



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: March 16, 2020

SUBJECT: Rotational Health Warnings for Cigarettes  
File No. P854505

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

1. July 9, 2019 letter from Eric B. Estes, Xcaliber International, Ltd., LLC to Mary K. Engle.
2. July 11, 2019 letter from Mary K. Engle to Eric Barkley Estes, Xcaliber International, Ltd., LLC.
3. July 16, 2019 letter from Yancy Black, King Mountain Tobacco Company, Inc. to Mary K. Engle.
4. July 17, 2019 letter from Mary K. Engle to Yancy Black, King Mountain Tobacco Company, Inc.
5. July 16, 2019 letter from John DiCarlo, Joseph M. Anderson d/b/a Smokin Joes to Mary K. Engle.
6. July 30, 2019 letter from Mary K. Engle to John DiCarlo, Smokin Joes.
7. July 9, 2019 letter from Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC to Mary K. Engle.
8. July 31, 2019 letter from Mary K. Engle to Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC.

9. July 17, 2019 letter from Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC to the Mary K. Engle.
10. August 8, 2019 letter from Mary K. Engle to Craig A. Koenigs on behalf of Wind River Tobacco Company, LLC.
11. August 7, 2019 letter from Henry C. Roemer, III on behalf of El Morro Ship Chandlers to William Ducklow.
12. August 8, 2019 letter from Mary K. Engle to Henry C. Roemer, III on behalf of El Morro Ship Chandlers.
13. August 13, 2019 letter from Brendon Scott, Sherman's 1400 Broadway N.Y.C., LLC to Mary K. Engle.
14. August 23, 2019 letter from Mary K. Engle to Brendon Scott, Sherman's 1400 Broadway N.Y.C., LLC.
15. September 10, 2019 letter from Darren C. Broughton on behalf of Philip Morris USA Inc. to Mary K. Engle.
16. September 13, 2019 letter from Mary K. Engle to Darren C. Broughton on behalf of Philip Morris USA Inc.
17. September 18, 2019 letter from Neal N. Beaton on behalf of Japan Tobacco International U.S.A., Inc. to Mary K. Engle.
18. September 18, 2019 letter from Mary K. Engle to Neal N. Beaton on behalf of Japan Tobacco International U.S.A., Inc.
19. September 9, 2019 letter from Paige S. Fitzgerald on behalf of Firebird Manufacturing, LLC to Mary K. Engle.
20. September 19, 2019 letter from Mary K. Engle to Paige S. Fitzgerald on behalf of Firebird Manufacturing, LLC.
21. September 23, 2019 letter from Jennifer Straus, Farmers Tobacco Co. of Cynthiana, Inc. to Mary K. Engle.
22. September 25, 2019 letter from Mary K. Engle to Jennifer Straus, Farmers Tobacco Co. of Cynthiana, Inc.

# X C A L I B E R

INTERNATIONAL LTD., LLC.

Eric Barkley Estes  
General Counsel

Direct Dial: (918) 824-6641  
Email: eric@xcaliberinternational.com

July 9, 2019

## ***Via Federal Express – Overnight Delivery***

Ms. Mary K. Engle  
Division of Advertising Practices  
FEDERAL TRADE COMMISSION  
600 Pennsylvania Ave., N.W.  
Mail Drop CC100528  
Washington, D.C. 20580

Re: Plan for Compliance with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331, *et seq.* – Brand Styles “Royal”

Dear Ms. Engle:

Pursuant to the Federal Cigarette Labeling and Advertising Act (the “Act”) 15 U.S.C. §§ 1331, *et seq.*, Xcaliber International, Ltd., L.L.C. (“Xcaliber”), submits the following narrative describing its plan to comply with the health warning display requirements. On April 1, 2019, the Federal Trade Commission (“FTC”) approved Xcaliber’s plan for the packaging of the brand families “24/7,” “Berkeley,” “Berley,” “Echo,” “Edgefield,” “Exeter,” “Golden Blend,” “Gsmoke,” “Mainstreet,” and “Sport.” By this letter, Xcaliber seeks additional approval for the packaging and advertising of the brand family “Royal.” This plan does not, however, seek to supplant the April 1, 2019 approval by the FTC concerning the other Xcaliber brand families.

The styles for the brand family “Royal” on which Xcaliber is requesting approval are listed on **Attachment 1**. All of the brands for which this plan is submitted are manufactured by Xcaliber in Pryor, Oklahoma. Xcaliber imports no product.

### **I. Packaging**

- a. Warning Label Size and Location. With respect to “Royal,” warnings will appear exactly as shown on the packs and cartons provided to the FTC on June 6, 2019. The provided samples include each of the four warnings on packs and cartons for each brand style submitted. The warning statements are permanently imprinted on cigarette packs and cartons.
- b. Warning Label Rotation. Pursuant to Section 1333(c)(2) of the Act, Xcaliber will display the four warnings an equal number of times on the packs and cartons for each of the brand styles listed on **Attachment 1** for one year, beginning with the approval date of this plan.

Please note Xcaliber's plan is based on the alternative to quarterly rotation provided in 15 U.S.C. Section 1333(c)(2). Xcaliber hereby states that the yearly sales volume for each brand style it manufactures remains below the threshold under which the FTC may permit Xcaliber to display the four warnings an equal number of times during the year. Xcaliber's sales for the fiscal year ending December 31, 2018, were [REDACTED] sticks. A schedule is attached reflecting Xcaliber's sales for 2018 and the first four months of 2019. This schedule is provided as **Attachment 2.1** and **Attachment 2.2**, respectively.

Xcaliber requires its print suppliers to produce packaging with all four warnings in a single print run. The 100's-size soft pack labels are printed on a roll with an equal number of each warning within a 4-label space. The king size soft pack labels are printed using a press sheet with an equal number of each warning within a 32-label space. The king-size box labels are printed using a press sheet with an equal number of each warning within a 28-label space. The 100's size box labels are printed using a press sheet that has a 21-label space. Because one extra space is left on the 100's-size box print runs, the extra space rotates between the four warnings an equal number of times throughout the year. For cartons, the press sheet has a 6-label space in which the extra two spaces rotate between two warnings every other run to yield an equal number of warnings throughout the year. Xcaliber's print supplier palletizes the print by hand such that all warnings are randomized equally throughout an order. Xcaliber's print supplier also provides an affidavit with each print run that states that the order has been processed according to these standards.

- c. Records of Compliance. Xcaliber maintains a record of the affidavits provided by its print supplier confirming the procedures outlined above. When each order arrives, a set of samples of each warning from each brand style is kept along with the affidavit in Xcaliber's records. Both the affidavits and samples are kept by Xcaliber for a minimum of one year beyond the date of receipt of the print order.

## II. Advertising

Through the date of this application, Xcaliber continues to be in full compliance with the advertising plan approved on July 27, 2016. Upon approval of the new plan, Xcaliber wishes to advertise for each of the "Royal" brand styles listed on **Attachment 1**.

