cartons of the two (2) Moonlight brand styles for the one-year period beginning on the Effective Date.

NASCO's fiscal year for 2022 was the calendar year (January 1, 2022 to December 31, 2022). Please note that NASCO also manufactures Pinnacle, SF and VLN 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 NASCO in fiscal and calendar year 2022 did not exceed [REDACTED] cigarettes. NASCO 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. NASCO 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 Moonlight, Pinnacle, SF and VLN 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 Moonlight cigarettes. The warning labels will appear on the packs and cartons of each of the Moonlight brand styles exactly as they appear on the packaging submitted to the FTC with NASCO's letter dated June 18, 2020.

## **III. Advertising**

NASCO currently has approved advertising plans in place for Moonlight brand cigarettes and continues to be in compliance with those plans. NASCO has a plan for the display of health warnings on



internet advertising for Moonlight brand cigarettes that was approved on August 3, 2020, and a plan for the display of health warnings on print and point-of-sale advertising for Moonlight brand cigarettes that was approved on August 6, 2021. Any advertising of the Moonlight brand cigarettes shall be conducted in accordance with the above-referenced advertising plans.

**IV. Miscellaneous**

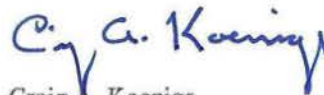
A. Nothing herein shall be construed to require the manufacture, packaging, distribution or importation of any cigarettes during any period of time.

B. Please be advised that the sales volume information contained in this Plan is confidential and contains trade secrets and proprietary business information of NASCO. NASCO does not authorize the release of this sales volume information to anyone without NASCO'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:

NASCO Products, LLC



Lindsay Castro  
Associate General Counsel  
(716) 912-8846

## **SCHEDULE A**

The following is a list of the Moonlight, Pinnacle, SF and VLN brand styles that NASCO manufactures.

### Brand Style

Moonlight King Box  
Moonlight Menthol King Box  
Pinnacle Full Flavor 100 Box  
Pinnacle Full Flavor King Box  
Pinnacle Gold 100 Box  
Pinnacle Menthol 100 Box  
SF Blue 100 Box  
SF Blue King Box  
SF Dark Green Menthol 100 Box  
SF Dark Green Menthol King Box  
SF Gray 100 Box  
SF Gray King Box  
SF Non-Filter King Box  
SF Non-Filter King Soft Pack  
SF Pale Green Menthol 100 Box  
SF Pale Green Menthol King Box  
SF Red 100 Box  
SF Red King Box  
VLN King Box  
VLN Menthol King Box



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

Division of  
Advertising Practices

October 19, 2023

Mr. Craig Koenigs, Esq.  
Roetzel & Andress, LPA  
1300 Pennsylvania Avenue NW  
Suite 700  
Washington, DC 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 filed by NASCO Products, LLC ("NASCO") on October 16, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for two varieties of the Moonlight brand of cigarettes.

NASCO'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 June 18, 2020 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, NASCO's plan for simultaneous display of the four health warnings on packaging is hereby approved for the Moonlight King Box and Moonlight Menthol King Box varieties.

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 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") and, if not already expired, 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 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

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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.

Mr. Craig Koenigs, Esq.

October 19, 2023

Page 2

“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 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 Kenneth Chrzanowski at (202) 326-2127.

Very truly yours,

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

Serena Viswanathan  
Associate Director





Farmers Tobacco Co. of Cynthiana, Inc.  
636 US Hwy 27 N, PO Box 98  
Cynthiana, KY 41031

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September 29, 2023

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

RE: Cigarette Health Warning Plan

Dear Madam:

Farmers Tobacco Co. of Cynthiana, Inc. is a cigarette manufacturer (TP-KY-45) located in Cynthiana, Kentucky. We are submitting this plan to you explaining how we will comply with the health warning display requirements.

Farmers Tobacco Co. of Cynthiana, Inc. owns and manufactures only the brands "Kentucky's Best", "VB Made in the USA", and "Baron American Blend". Our plan for simultaneous display of the health warnings on packaging for certain varieties of the "Kentucky's Best", "VB Made in the USA", and "Baron American Blend" brands were most recently approved on October 31, 2022, and December 15, 2022. This is a consolidated plan for all three brands. Please see the attachment to this letter for the brands listings. We do not import any cigarettes.

I. Packaging

In accordance with Section 1333(c)(2), we would like permission to display the four warnings an equal number of times during the year (rather than rotating the warnings quarterly) since our company's annual sales for all brands (Kentucky's Best, VB Made in the USA, and Baron American Blend) are less than one-fourth of one percent of all the cigarettes sold in the United States. We will equalize the four warnings on the packs and cartons of each brand style that we manufacture (all are listed in the attachment that follows this letter) for the one-year period beginning on the date of approval of this plan and all warnings have been equalized to date. Equalization is achieved by the packaging vendor who will print all four warnings in equal numbers on each printed sheet of packaging for all cartons and packs so that when sheets are cut, the warnings will be equalized on cartons and packs for each brand style. The warnings will appear exactly as shown on the pack and carton samples submitted with this letter.