- a. Warning Label Size and Location. Copies of the warning formats that Xcaliber will be using in advertisements were enclosed with Xcaliber's submissions dated July 27, 2012, August 3, 2012, and August 15, 2012. The warning formats to be used by Xcaliber are consistent with those warning formats submitted with the 1985 plan of the five leading U.S. cigarette manufacturers. Xcaliber will place the warnings as specified in those plans, except that the point-of-sales advertisements will bear the warning statement referenced in **Attachment 3** for the quarter in which the

advertisement is ordered. The size of the advertisements shall not exceed 40 square feet.

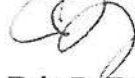
- b. Warning Label Rotation. Pursuant to Section 1333(c)(2) of the Act, the warnings will be rotated quarterly according to the schedule set out in **Attachment 3.**

Other than Internet advertising, Xcaliber advertises only with printed point-of-sale signs, such as pole signs or shelf talkers. When these signs are needed, Xcaliber will submit artwork to its print suppliers. This artwork will reflect both the appropriate warning statement format and the appropriate warning statement for the quarter in which the advertisement is ordered. Upon receiving a shipment of printed signs from its print suppliers, Xcaliber will check to assure that both the appropriate warning statement format and that warning statement for that quarter are imprinted on the sign.

- c. Internet. Xcaliber has developed and maintains an Internet website at [www.xcaliberinternational.com](http://www.xcaliberinternational.com). In Internet advertising, the warnings will be displayed in an unavoidable manner on every webpage where they may be viewed, without scrolling, and shall not be accessed through hyperlinks, popups, interstitials, or other similar means. The warning formats to be used by Xcaliber are consistent with those warning formats submitted with the 1985 plan of the five leading U.S. cigarette manufacturers; the size of the warnings shall be proportionate to those warning formats. The warnings will be rotated quarterly in accordance with the schedule set out in **Attachment 3.**

If you have any questions, or need anything further, please do not hesitate to contact me.

Warmest Regards,



Eric B. Estes  
General Counsel

enclosures

***Attachment 1. "Royal" Brand Styles.***

The attachment is provided on the following pages.

**ROYAL**

Note: Royal is only available in a box.

Red 100

Menthol 100

***Attachment 2.1. 2018 Sales Data***

The attachment is provided on the following pages.



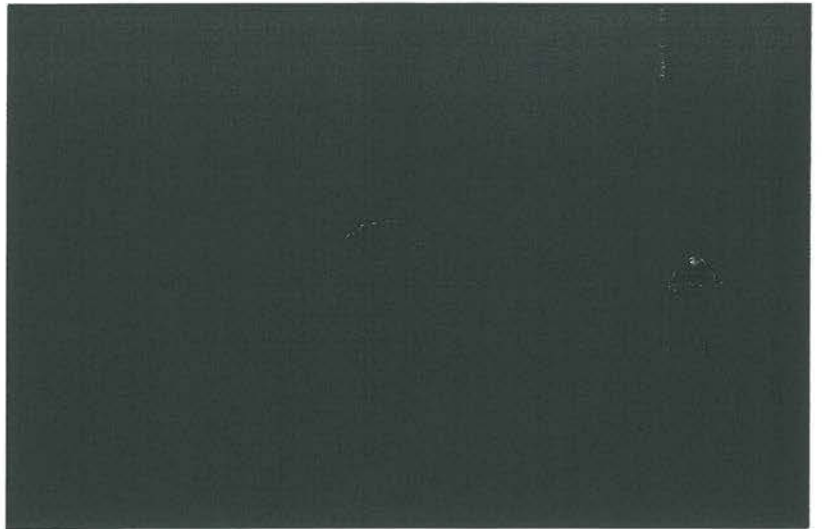
ATTACHMENT 2.1.

| Brands                       | Cases Shipped | Cartons Shipped | Packs Shipped | Sticks Shipped |
|------------------------------|---------------|-----------------|---------------|----------------|
| 24/7 BOX 100 GOLD            |               |                 |               |                |
| 24/7 BOX 100 MENTHOL         |               |                 |               |                |
| 24/7 BOX 100 MENTHOL GOLD    |               |                 |               |                |
| 24/7 BOX 100 RED             |               |                 |               |                |
| 24/7 BOX 100 SILVER          |               |                 |               |                |
| 24/7 BOX KING GOLD           |               |                 |               |                |
| 24/7 BOX KING MENTHOL        |               |                 |               |                |
| 24/7 BOX KING RED            |               |                 |               |                |
| BERKLEY BOX 100 GOLD         |               |                 |               |                |
| BERKLEY BOX 100 MENTHOL      |               |                 |               |                |
| BERKLEY BOX 100 MENTHOL GOLD |               |                 |               |                |
| BERKLEY BOX 100 RED          |               |                 |               |                |
| BERKLEY BOX 100 SILVER       |               |                 |               |                |
| BERKLEY BOX KING GOLD        |               |                 |               |                |
| BERKLEY BOX KING RED         |               |                 |               |                |
| BERKLEY SP 100 GOLD          |               |                 |               |                |
| BERKLEY SP 100 MENTHOL       |               |                 |               |                |
| BERKLEY SP 100 MENTHOL GOLD  |               |                 |               |                |
| BERKLEY SP 100 RED           |               |                 |               |                |
| BERKLEY SP 100 SILVER        |               |                 |               |                |
| BERKLEY SP KING GOLD         |               |                 |               |                |
| BERKLEY SP KING MENTHOL      |               |                 |               |                |
| BERKLEY SP KING NON FILTER   |               |                 |               |                |
| BERKLEY SP KING RED          |               |                 |               |                |
| BERKLEY SP KING SILVER       |               |                 |               |                |
| BERLEY BOX 100 BLUE          |               |                 |               |                |
| BERLEY BOX 100 GOLD          |               |                 |               |                |
| BERLEY BOX 100 MENTHOL       |               |                 |               |                |
| BERLEY BOX 100 MENTHOL GOLD  |               |                 |               |                |
| BERLEY BOX 100 RED           |               |                 |               |                |
| BERLEY BOX KING BLUE         |               |                 |               |                |
| BERLEY BOX KING GOLD         |               |                 |               |                |
| BERLEY BOX KING MENTHOL      |               |                 |               |                |
| BERLEY BOX KING MENTHOL GOLD |               |                 |               |                |
| BERLEY BOX KING RED          |               |                 |               |                |
| BERLEY SP 100 BLUE           |               |                 |               |                |
| BERLEY SP 100 GOLD           |               |                 |               |                |
| BERLEY SP 100 MENTHOL        |               |                 |               |                |
| BERLEY SP 100 MENTHOL GOLD   |               |                 |               |                |
| BERLEY SP 100 RED            |               |                 |               |                |
| BERLEY SP KING BLUE          |               |                 |               |                |
| BERLEY SP KING GOLD          |               |                 |               |                |
| BERLEY SP KING NON FILTER    |               |                 |               |                |
| BERLEY SP KING RED           |               |                 |               |                |
| ECHO BOX 100 RED             |               |                 |               |                |
| ECHO BOX 100 BLUE            |               |                 |               |                |
| ECHO BOX 100 GOLD            |               |                 |               |                |
| ECHO BOX 100 MENTHOL         |               |                 |               |                |
| ECHO BOX 100 MENTHOL GOLD    |               |                 |               |                |
| ECHO BOX KING BLUE           |               |                 |               |                |
| ECHO BOX KING GOLD           |               |                 |               |                |
| ECHO BOX KING MENTHOL        |               |                 |               |                |
| ECHO BOX KING MENTHOL GOLD   |               |                 |               |                |
| ECHO BOX KING NON FILTER     |               |                 |               |                |
| ECHO BOX KING RED            |               |                 |               |                |
| ECHO SP 100 BLUE             |               |                 |               |                |
| ECHO SP 100 GOLD             |               |                 |               |                |
| ECHO SP 100 MENTHOL          |               |                 |               |                |
| ECHO SP 100 MENTHOL GOLD     |               |                 |               |                |
| ECHO SP 100 RED              |               |                 |               |                |
| ECHO SP KING BLUE            |               |                 |               |                |
| ECHO SP KING GOLD            |               |                 |               |                |
| ECHO SP KING NON FILTER      |               |                 |               |                |
| ECHO SP KING RED             |               |                 |               |                |