The sales volumes in cigarettes for each brand for fiscal year 2022 (January 1 – December 31, 2022) were as follows:

Kentucky's Best  
VB Made in the USA  
Baron American Blend



Anticipated sales volumes in cigarettes for each brand for fiscal year 2023 (January 1 – December 31, 2023) are as follows:

Kentucky's Best  
VB Made in the USA  
Baron American Blend



II. Advertisements (other than outdoor billboard advertisements)

Farmers Tobacco Co. of Cynthiana Inc. continues to be in compliance with the advertising plans approved by the FTC on November 18, 2003 and April 18, 2005 for Kentucky's Best, March 25, 2005 for VB Made in the USA and April 27, 2005 for Baron American Blend.

Farmers Tobacco Co. of Cynthiana, Inc. will maintain sufficient records to demonstrate compliance with this plan.

If any further information is required, please call us at 1-866-832-7637 between the hours of 8:00 AM and 5:00 PM EST. Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Straus".

Jennifer Straus  
President  
Farmers Tobacco Co. of Cynthiana, Inc.

Farmers Tobacco Co. of Cynthiana, Inc.  
List of Brand Family Styles

Kentucky's Best

Red King Soft Pack	Red 100 Soft Pack
Gold King Soft Pack	Gold 100 Soft Pack
Red King Hard Pack	Silver 100 Soft Pack
Gold King Hard Pack	Red 100 Hard Pack
Silver King Hard Pack	Gold 100 Hard Pack
Menthol King Hard Pack	Silver 100 Hard Pack
Green King Hard Pack	Menthol 100 Hard Pack
Non-Filter King Soft Pack	Green 100 Hard Pack

VB Made in the USA

Red King Hard Pack	Red 100 Hard Pack
Gold King Hard Pack	Gold 100 Hard Pack
	Blue 100 Hard Pack
Non-Filter King Soft Pack	Menthol 100 Hard Pack
	Green 100 Hard Pack

Baron American Blend

Red King Hard Pack	Red 100 Hard Pack
Blue King Hard Pack	Blue 100 Hard Pack
Menthol King Hard Pack	Silver 100 Hard Pack
Non-Filter King Soft Pack	Menthol 100 Hard Pack
	Green 100 Hard Pack

Selected packaging samples from those  
submitted with the plan.

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



★ **RED** ★

**KING SIZE**

**MADE IN U.S.A.**  
**20 CLASS A CIGARETTES**



Farmer's Tobacco Co.  
of Cynthiana  
P.O. Box 88  
Cynthiana, KY 41031  
[www.farmertobacco.com](http://www.farmertobacco.com)  
Manufactured by family tobacco  
farmers in Cynthiana, Kentucky.

3A

**KENTUCKY'S  
BEST**

★ **RED** ★

**KING SIZE**

**20 CLASS A CIGARETTES**

**KING SIZE**

★ **RED** ★



**KENTUCKY'S  
BEST**

**KING SIZE**

★ **RED** ★

**KENTUCKY'S  
BEST**

**KENTUCKY'S  
BEST**

**SALES TO  
MINORS  
PROHIBITED**

VA  
01627 / 1712 AMV 5814  
08 3 8582 x 8 9996  
21599



200 CLASS A CIGARETTES

KING SIZE

★ MENTHOL ★

KENTUCKY'S  
BEST



BOX



KENTUCKY'S  
BEST

★ MENTHOL ★

KING SIZE

BOX

BOX



KENTUCKY'S  
BEST

KENTUCKY'S  
BEST

★ MENTHOL ★

KING SIZE



SURGEON GENERAL'S WARNING:

Quitting Smoking Now Greatly  
Reduces Serious Risks to Your Health.

SALES TO MINORS PROHIBITED

KENTUCKY'S  
BEST

★ MENTHOL ★

KING SIZE



WB 01626 1175-NV 53862 14 685 x 11 4567

• 1 20589

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



18D



GREEN

100's

WD  
06986 / 2006 60672  
CB 3.5563 x 10.8511  
60672

14 123456789101112  
15 123456789101112



100's

GREEN

20 CLASS A CIGARETTES



20 CLASS A CIGARETTES

GREEN

100's

SALES TO  
MINORS  
PROHIBITED

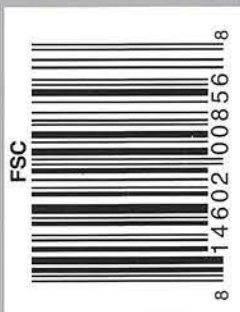
VB MADE IN THE USA  
P.O. Box 98  
CYNTHIANA, KY 41031  
TP-45KY



VVA 0368/V2/2007 66667 12.63 x 14.78  
19 1234567891011 12  
20 1234567891011 12  
8886 F5-1

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

SALES TO MINORS PROHIBITED



GOLD  
100's

GOLD  
100's



GOLD  
100's

BOX

VB MADE IN THE USA  
P.O. Box 98  
CYNTHIANA, KY 41031  
TP-45KY  
200 Class A Cigarettes

FILTER KINGS



MADE IN U.S.A.

BARON

AMERICAN BLEND

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



CSF

Menthol  
BARON  
KINGS BOX

BARON

AMERICAN BLEND

MADE IN U.S.A.



FILTER KINGS

Menthol

16D

Qm # 1172 3070  
0833882 19398  
52170

123456789101112  
123456789101112

Menthol  
BARON

Menthol

UNDERAGE  
SALE  
PROHIBITED

FILTER  
20  
CIGARETTES



*Blue*  
**BARON**

*Blue*

KING SIZE

**BARON**  
AMERICAN BLEND



MADE IN U.S.A.

BOX

MADE IN U.S.A.  
P.O. BOX 98  
CYNTHIANA, KENTUCKY 41031  
TP-KY-45



WC 01626/1173-MO 59849 14.695 X 11.4567  
4  
13988

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

SALES TO MINORS PROHIBITED

*Blue*  
**BARON**

AMERICAN BLEND

MADE IN U.S.A.





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

Division of  
Advertising Practices

October 27, 2023

Ms. Jennifer Straus  
Farmers Tobacco Co. of Cynthiana, Inc.  
636 US Highway 27 North  
P.O. Box 98  
Cynthiana, KY 41031

Dear Ms. Straus:

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 Farmers Tobacco Co. of Cynthiana, Inc. (“Farmers Tobacco”) dated September 29, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the “Kentucky’s Best,” “VB Made in the USA,” and “Baron American Blend” brands of cigarettes.

Farmers Tobacco’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 29, 2023 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, Farmers Tobacco’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following varieties:

- Sixteen varieties of the “Kentucky’s Best” brand: Red Kings (soft pack and hard pack), Gold Kings (soft pack and hard pack), Silver Kings hard pack, Menthol Kings hard pack, Green Kings hard pack, Non-Filter Kings soft pack, Red 100's (soft pack and hard pack), Gold 100's (soft pack and hard pack), Silver 100's (soft pack and hard pack), Menthol 100's hard pack, and Green 100's hard pack;

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<sup>1</sup> This approval pertains only to packaging that meets the requirements of the Cigarette Act. Furthermore, the four health warnings must appear exactly as shown on the packs and cartons most recently approved.

- Eight varieties of the “VB Made in the USA” brand: Red hard pack (Kings and 100's), Gold hard pack (Kings and 100's), Menthol 100's hard pack, Non-Filter Kings soft pack, Blue 100's hard pack, and Green 100's hard pack; and
- Nine varieties of the “Baron American Blend” brand: Red hard pack (Kings and 100's), Blue hard pack (Kings and 100's), Menthol hard pack (Kings and 100's), Non-Filter Kings soft pack, Silver 100's hard pack, and Green 100's hard pack.

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 Farmers Tobacco’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 Farmers Tobacco’s cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Farmers Tobacco’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 26, 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 Kiara Beverly at (202) 326-2467.

Very truly yours,



Serena Viswanathan  
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.



# Commonwealth BRANDS, LLC

October 26, 2023

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

**RE: COMMONWEALTH BRANDS, LLC  
CIGARETTE WARNING LABEL EQUALIZED ROTATION PLAN**

Dear Ms. Viswanathan:

Commonwealth Brands, LLC ("Commonwealth Brands"), 714 Green Valley Road, Greensboro, NC 27408, hereby submits its Cigarette Warning Label Plan for Equalization of the USA Gold Menthol Gold Kings Box. The soft pack and carton versions of this USA Gold brand style (USA Gold Menthol Gold Kings) will be replaced with hard pack and carton versions (USA Gold Menthol Gold Kings Box). Sample packs and cartons have been sent to you via Federal Express for your review and approval. On March 8, 2023, the FTC approved Commonwealth Brands' plan to equalize the warnings on 66 brand styles.

This letter requests approval of a plan to conduct our manufacturing operations so that the four health warnings specified in 15 USC §1333(a)(1) of the Federal Cigarette Labeling and Advertising Act (the "Cigarette Labeling Act"), shall appear on the packages and cartons of the USA Gold Menthol Gold Kings Box brand style of cigarettes an equal number of times during the 12-month period starting from the date this plan is approved by the FTC. We expect that this brand style will meet the statutory requirements for the equalization method set out in 15 USC §1333(c)(2)(C) in that (i) the brand style subject to this plan will not have sales in excess of one-fourth of 1 percent of all cigarettes sold in the U.S. during fiscal year 2024; and (ii) more than 50% of the cigarettes manufactured by Commonwealth Brands will be packaged into brands styles that fall below the maximum volume set out in (i) above. If this request is approved, Commonwealth Brands will require one-fourth of each package and carton material order for this one (1) USA Gold Menthol Gold Kings Box brand style to be printed with each of the four warnings. Commonwealth Brands will maintain records that document compliance with this equalized plan.