EDGEFIELD BOX 100 GOLD  
EDGEFIELD BOX 100 MENTHOL  
EDGEFIELD BOX 100 MENTHOL GOLD  
EDGEFIELD BOX 100 RED  
EDGEFIELD BOX 100 SILVER  
EDGEFIELD BOX KING GOLD  
EDGEFIELD BOX KING MENTHOL  
EDGEFIELD BOX KING MENTHOL GOLD  
EDGEFIELD BOX KING NON FILTER  
EDGEFIELD BOX KING RED  
EDGEFIELD BOX KING SILVER  
EXETER BOX 100 BLUE  
EXETER BOX 100 GOLD  
EXETER BOX 100 MENTHOL  
EXETER BOX 100 MENTHOL GOLD  
EXETER BOX 100 RED  
EXETER BOX KING BLUE  
EXETER BOX KING GOLD  
EXETER BOX KING MENTHOL  
EXETER BOX KING MENTHOL GOLD  
EXETER BOX KING NON FILTER  
EXETER BOX KING RED  
EXETER SP 100 BLUE  
EXETER SP 100 GOLD  
EXETER SP 100 MENTHOL  
EXETER SP 100 MENTHOL GOLD  
EXETER SP 100 RED  
EXETER SP KING GOLD  
EXETER SP KING NON FILTER  
EXETER SP KING RED  
GOLDEN BLEND BOX 100 GOLD  
GOLDEN BLEND BOX 100 MENTHOL  
GOLDEN BLEND BOX 100 MENTHOL GOLD  
GOLDEN BLEND BOX 100 RED  
GOLDEN BLEND BOX 100 SILVER  
GOLDEN BLEND BOX KING GOLD  
GOLDEN BLEND BOX KING RED  
GOLDEN BLEND SP 100 GOLD  
GOLDEN BLEND SP 100 MENTHOL  
GOLDEN BLEND SP 100 RED  
GOLDEN BLEND SP 100 SILVER  
GOLDEN BLEND SP KING NON FILTER  
GOLDEN BLEND SP KING RED  
GSMOKE BOX 100 GOLD  
GSMOKE BOX 100 RED  
GSMOKE BOX KING GOLD  
GSMOKE BOX KING RED  
GSMOKE SP 100 BLUE  
GSMOKE SP 100 MENTHOL  
MAIN STREET BOX 100 BLUE  
MAIN STREET BOX 100 GOLD  
MAIN STREET BOX 100 MENTHOL  
MAIN STREET BOX 100 MENTHOL GOLD  
MAIN STREET BOX 100 RED  
MAIN STREET BOX KING GOLD  
MAIN STREET BOX KING MENTHOL  
MAIN STREET BOX KING RED  
MAIN STREET SP 100 BLUE  
MAIN STREET SP 100 GOLD  
MAIN STREET SP 100 MENTHOL  
MAIN STREET SP 100 MENTHOL GOLD  
MAIN STREET SP 100 RED  
MAIN STREET SP KING RED  
SPORT BOX 100 BLUE  
SPORT BOX 100 GOLD  
SPORT BOX 100 MENTHOL  
SPORT BOX 100 MENTHOL GOLD

SPORT BOX 100 RED  
SPORT BOX KING GOLD  
SPORT BOX KING MENTHOL  
SPORT BOX KING RED  
SPORT SP 100 BLUE  
SPORT SP 100 GOLD  
SPORT SP 100 MENTHOL  
SPORT SP 100 MENTHOL GOLD  
SPORT SP 100 RED  
SPORT SP KING GOLD  
SPORT SP KING MENTHOL  
SPORT SP KING RED

**Total:**



***Attachment 2.2. 2019 Sales Data.***

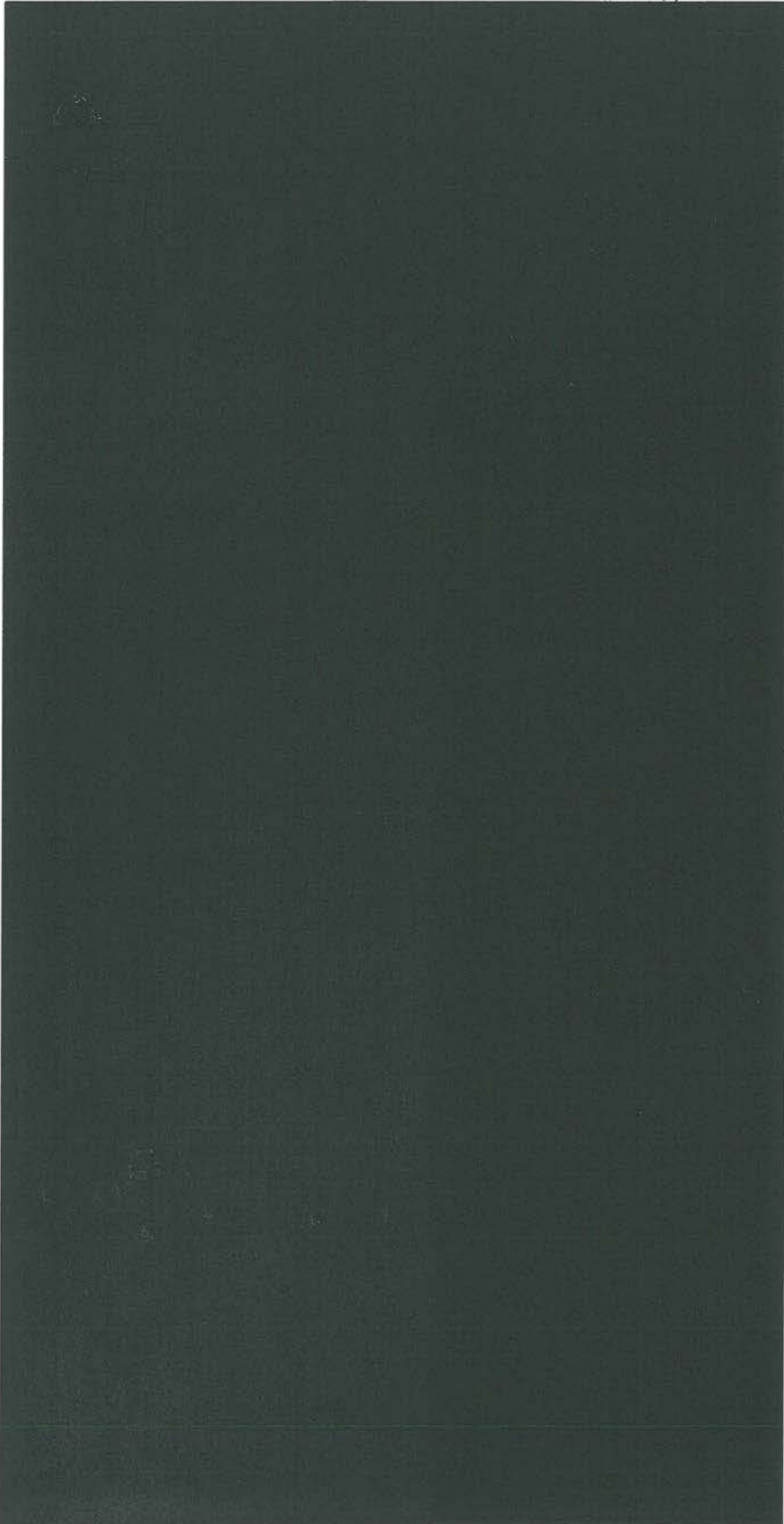
The attachment is provided on the following pages.