The four health warnings will appear exactly as shown on the packs and cartons submitted separately via Federal Express. The warnings will read precisely as required by the Cigarette Labeling Act.

Commonwealth Brands' sales volume is measured on a fiscal year ending September 30th. Because the USA Gold Menthol Gold Kings Box brand style is new no current sales figures exist. The sales figures for Commonwealth Brands' existing brand styles during the most recent fiscal year preceding submission of this application (ending September 30, 2022) are reported in Exhibit A.

714 Green Valley Road, Greensboro, NC 27408  
An IMPERIAL BRANDS company

Ms. Serena Viswanathan  
October 26, 2023  
Page 2

Commonwealth Brands will continue to be in compliance with the following plan related to advertising and internet advertising of the USA Gold brand styles:

USA Gold - The January 31, 2002 plan for advertising and the February 13, 2008 plan for advertising which included a plan for display of the warnings in internet advertising.

Given the timeline for introduction of this brand style, we kindly request a response by October 30, 2023. If you require any additional information, please contact me.

Sincerely,  
  
Geraldine Bowen Barker

Associate General Counsel  
Authorized to submit on behalf of Commonwealth  
Brands, LLC per services contract of March 30, 2016  
714 Green Valley Road  
Greensboro, NC 27408  
Cell Phone: 336-601-5479  
Work Phone: 336-894-6253

**EXHIBIT A****COMMONWEALTH BRANDS, LLC SALES  
Fiscal Year 2022**

Brand (SKU)	Total Units FY 22
CROWNS GOLD KING SIZE BOX	
CROWNS GOLD 100S BOX	
CROWNS MENTHOL GREEN 100S BOX	
CROWNS RED KING SIZE BOX	
CROWNS RED 100S BOX	
CROWNS MENTHOL DARK GREEN 100S BOX	
<b>CROWNS</b>	
FORTUNA BLUE FILTER KING SIZE BOX	
FORTUNA BLUE FILTER 100S BOX	
FORTUNA MENTHOL GREEN FILTER KING SIZE BOX	
FORTUNA MENTHOL GREEN FILTER 100S BOX	
FORTUNA RED FILTER KING SIZE BOX	
FORTUNA RED FILTER 100S BOX	
FORTUNA MENTHOL FILTER DARK GREEN KING SIZE BOX	
FORTUNA MENTHOL FILTER DARK GREEN 100S BOX	
FORTUNA PALE BLUE FILTER KING SIZE BOX	
FORTUNA PALE BLUE FILTER 100S BOX	
<b>FORTUNA</b>	
MONTCLAIR MENTHOL GOLD FILTER 100S BOX	
MONTCLAIR SILVER FILTER 100S BOX	
MONTCLAIR BLUE FILTER 100S BOX	
MONTCLAIR BLACK FILTER 100S BOX	
MONTCLAIR BLACK KING SIZE BOX	
MONTCLAIR BLUE KING SIZE BOX	
MONTCLAIR MENTHOL DARK GREEN 100S BOX	
MONTCLAIR MENTHOL DARK GREEN KING SIZE BOX	
<b>MONTCLAIR</b>	
RAVE GOLD KINGS BOX	
RAVE GOLD 100S BOX	
RAVE RED KINGS BOX	
RAVE RED 100S BOX	
RAVE MENTHOL DARK GREEN KINGS BOX	
RAVE MENTHOL DARK GREEN 100S BOX	
<b>RAVE</b>	
SONOMA GOLD FILTER KING SIZE BOX	
SONOMA GOLD FILTER 100S SOFT PACK	
SONOMA GOLD FILTER 100S BOX	



SONOMA BLUE FILTER 100S BOX	
SONOMA BLUE FILTER 100S SOFT PACK	
SONOMA MENTHOL GREEN FILTER KING SIZE BOX	
SONOMA MENTHOL GREEN FILTER 100S SOFT PACK	
SONOMA MENTHOL GREEN FILTER 100S BOX	
SONOMA RED FILTER KING SIZE BOX	
SONOMA RED FILTER 100S SOFT PACK	
SONOMA RED FILTER 100S BOX	
SONOMA MENTHOL DARK GREEN FILTER KINGS SIZE BOX	
SONOMA MENTHOL DARK GREEN FILTER 100S SOFT PACK	
SONOMA MENTHOL DARK GREEN FILTER 100S BOX	
SONOMA NON-FILTER KING SIZE SOFT PACK	
<b>SONOMA</b>	
USA GOLD MENTHOL FILTER KING SIZE SOFT PACK (DARK GREEN PACKAGING)	
USA GOLD MENTHOL FILTER KING SIZE BOX (DARK GREEN PACKAGING)	
USA GOLD MENTHOL FILTER 100S SOFT PACK (DARK GREEN PACKAGING)	
USA GOLD MENTHOL FILTER 100S BOX (DARK GREEN PACKAGING)	
USA GOLD MENTHOL GOLD FILTER KING SIZE SOFT PACK	
USA GOLD MENTHOL GOLD FILTER 100S SOFT PACK	
USA GOLD MENTHOL GOLD FILTER 100S BOX	
USA GOLD GOLD FILTER KING SIZE SOFT PACK	
USA GOLD GOLD KING SIZE BOX	
USA GOLD GOLD FILTER 100S SOFT PACK	
USA GOLD GOLD FILTER 100S BOX	
USA GOLD BLUE FILTER KING SIZE SOFT PACK	
USA GOLD BLUE FILTER KING SIZE BOX	
USA GOLD BLUE FILTER 100S SOFT PACK	
USA GOLD BLUE FILTER 100S BOX	
USA GOLD RED FILTER KING SIZE SOFT PACK	
USA GOLD RED FILTER KING SIZE BOX	
USA GOLD RED FILTER 100S SOFT PACK	
USA GOLD RED FILTER 100S BOX	
USA GOLD NON-FILTER KING SIZE SOFT PACK	
<b>USA GOLD</b>	
<b>TOTAL</b>	