ATTACHMENT 2.2.

Brands

Cases Shipped    Cartons Shipped    Packs Shipped    Sticks Shipped

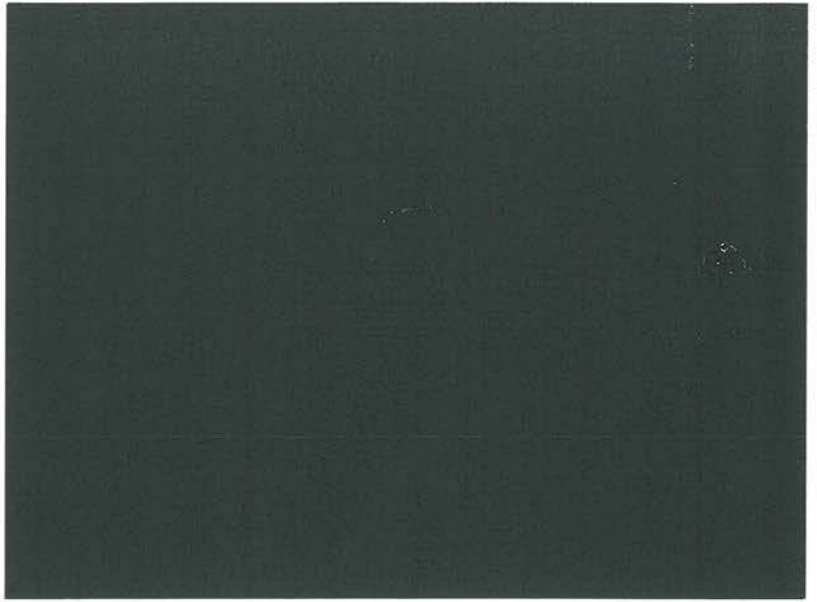
24/7 BOX 100 GOLD  
24/7 BOX 100 MENTHOL  
24/7 BOX 100 MENTHOL GOLD  
24/7 BOX 100 RED  
24/7 BOX 100 SILVER  
24/7 BOX KING GOLD  
24/7 BOX KING MENTHOL  
24/7 BOX KING RED  
BERKLEY BOX 100 GOLD  
BERKLEY BOX 100 MENTHOL  
BERKLEY BOX 100 MENTHOL GOLD  
BERKLEY BOX 100 RED  
BERKLEY BOX 100 SILVER  
BERKLEY BOX KING GOLD  
BERKLEY BOX KING RED  
BERKLEY SP 100 GOLD  
BERKLEY SP 100 MENTHOL  
BERKLEY SP 100 MENTHOL GOLD  
BERKLEY SP 100 RED  
BERKLEY SP 100 SILVER  
BERKLEY SP KING GOLD  
BERKLEY SP KING MENTHOL  
BERKLEY SP KING NON FILTER  
BERKLEY SP KING RED  
BERKLEY SP KING SILVER  
BERLEY BOX 100 BLUE  
BERLEY BOX 100 GOLD  
BERLEY BOX 100 MENTHOL  
BERLEY BOX 100 MENTHOL GOLD  
BERLEY BOX 100 RED  
BERLEY BOX KING BLUE  
BERLEY BOX KING GOLD  
BERLEY BOX KING MENTHOL  
BERLEY BOX KING MENTHOL GOLD  
BERLEY BOX KING RED  
BERLEY SP 100 BLUE  
BERLEY SP 100 GOLD  
BERLEY SP 100 MENTHOL  
BERLEY SP 100 MENTHOL GOLD  
BERLEY SP 100 RED  
BERLEY SP KING BLUE  
BERLEY SP KING GOLD  
BERLEY SP KING NON FILTER  
BERLEY SP KING RED  
ECHO BOX 100 RED  
ECHO BOX 100 BLUE  
ECHO BOX 100 GOLD  
ECHO BOX 100 MENTHOL  
ECHO BOX 100 MENTHOL GOLD  
ECHO BOX KING BLUE  
ECHO BOX KING GOLD  
ECHO BOX KING MENTHOL  
ECHO BOX KING MENTHOL GOLD  
ECHO BOX KING NON FILTER  
ECHO BOX KING RED  
ECHO SP 100 BLUE  
ECHO SP 100 GOLD  
ECHO SP 100 MENTHOL  
ECHO SP 100 MENTHOL GOLD  
ECHO SP 100 RED  
ECHO SP KING BLUE  
ECHO SP KING GOLD  
ECHO SP KING NON FILTER



ECHO SP KING RED  
EDGEFIELD BOX 100 GOLD  
EDGEFIELD BOX 100 MENTHOL  
EDGEFIELD BOX 100 MENTHOL GOLD  
EDGEFIELD BOX 100 RED  
EDGEFIELD BOX 100 SILVER  
EDGEFIELD BOX KING GOLD  
EDGEFIELD BOX KING MENTHOL  
EDGEFIELD BOX KING MENTHOL GOLD  
EDGEFIELD BOX KING NON FILTER  
EDGEFIELD BOX KING RED  
EDGEFIELD BOX KING SILVER  
EXETER BOX 100 BLUE  
EXETER BOX 100 GOLD  
EXETER BOX 100 MENTHOL  
EXETER BOX 100 MENTHOL GOLD  
EXETER BOX 100 RED  
EXETER BOX KING BLUE  
EXETER BOX KING GOLD  
EXETER BOX KING MENTHOL  
EXETER BOX KING MENTHOL GOLD  
EXETER BOX KING NON FILTER  
EXETER BOX KING RED  
EXETER SP 100 BLUE  
EXETER SP 100 GOLD  
EXETER SP 100 MENTHOL  
EXETER SP 100 MENTHOL GOLD  
EXETER SP 100 RED  
EXETER SP KING GOLD  
EXETER SP KING NON FILTER  
EXETER SP KING RED  
GOLDEN BLEND BOX 100 GOLD  
GOLDEN BLEND BOX 100 MENTHOL  
GOLDEN BLEND BOX 100 MENTHOL GOLD  
GOLDEN BLEND BOX 100 RED  
GOLDEN BLEND BOX 100 SILVER  
GOLDEN BLEND BOX KING GOLD  
GOLDEN BLEND BOX KING RED  
GOLDEN BLEND SP 100 GOLD  
GOLDEN BLEND SP 100 MENTHOL  
GOLDEN BLEND SP 100 MENTHOL GOLD  
GOLDEN BLEND SP 100 RED  
GOLDEN BLEND SP 100 SILVER  
GOLDEN BLEND SP KING NON FILTER  
GOLDEN BLEND SP KING RED  
GSMOKE BOX 100 GOLD  
GSMOKE BOX 100 RED  
GSMOKE BOX KING GOLD  
GSMOKE BOX KING RED  
GSMOKE SP 100 BLUE  
GSMOKE SP 100 MENTHOL  
MAIN STREET BOX 100 BLUE  
MAIN STREET BOX 100 GOLD  
MAIN STREET BOX 100 MENTHOL  
MAIN STREET BOX 100 MENTHOL GOLD  
MAIN STREET BOX 100 RED  
MAIN STREET BOX KING GOLD  
MAIN STREET BOX KING MENTHOL  
MAIN STREET BOX KING RED  
MAIN STREET SP 100 BLUE  
MAIN STREET SP 100 GOLD  
MAIN STREET SP 100 MENTHOL  
MAIN STREET SP 100 MENTHOL GOLD  
MAIN STREET SP 100 RED  
MAIN STREET SP KING RED  
SPORT BOX 100 BLUE

SPORT BOX 100 GOLD  
SPORT BOX 100 MENTHOL  
SPORT BOX 100 MENTHOL GOLD  
SPORT BOX 100 RED  
SPORT BOX KING GOLD  
SPORT BOX KING MENTHOL  
SPORT BOX KING RED  
SPORT SP 100 BLUE  
SPORT SP 100 GOLD  
SPORT SP 100 MENTHOL  
SPORT SP 100 MENTHOL GOLD  
SPORT SP 100 RED  
SPORT SP KING GOLD  
SPORT SP KING MENTHOL  
SPORT SP KING RED

**Total:**



***Attachment 3. Schedule for Quarterly Rotation.***



**Attachment 3. Schedule for Quarterly Rotation of Warnings in Advertisements**

The schedule for quarterly rotation is as follows:

| Brand Family: | First Quarter:<br>Jan. to March | Second Quarter:<br>April to June | Third Quarter:<br>July to Sept. | Fourth Quarter:<br>Oct. to Dec. |
|---------------|---------------------------------|----------------------------------|---------------------------------|---------------------------------|
| 24/7          | A                               | B                                | C                               | D                               |
| Berkley       | B                               | C                                | D                               | A                               |
| Berley        | C                               | D                                | A                               | B                               |
| Echo          | D                               | A                                | B                               | C                               |
| Edgefield     | A                               | B                                | C                               | D                               |
| Exeter        | B                               | C                                | D                               | A                               |
| Golden Blend  | C                               | D                                | A                               | B                               |
| Gsmoke        | D                               | A                                | B                               | C                               |
| Mainstreet    | A                               | B                                | C                               | D                               |
| Sport         | B                               | C                                | D                               | A                               |
| Multi-Brand   | C                               | D                                | A                               | B                               |
| Royal         | D                               | A                                | B                               | C                               |

The warnings are as follows:

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



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

Division of  
Advertising Practices

July 11, 2019

Mr. Eric Barkley Estes  
General Counsel  
Xcaliber International, Ltd., LLC  
One Tobacco Road  
Pryor, OK 74361

Dear Mr. Estes:

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 Xcaliber International, Ltd., LLC ("Xcaliber") on July 9, 2019, calling for: (1) quarterly rotation of the four health warnings in point-of-sale advertising up to 40 square feet in size for the Royal brand of cigarettes; (2) quarterly rotation of the four health warnings in internet advertising for the Royal brand of cigarettes; and (3) simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Royal brand of cigarettes.

Xcaliber's plan for rotation and display of the four health warnings in the aforementioned advertising for the Royal brand of cigarettes is hereby approved. Approval of the plan assumes that the plan is implemented in good faith. With respect to the question of whether it is legal to advertise cigarettes on the Internet, Section 1335 of the Cigarette Act prohibits advertising cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. The enforcement of that provision is the responsibility of the Department of Justice and you should contact them directly (Lawrence C. Keller at 202-598-2781) to determine whether such advertising on the Internet is permissible.

Xcaliber'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 6, 2019 letter appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.

Accordingly, Xcaliber's plan for simultaneous display of the four health warnings on packaging is hereby approved for the Red 100's Box and Menthol 100's Box varieties of the

Mr. Eric Barkley Estes  
July 11, 2019  
Page 2

Royal brand.<sup>1</sup> **This approval of Xcaliber's plan for the display of the four health warnings on packaging is effective on the date of this letter and runs through July 10, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

Approval of the plan is contingent on its good faith implementation. We may ask for information demonstrating proper implementation of the plan.<sup>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 Xcaliber'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 ("FSPTCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for Xcaliber's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Xcaliber's packaging and advertising under the FSPTCA 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).

Because the FSPTCA 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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

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

Very truly yours,

MARY  
ENGLE

Digitally signed by  
MARY ENGLE  
Date: 2019.07.11  
13:52:33 -04'00'

Mary K. Engle  
Associate Director

---

<sup>1</sup> As set forth in its July 9, 2019 letter, Xcaliber is using the color "Red" to identify its Royal Red 100's Box variety. We note that the word "Red" is not printed on the packaging for that variety, but the color used for that variety's packaging does conform to the color used in its name.

<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.



KING MOUNTAIN TOBACCO COMPANY, INC.  
P.O. BOX 422  
WHITE SWAN, WASHINGTON 98952  
Phone: (509) 874-9935 Fax: (509) 874-3690

July 16, 2019

Ms. Mary K. Engle  
Associate Director  
Bureau of Consumer Protection  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Ave NW  
Washington, DC 20580

RE: King Mountain Tobacco Company, Inc. - King Mountain 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 18, 2018 and there have been no changes in packaging since that time. The warnings will appear exactly as shown on the samples with the letter dated June 18, 2018. 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 cartons and cigarette boxes. All of King Mountain Tobacco's packaging is in the hard pack style.