Selected packaging samples from those  
submitted with the plan.

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



MENTHOL GOLD

**USA**  
**GOLD**  
MENTHOL GOLD

ITG Brands LLC  
Greensboro, NC  
27420 USA

MADE IN USA



3006352  
W/N/B

**USA**  
**GOLD**  
MENTHOL GOLD

9

MADE IN USA



**USA**  
**GOLD**  
MENTHOL GOLD



**USA**  
**GOLD**  
MENTHOL GOLD



UNDERAGE  
SALE  
PROHIBITED

**USA**  
**GOLD**

CLASS A  
20  
CIGARETTES



MENTHOL GOLD



200 Class A Cigarettes

ITG Brands LLC  
Greensboro, NC  
27420 USA

BOX



**USA**  
**GOLD**  
MENTHOL GOLD

MADE IN USA

**USA**  
**GOLD**  
MENTHOL GOLD

BOX

200

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

**USA**  
**GOLD**  
MENTHOL GOLD



200

MADE IN USA

BOX

3006353  
WN/D





Division of  
Advertising Practices

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

October 27, 2023

Geraldine Bowen Barker, Esq.  
Commonwealth Brands, Inc.  
714 Green Valley Road  
Greensboro, NC 27408

Dear Ms. Barker:

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, Commonwealth Brands, Inc.’s (“Commonwealth”) March 6, 2023 plan for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Crowns, Fortuna, Montclair, Rave, Sonoma, and USA Gold brands of cigarettes was approved on March 8, 2023.

By letter dated October 26, 2023, you now propose to expand Commonwealth’s plan to include simultaneous display of the four health warnings on packaging for one additional variety of the USA Gold brand.

Commonwealth’s sales appear to qualify for the aforementioned alternative to quarterly rotation of warnings on packaging with the exception of the Red Kings Box and Red 100’s Box varieties of the Sonoma brand,<sup>1</sup> and the warnings on the sample packs and cartons submitted with your letter dated October 11, 2023 appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness. Accordingly, Commonwealth’s expansion of its plan to include simultaneous display of the four health warnings on packaging for the USA Gold Menthol Gold Kings Box variety is hereby approved.

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.

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<sup>1</sup> Commonwealth’s plan for quarterly rotation of the four health warnings on packaging for the Sonoma Red Kings Box and Sonoma Red 100’s Box varieties was approved on March 10, 2022 and does not require annual approval.

<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.



Geraldine Bowen Barker, Esq.

October 27, 2023

Page 2

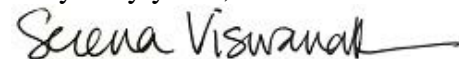
Please note that this letter only approves the expansion of Commonwealth's cigarette health warning statement rotation plan with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("TCA") and, if not already expired, 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 Commonwealth's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Commonwealth'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 [www.fda.gov/tobacco-products/ctp-newsroom/sign-email-updates-ctp](http://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 26, 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,



Serena Viswanathan  
Associate Director

1300 Pennsylvania Avenue NW  
Suite 700  
Washington, D.C. 20004  
DIRECT DIAL 202.216.8317  
PHONE 202.625.0600 FAX 202.338.6340  
ckoenigs@ralaw.com

WWW.RALAW.COM

November 1, 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: NASCO Products, LLC  
SF Brand Cigarette Plan Renewal and Consolidation**

Dear Ms. Viswanathan:

This renewal and consolidation of the plans for the simultaneous display of health warnings on the packaging of SF brand cigarettes (other than SF Non-Filter King Soft Pack brand style of cigarettes) hereinafter referred to as the Consolidated SF Brand Styles (the "**Plan**") is submitted to the Federal Trade Commission ("**FTC**") on behalf of NASCO Products, LLC ("**NASCO**"), located at 321 Farmington Road, Mocksville, NC 27028.