King Mountain Tobacco Company, Inc., ("KMT") confirms and warrants that it will conduct its operations so that 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 Fire Safe King Mountain Cigarettes (listed below) it manufactures during the twelve-month period following approval of this application. In order 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 will keep records demonstrating compliance with the plan (please see Attachments A and B). Attachment A shows Press Run A and Press Run B, each press run is run on an alternating sequence to ensure an equal amount of the Surgeon General Warning Labels per order of packaging. Attachment B indicates the warning labels that are used with Run A and Run B. Should there be any residual or additional packaging that is needed to be added or subtracted from inventory in order to obtain 100% compliance of the proper Surgeon General Warning rotation as specified in 15 U.S.C. §1333(c)(2) will be done manually if needed by King Mountain employees before the expiration of the plan.

KMT will keep records demonstrating compliance with this plan.

Sales of King Mountain did not exceed one-fourth of one percent of cigarettes sold in the United States during the calendar year 2018. KMT's fiscal year is the calendar year.

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

Cigarette labeling in the United States is governed in part by the Federal Cigarette Labeling and Advertising Act, as amended, 36 U.S.C. §§1331-41. The Commission may grant the twelve months simultaneous display label rotation cycle that KMT requests if:

(i) the number of cigarettes of such brand style sold in the fiscal year of the manufacturer or importer preceding the submission of the application is less than one-fourth of one percent of all cigarettes sold in the United States in such year, and

(ii) more than one-half of the cigarettes manufactured or imported by such manufacturer or importer for sale in the United States are packaged into brand styles which met the requirements of clause (i).

15 U.S.C. §1333(c)(2)(A). The term "brand style" is defined in the statute to mean: A variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette, or packaging.


15 U.S.C. §1332(8)

KMT plans to manufacture the following styles of King Mountain:

|                               |                               |
|-------------------------------|-------------------------------|
| 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) |

King Mountain Tobacco does not import or manufacture any other brands. [REDACTED] was the highest selling style with [REDACTED] sticks sold during 2018. This amount is clearly less than "one-fourth of 1 percent of all cigarettes sold in the United States in 2018, as required by 15 U.S.C. §1333(c)(2)(A)(i). Estimated sales for 2019 are [REDACTED] sticks with [REDACTED] selling approximately [REDACTED] sticks. KMT originally received approval for our advertising plan on June 25th, 2009, there have been no changes in our advertising plan since that time, and KMT will maintain compliance with that plan.

If any additional information is required please contact Chris Stanley at 561-325-5921 or at [RandCAssociates@gmail.com](mailto:RandCAssociates@gmail.com).

Sincerely,  
Yancey Black by 

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 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.



Division of  
Advertising Practices

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

July 17, 2019

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 16, 2019, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain hard pack 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 meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup>

Accordingly, KMTC’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following 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>2</sup> The Cigarette Act provides that any person who violates its provisions is guilty of a misdemeanor.

---

<sup>1</sup> KMTC stated in its July 16, 2019 letter that the four health warnings will appear exactly as shown on the sample packs and cartons submitted on June 18, 2018.

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

Mr. Yancey Black  
July 17, 2019  
Page 2

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 ("FSPTCA"). 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 FSPTCA 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).

Because the FSPTCA 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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

**This approval is effective on the date of this letter and runs through July 16, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

If you have any questions regarding this approval, please contact Aine Farrell at (202) 326-2409.

Very truly yours,

*Mary K. Engle /ag EOT*  
Mary K. Engle  
Associate Director

July 16, 2019



**Smokin Joes**

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

Ms. Mary K. Engle  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Mail Drop CC-10528  
Washington, DC 20580

RE: Cigarette Health Warning Rotation Plan

Dear Ms. Engle,

This letter is being submitted by Joseph M. Anderson doing business as Smokin Joes for the alternative method to the quarterly Surgeon General Warning rotation plan for packaging of the following fifteen (15) varieties of the Exact cigarette brand, twelve (12) varieties of the Exact Elite cigarette brand, eighteen (18) styles of the Lewiston cigarette brand, twenty (20) varieties 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, twenty-one (21) styles of the Smokin Joes Natural cigarette brand, eighteen (18) styles of the Smokin Joes Premium cigarette brand, and two (2) varieties of the Nightclub cigarette brand:

|   |
|---|
| <b>Exact Cigarette Brand</b>            |
| Exact Canadian Red King Size Soft Pack  |
| Exact Canadian Blue King Size Soft Pack |
| Exact Red 100 Size Soft Pack            |
| Exact Red King Size Box                 |
| Exact Red King Size Soft Pack           |
| Exact Gold 100 Size Soft Pack           |
| Exact Gold 100 Size Box                 |
| Exact Gold King Size Box                |
| Exact Gold King Size Soft Pack          |
| Exact Menthol 100 Size Soft Pack        |
| Exact Menthol 100 Size Box              |
| Exact Menthol King Size Soft Pack       |
| Exact Menthol Gold 100 Size Soft Pack   |
| Exact Menthol Gold King Size Soft Pack  |
| Exact Blue 100 Size Soft Pack           |
| <b>Exact Elite Cigarette Brand</b>      |
| Exact Elite Red 100 Size Soft Pack      |
| Exact Elite Red King Size Box           |

800-274-8010

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



|  |
|--|
| Exact Elite Red King Size Soft Pack          |
| Exact Elite Gold 100 Size Soft Pack          |
| Exact Elite Gold King Size Box               |
| Exact Elite Gold King Size Soft Pack         |
| Exact Elite Menthol 100 Size Soft Pack       |
| Exact Elite Menthol King Size Soft Pack      |
| Exact Elite Menthol Gold 100 Size Soft Pack  |
| Exact Elite Menthol Gold King Size Soft Pack |
| Exact Elite Non-Filter King Size Box         |
| Exact Elite Blue 100 Size Soft Pack          |
| <b>Lewiston Cigarette Brand</b>              |
| Lewiston Red 100 Size Soft Pack              |
| Lewiston Red 100 Size Box                    |
| Lewiston Red King Size Box                   |
| Lewiston Red King Size Soft Pack             |
| Lewiston Gold 100 Size Soft Pack             |
| Lewiston Gold 100 Size Box                   |
| Lewiston Gold King Size Box                  |
| Lewiston Gold King Size Soft Pack            |
| Lewiston Menthol 100 Size Soft Pack          |
| Lewiston Menthol 100 Size Box                |
| Lewiston Menthol King Size Soft Pack         |
| Lewiston Menthol King Size Box               |
| Lewiston Menthol Gold 100 Size Soft Pack     |
| Lewiston Menthol Gold 100 Size Box           |
| Lewiston Menthol Gold King Size Soft Pack    |
| Lewiston Non-Filter King Size Soft Pack      |
| Lewiston Blue 100 Size Soft Pack             |
| Lewiston Blue 100 Size Box                   |
| <b>Maple Leaf Cigarette Brand</b>            |
| Maple Leaf Canadian Blue King Size Box       |
| <b>Market Cigarette Brand</b>                |
| Market Red 100 Size Box                      |
| Market Red 100 Size Soft Pack                |
| Market Red King Size Box                     |
| Market Red King Size Soft Pack               |
| Market Gold 100 Size Box                     |
| Market Gold 100 Size Soft Pack               |
| Market Gold King Size Box                    |
| Market Gold King Size Soft Pack              |
| Market Menthol 100 Size Box                  |
| Market Menthol 100 Size Soft Pack            |
| Market Menthol King Size Soft Pack           |
| Market Menthol King Size Box                 |
| Market Menthol Gold 100 Size Box             |
| Market Menthol Gold 100 Size Soft Pack       |
| Market Menthol Gold King Size Soft Pack      |
| Market Menthol Blue 100 Size Box             |

|   |
|---|
| Market Non-Filter King Size Box                     |
| Market Blue 100 Size Box                            |
| Market Blue 100 Size Soft Pack                      |
| Market Blue King Size Box                           |
| <b>Outdoor Freedom Cigarette Brand</b>              |
| Outdoor Freedom Original King Size Box              |
| Outdoor Freedom Smooth King Size Box                |
| <b>Smokin Joes Cigarette Brand</b>                  |
| Smokin Joes Red 100 Size Soft Pack                  |
| Smokin Joes Red 100 Size Box                        |
| Smokin Joes Red King Size Box                       |
| Smokin Joes Red King Size Soft Pack                 |
| Smokin Joes Gold 100 Size Soft Pack                 |
| Smokin Joes Gold 100 Size Box                       |
| Smokin Joes Gold King Size Box                      |
| Smokin Joes Gold King Size Soft Pack                |
| Smokin Joes Menthol 100 Size Soft Pack              |
| Smokin Joes Menthol 100 Size Box                    |
| Smokin Joes Menthol King Size Soft Pack             |
| Smokin Joes Menthol King Size Box                   |
| Smokin Joes Menthol Gold 100 Size Soft Pack         |
| Smokin Joes Menthol Gold 100 Size Box               |
| Smokin Joes Menthol Gold King Size Soft Pack        |
| Smokin Joes Menthol Gold King Size Box              |
| Smokin Joes Non-Filter King Size Soft Pack          |
| Smokin Joes Non-Filter King Size Box                |
| Smokin Joes Blue 100 Size Soft Pack                 |
| Smokin Joes Blue 100 Size Box                       |
| Smokin Joes Blue King Size Soft Pack                |
| Smokin Joes Blue King Size Box                      |
| <b>Smokin Joes Natural Cigarette Brand</b>          |
| Smokin Joes Natural Purple 100 Size Soft Pack       |
| Smokin Joes Natural Purple 100 Size Box             |
| Smokin Joes Natural Purple King Size Box            |
| Smokin Joes Natural Purple King Size Soft Pack      |
| Smokin Joes Natural Silver 100 Size Soft Pack       |
| Smokin Joes Natural Silver 100 Size Box             |
| Smokin Joes Natural Silver King Size Soft Pack      |
| Smokin Joes Natural Silver King Size Box            |
| Smokin Joes Natural Menthol 100 Size Soft Pack      |
| Smokin Joes Natural Menthol 100 Size Box            |
| Smokin Joes Natural Menthol King Size Box           |
| Smokin Joes Natural Red 100 Size Soft Pack          |
| Smokin Joes Natural Red 100 Size Box                |
| Smokin Joes Natural Red King Size Soft Pack         |
| Smokin Joes Natural Red King Size Box               |
| Smokin Joes Natural Menthol Gold 100 Size Soft Pack |
| Smokin Joes Natural Menthol Gold King Size Box      |

|  |
|--|
| Smokin Joes Natural Non-Filter King Size Soft Pack   |
| Smokin Joes Natural White 100 Size Soft Pack         |
| Smokin Joes Natural White 100 Size Box               |
| Smokin Joes Natural White King Size Soft Pack        |
| <b>Smokin Joes Premium Cigarette Brand</b>           |
| Smokin Joes Premium Canadian Red King Size Box       |
| Smokin Joes Premium Canadian Blue King Size Box      |
| Smokin Joes Premium Red 100 Size Soft Pack           |
| Smokin Joes Premium Red 100 Size Box                 |
| Smokin Joes Premium Red King Size Box                |
| Smokin Joes Premium Red King Size Soft Pack          |
| Smokin Joes Premium Gold 100 Size Soft Pack          |
| Smokin Joes Premium Gold 100 Size Box                |
| Smokin Joes Premium Gold King Size Box               |
| Smokin Joes Premium Gold King Size Soft Pack         |
| Smokin Joes Premium Menthol 100 Size Soft Pack       |
| Smokin Joes Premium Menthol 100 Size Box             |
| Smokin Joes Premium Menthol King Size Soft Pack      |
| Smokin Joes Premium Menthol Gold 100 Size Soft Pack  |
| Smokin Joes Premium Menthol Gold King Size Soft Pack |
| Smokin Joes Premium Non-Filter King Size Soft Pack   |
| Smokin Joes Premium Blue 100 Size Soft Pack          |
| Smokin Joes Premium Blue King Size Soft Pack         |
| <b>Nightclub Cigarette Brand</b>                     |
| Nightclub Rich King Size Box                         |
| Nightclub Smooth King Size Box                       |

These cigarettes are manufactured by Joseph M. Anderson d/b/a Smokin Joes; Smokin Joes does not import cigarettes. Upon approval of this plan, the manufacturer will continue to sell these cigarettes under the authority of the Bureau of Alcohol, Tobacco & Firearms (Manufacturer of Tobacco Products License TP-NY-168).

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 cartons submitted to the Federal Trade Commission on June 28, 2018.

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. §§ 1331; sales figures for all Smokin Joes manufactured brands styles are provided on Exhibit A. Of all Smokin Joes manufactured cigarette brand styles for the fiscal year, from May 1, 2018 through April 30, 2019, the biggest seller was [REDACTED] sticks.

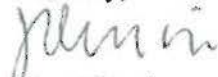
If this plan for the alternative to quarterly rotation of warnings on packaging is approved, the four cigarette health warnings will appear on the packs and cartons of each of the

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, 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. If there are any questions or concerns regarding this plan, please contact me at 716-754-4064 ext. 9327.