**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).

NASCO intends to manufacture the Consolidated SF Brand Styles of cigarettes in the eleven (11) brand styles listed in Schedule A, attached hereto. NASCO seeks continued approval for the simultaneous display of health warnings on the packaging of the Consolidated SF Brand Styles of cigarettes listed in Schedule A. NASCO has an approved plan for the SF Non-Filter King Box brand style of cigarettes that was approved on November 4, 2022, and an approved plan for the SF Blue 100 Box, SF Blue King Box, SF Dark Green Menthol 100 Box, SF Dark Green Menthol King Box, SF Gray 100 Box, SF Gray King Box, SF Pale Green Menthol 100 Box, SF Pale Green Menthol King Box, SF



Red 100 Box and SF Red King Box that was approved on November 17, 2022. NASCO now seeks to consolidate these plans into this single consolidated Plan for the Consolidated SF Brand Styles of cigarettes. The packaging for the Consolidated SF Brand Styles have been equalized to date.

This Plan sets forth the manner in which NASCO 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 Consolidated SF Brand Styles of cigarettes manufactured by NASCO:

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. NASCO 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 Consolidated SF Brand Styles of cigarettes it manufactures. To ensure the four cigarette health warnings appear on the Consolidated SF Brand Styles cigarette brand styles an equal number of times throughout the one-year period beginning on the Effective Date, packaging from the supplier will arrive to NASCO with an equal number of each of the four warnings. For small production runs, packaging will be loaded into packaging machines alternating the four health warnings. For large production runs, all packaging arriving from the supplier with an equal number of each of the four warnings, will be used in the production of product within the period. Accordingly, the packs and cartons will be printed and distributed using an equal number of all four (4) warning labels. NASCO shall maintain records accounting for the number of packs and cartons using each warning label. NASCO will equalize the use of the four (4) warning labels on the packs and cartons of the eleven (11) Consolidated SF Brand Styles for the one-year period beginning on the Effective Date.

NASCO's fiscal year for 2022 was the calendar year (January 1, 2022 to December 31, 2022). Please note that NASCO also manufactures Moonlight, Pinnacle, the SF Non-Filter King Soft Pack brand style and VLN 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 NASCO in fiscal and calendar year 2022 did not exceed [REDACTED] cigarettes. NASCO 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. NASCO 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 Moonlight, Pinnacle, SF and VLN 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 Consolidated SF Brand Styles of cigarettes. The warning labels will appear on the packs and cartons of each of the Consolidated SF Brand Styles exactly as they appear on the packaging submitted to the FTC with NASCO's letter dated September 29, 2022, for the SF Non-Filter King Box brand style and with NASCO's letter dated November 13, 2019, for the remaining Consolidated SF Brand Styles.

### **III. Advertising**

NASCO currently has an approved advertising plan in place for SF brand cigarettes and continues to be in compliance with that plan. NASCO has a plan for the display of health warnings on internet advertising for SF brand cigarettes that was approved on April 25, 2017, and modified on November 24, 2021. Any advertising of the SF brand cigarettes shall be conducted in accordance with the above-referenced advertising plan.

### **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 NASCO. NASCO does not authorize the release of this sales volume information to anyone without NASCO's permission, except as specifically required by law.

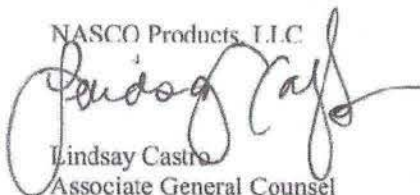
If you have any further questions regarding the Plan, please do not hesitate to contact me by email at ckoenigs@ralaw.com or by telephone at (202) 216-8317. As always, your prompt attention and assistance in this matter are greatly appreciated.

Sincerely,

ROETZEL & ANDRESS, LPA

  
Craig A. Koenigs

Reviewed and agreed by:

NASCO Products, LLC  
  
Lindsay Castro  
Associate General Counsel

## **SCHEDULE A**

The following is a list of the Moonlight, Pinnacle, SF and VLN brand styles that NASCO manufactures.

### **Brand Style**

Moonlight King Box  
Moonlight Menthol King Box  
Pinnacle Full Flavor 100 Box  
Pinnacle Full Flavor King Box  
Pinnacle Gold 100 Box  
Pinnacle Menthol 100 Box  
SF Blue 100 Box  
SF Blue King Box  
SF Dark Green Menthol 100 Box  
SF Dark Green Menthol King Box  
SF Gray 100 Box  
SF Gray King Box  
SF Non-Filter King Box  
SF Non-Filter King Soft Pack  
SF Pale Green Menthol 100 Box  
SF Pale Green Menthol King Box  
SF Red 100 Box  
SF Red King Box  
VLN King Box  
VLN Menthol King Box





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

Division of  
Advertising Practices

November 2, 2023

Craig 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 proposed plan submitted on behalf of NASCO Products, LLC ("NASCO") on November 1, 2023, 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.<sup>1</sup>

NASCO'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 November 13, 2019 and September 29, 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, 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 King Box.<sup>2</sup>

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<sup>1</sup> NASCO's plan for quarterly rotation of the four health warnings on packaging for the SF Non-Filter King Soft Pack variety was approved on November 24, 2021 and does not require annual approval.

<sup>2</sup> As set forth in its November 1, 2023 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; however, the color used for a variety's packaging does conform to the color used in its name.



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"), and if not already expired, 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 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 1, 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,



Serena Viswanathan  
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.



November 27, 2023

Ms. Bonnie Mc Gregor  
Federal Trade Commission  
Advertising Practices  
CC 10528  
600 Pennsylvania Avenue, NW  
Washington D.C. 20580

Dear Serena Viswanathan:

Please consider this letter as Lake Erie Tobacco Company's ("LET") request for approval of its rotational warning plan for the "31" brand and Seneca Select brand of cigarettes manufactured at LET. LET does not manufacture or import any other cigarette brands for sale or distribution in the United States. LET no longer imports Seneca Premium, Couture and Opal brand cigarettes. LET is a cigarette and other tobacco products manufacturer and importer located at 6564 Route 417 Kill Buck, NY 14748. The President of Lake Erie Tobacco Company is Bryan Porter. As General Counsel for LET I am authorized to submit this letter.

As required by Section 1333(c)(2) of the Federal Cigarette Labeling and Advertising Act ("the Cigarette Act", this letter is intended as LET's submission of its plan for the rotation of the four health warning statements on packaging for varieties or brand styles of "31" and Seneca Select brands of cigarettes.

### **Styles and Flavors**

Our previous plan for the simultaneous display of warnings on packages of the "31" brand was approved on December 8, 2022. We now seek approval for the same six (6) brand styles:

"31" Full Flavor 100 Box  
"31" Menthol 100 Box  
"31" Blue 100 Box  
"31" Blue Kings Box  
"31" Full Flavor Kings Box  
"31" Menthol Kings Box

In addition to the "31" brand cigarettes, we are seeking approval for a warning rotation plan for packaging on the following varieties of Seneca Select brand style cigarettes that LET manufactures:

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

Our previous plan for the simultaneous display of warnings on packages of Seneca Select brand style cigarettes was approved on December 8, 2022.

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

We will display the four health warnings on the packs and cartons of every brand style of cigarettes listed above an equal number of times for the one year period beginning on the date of approval of this plan (the alternative to quarterly rotation). Our highest selling brand style is [REDACTED]. It is anticipated that [REDACTED] s will again be our highest selling brand style in 2023 as it was in 2022. There were [REDACTED] sticks of [REDACTED] 's sold in 2022. We anticipate our sales volume for manufactured [REDACTED] 's in the calendar year 2023 to be [REDACTED] sticks.

Our proposed plan for compliance with the "Cigarette Act" is to have our suppliers, White House and Mohawk Packaging run the four warning labels simultaneously with each other. For the 31 and Seneca Select brands, the packaging is shipped to us by our supplier with the warnings simultaneously displayed on the packaging. The four warnings will be displayed on the packs and cartons of each brand style 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.

For "31" brand cigarettes, the warnings will appear exactly as shown on the sample packs and cartons submitted with our letter of May 15, 2018. This shows how the warnings will appear on the "31" Full Flavor 100's box, "31" Menthol 100's box brand styles, "31" Blue 100 box, "31" Blue Kings box, "31" Full Flavor Kings box and "31" Menthol Kings box.

For Seneca Select brand cigarettes, we enclosed sample packaging for packs and cartons with a letter dated July 29, 2021 and the warnings will appear exactly as shown on that packaging as submitted on that date.

LET does not manufacture any cigarettes for sale in the United States other than those noted above. LET does not currently import any cigarettes for sale in the United States.

#### **Label Statements and Rotation Plan**

The four warnings that will be displayed on 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**

LET currently has an advertising plan for the "31" brand on file with the FTC and will maintain compliance with its May 24, 2016 plan approved June 6, 2016. LET does not intend to advertise Seneca Select brands at this time.

Again, please consider our health warning display plan for packaging of the "31" brand and Seneca Select brands for approval at your earliest convenience. Should you have any questions, please feel free to contact me directly at 716.783.6797.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Tina M. Bardak".

Tina M. Bardak  
General Counsel





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

Division of  
Advertising Practices

December 5, 2023

Ms. Tina M. Bardak  
Lake Erie Tobacco Company  
6564 Route 417  
Kill Buck, NY 14748

Dear Ms. Bardak:

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 Lake Erie Tobacco Company (“LET”) on November 27, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the “31” and Seneca Select brands of cigarettes.

LET’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 May 15, 2018 and July 29, 2021 letters 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, LET’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following varieties:

- Six box varieties of the “31” brand: Full Flavor (kings and 100’s), Menthol (kings and 100’s), and Blue (kings and 100’s); and
- Thirteen box varieties of the Seneca Select brand: Full Flavor (kings and 100’s), Medium (kings and 100’s), Blue (kings and 100’s), Silver (kings and 100’s), Menthol (kings and 100’s), Smooth Menthol (kings and 100’s), and Extra Smooth 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.

---

<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. Tina M. Bardak

December 5, 2023

Page 2

If LET decides to advertise the Seneca Select brand 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 LET'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 LET's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of LET'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 4, 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". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Serena Viswanathan  
Associate Director



1300 Pennsylvania Avenue NW  
Suite 700  
Washington, D.C. 20004  
DIRECT DIAL 202.216.8317  
PHONE 202.625.0600 FAX 202.338.6340  
ckoenigs@ralaw.com

WWW.RALAW.COM

December 14, 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: NASCO Products, LLC  
Pinnacle Cigarettes Health Warning Plan Renewal**

Dear Ms. Viswanathan:

This renewal of the plan for the simultaneous display of health warnings on the packaging of Pinnacle brand cigarettes (the "**Plan**") is submitted to the Federal Trade Commission ("FTC") on behalf of NASCO Products, LLC ("**NASCO**"), located at 321 Farmington Road, Mocksville, NC 27028.

**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).

NASCO intends to manufacture the Pinnacle brand of cigarettes in the four (4) brand styles listed in Schedule A, attached hereto. NASCO seeks continued approval for the simultaneous display of health warnings on the packaging of the Pinnacle brand of cigarettes for the brand styles listed in Schedule A. This Plan sets forth the manner in which NASCO 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 Pinnacle brand styles manufactured by NASCO:

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. NASCO 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 Pinnacle brand styles it manufactures. To ensure the four cigarette health warnings appear on the Pinnacle cigarette brand styles an equal number of times throughout the one-year period beginning on the Effective Date, packaging from the supplier will arrive to NASCO with an equal number of each of the four warnings and all packaging will be used in the production of product within the period. Accordingly, the packs and cartons will be printed and distributed using an equal number of all four (4) warning labels. NASCO shall maintain records accounting for the number of packs and cartons using each warning label. NASCO will equalize the use of the four (4) warning labels on the packs and cartons of the four (4) Pinnacle brand styles for the one-year period beginning on the Effective Date.

NASCO's fiscal year for 2022 was the calendar year (January 1, 2022 to December 31, 2022). Please note that NASCO also manufactures Moonlight, SF and VLN 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 NASCO in fiscal and calendar year 2022 did not exceed [REDACTED] NASCO 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. NASCO 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 Moonlight, Pinnacle, SF and VLN 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 Pinnacle cigarettes. The warning labels will appear on the packs and cartons of each of the Pinnacle brand styles exactly as they appear on the packaging submitted to the FTC with NASCO's letters dated November 10, 2022, and December 1, 2022.

## **III. Miscellaneous**

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

B. NASCO does not plan to do any advertising for the Pinnacle brand of cigarettes. If NASCO intends to advertise the Pinnacle brand of cigarettes in the future, the company will submit an advertising plan to the FTC for approval before engaging in any such advertising activities.

C. Please be advised that the sales volume information contained in this Plan is confidential and contains trade secrets and proprietary business information of NASCO. NASCO does not authorize the release of this sales volume information to anyone without NASCO'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 or by telephone at (202) 216-8317. As always, your prompt attention and assistance in this matter are greatly appreciated.

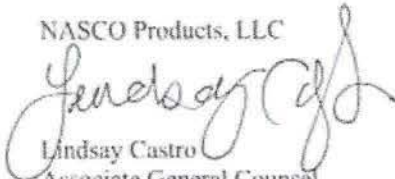
Sincerely,

ROETZEL & ANDRESS, LPA

  
Craig A. Koenigs

Reviewed and agreed by:

NASCO Products, LLC

  
Lindsay Castro  
Associate General Counsel  
(716) 912-8846



## **SCHEDULE A**

The following is a list of the Moonlight, Pinnacle, SF and VLN brand styles that NASCO manufactures.

### Brand Style

Moonlight King Box  
Moonlight Menthol King Box  
Pinnacle Full Flavor 100 Box  
Pinnacle Full Flavor King Box  
Pinnacle Gold 100 Box  
Pinnacle Menthol 100 Box  
SF Blue 100 Box  
SF Blue King Box  
SF Dark Green Menthol 100 Box  
SF Dark Green Menthol King Box  
SF Gray 100 Box  
SF Gray King Box  
SF Non-Filter King Box  
SF Non-Filter King Soft Pack  
SF Pale Green Menthol 100 Box  
SF Pale Green Menthol King Box  
SF Red 100 Box  
SF Red King Box  
VLN King Box  
VLN Menthol King Box



Division of  
Advertising Practices

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

December 14, 2023

Mr. Craig 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 NASCO Products, LLC ("NASCO") on December 14, 2023, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Pinnacle 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 letters of November 10 and December 1, 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, NASCO's plan for simultaneous display of the four health warnings on packaging is hereby approved for the following four varieties of the Pinnacle brand: Full Flavor King Box, Full Flavor 100 Box, Gold 100 Box, and Menthol 100 Box.

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 NASCO decides to advertise the Pinnacle brand 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 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

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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.

Craig Koenigs, Esq.

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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 December 13, 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 horizontal line.

Serena Viswanathan  
Associate Director