Sincerely,



John DiCarlo  
Director of Operations



## EXHIBIT A

| SMOKIN JOES                     | STICK SALES:<br>5/1/18 - 4/30/19 |
|---------------------------------|----------------------------------|
| <b>BRAND</b>                    |                                  |
| <b>EXACT</b>                    |                                  |
| EXACT CANADIAN RED KINGS        |                                  |
| EXACT RED KINGS                 |                                  |
| EXACT GOLD KINGS                |                                  |
| EXACT MENTHOL KINGS             |                                  |
| EXACT CANADIAN BLUE KINGS       |                                  |
| EXACT MENTHOL GOLD KINGS        |                                  |
| EXACT RED KING BOX              |                                  |
| EXACT GOLD KING BOX             |                                  |
| EXACT RED 100                   |                                  |
| EXACT GOLD 100                  |                                  |
| EXACT MENTHOL 100               |                                  |
| EXACT MENTHOL GOLD 100          |                                  |
| EXACT BLUE 100                  |                                  |
| EXACT GOLD 100 BOX              |                                  |
| EXACT MENTHOL 100 BOX           |                                  |
| <b>EXACT ELITE</b>              |                                  |
| EXACT ELITE RED KINGS           |                                  |
| EXACT ELITE GOLD KINGS          |                                  |
| EXACT ELITE MENTHOL KINGS       |                                  |
| EXACT ELITE MENTHOL GOLD KINGS  |                                  |
| EXACT ELITE RED KING BOX        |                                  |
| EXACT ELITE GOLD KING BOX       |                                  |
| EXACT ELITE NON-FILTER KING BOX |                                  |
| EXACT ELITE RED 100             |                                  |
| EXACT ELITE GOLD 100            |                                  |
| EXACT ELITE MENTHOL 100         |                                  |
| EXACT ELITE MENTHOL GOLD 100    |                                  |
| EXACT ELITE BLUE 100            |                                  |
| <b>LEWISTON</b>                 |                                  |
| LEWISTON RED KINGS              |                                  |
| LEWISTON GOLD KINGS             |                                  |
| LEWISTON MENTHOL KINGS          |                                  |
| LEWISTON MENTHOL GOLD KINGS     |                                  |
| LEWISTON NON-FILTER KINGS       |                                  |
| LEWISTON RED KING BOX           |                                  |
| LEWISTON GOLD KING BOX          |                                  |
| LEWISTON RED 100                |                                  |
| LEWISTON GOLD 100               |                                  |
| LEWISTON MENTHOL 100            |                                  |
| LEWISTON MENTHOL GOLD 100       |                                  |
| LEWISTON BLUE 100               |                                  |
| LEWISTON MENTHOL 100 BOX        |                                  |
| LEWISTON MENTHOL GOLD 100 BOX   |                                  |
| LEWISTON GOLD 100 BOX           |                                  |
| LEWISTON MENTHOL KING BOX       |                                  |
| LEWISTON BLUE 100 BOX           |                                  |
| LEWISTON RED 100 BOX            |                                  |
| <b>MARKET</b>                   |                                  |
| MARKET RED KINGS                |                                  |
| MARKET GOLD KINGS               |                                  |
| MARKET MENTHOL KINGS            |                                  |
| MARKET MENTHOL GOLD KINGS       |                                  |
| MARKET NON-FILTER KING BOX      |                                  |
| MARKET RED KING BOX             |                                  |
| MARKET GOLD KING BOX            |                                  |
| MARKET RED 100                  |                                  |
| MARKET GOLD 100                 |                                  |
| MARKET MENTHOL 100              |                                  |
| MARKET MENTHOL GOLD 100         |                                  |
| MARKET BLUE 100                 |                                  |
| MARKET RED 100 BOX              |                                  |
| MARKET GOLD 100 BOX             |                                  |
| MARKET MENTHOL 100 BOX          |                                  |
| MARKET MENTHOL GOLD 100 BOX     |                                  |
| MARKET BLUE 100 BOX             |                                  |
| MARKET MENTHOL BLUE 100 BOX     |                                  |
| MARKET MENTHOL KING BOX         |                                  |
| MARKET BLUE KING BOX            |                                  |

|   | STICK SALES:<br>5/1/18 - 4/30/19 |
|---|----------------------------------|
| <b>SMOKIN JOES</b>                        |                                  |
| <b>SMOKIN JOES NATURAL</b>                |                                  |
| SMOKIN JOES NATURAL PURPLE KING BOX       |                                  |
| SMOKIN JOES NATURAL PURPLE KING           |                                  |
| SMOKIN JOES NATURAL RED KING              |                                  |
| SMOKIN JOES NATURAL SILVER KING           |                                  |
| SMOKIN JOES NATURAL WHITE KING            |                                  |
| SMOKIN JOES NATURAL NON-FILTER KING       |                                  |
| SMOKIN JOES NATURAL MENTHOL KING BOX      |                                  |
| SMOKIN JOES NATURAL MENTHOL GOLD KING BOX |                                  |
| SMOKIN JOES NATURAL PURPLE 100            |                                  |
| SMOKIN JOES NATURAL RED 100               |                                  |
| SMOKIN JOES NATURAL SILVER 100            |                                  |
| SMOKIN JOES NATURAL MENTHOL 100           |                                  |
| SMOKIN JOES NATURAL MENTHOL GOLD 100      |                                  |
| SMOKIN JOES NATURAL WHITE 100             |                                  |
| SMOKIN JOES NATURAL PURPLE 100 BOX        |                                  |
| SMOKIN JOES NATURAL SILVER 100 BOX        |                                  |
| SMOKIN JOES NATURAL SILVER KING BOX       |                                  |
| SMOKIN JOES NATURAL WHITE 100 BOX         |                                  |
| SMOKIN JOES NATURAL MENTHOL 100 BOX       |                                  |
| SMOKIN JOES NATURAL RED KING BOX          |                                  |
| SMOKIN JOES NATURAL RED 100 BOX           |                                  |
| <b>SMOKIN JOES</b>                        |                                  |
| SMOKIN JOES RED KING                      |                                  |
| SMOKIN JOES GOLD KING                     |                                  |
| SMOKIN JOES MENTHOL KING                  |                                  |
| SMOKIN JOES MENTHOL GOLD KING BOX         |                                  |
| SMOKIN JOES MENTHOL GOLD KING             |                                  |
| SMOKIN JOES BLUE KING                     |                                  |
| SMOKIN JOES NON-FILTER KING BOX           |                                  |
| SMOKIN JOES NON-FILTER KING               |                                  |
| SMOKIN JOES RED KING BOX                  |                                  |
| SMOKIN JOES GOLD KING BOX                 |                                  |
| SMOKIN JOES MENTHOL KING BOX              |                                  |
| SMOKIN JOES BLUE KING BOX                 |                                  |
| SMOKIN JOES RED 100                       |                                  |
| SMOKIN JOES GOLD 100                      |                                  |
| SMOKIN JOES MENTHOL 100                   |                                  |
| SMOKIN JOES MENTHOL GOLD 100              |                                  |
| SMOKIN JOES BLUE 100                      |                                  |
| SMOKIN JOES RED 100 BOX                   |                                  |
| SMOKIN JOES GOLD 100 BOX                  |                                  |
| SMOKIN JOES MENTHOL 100 BOX               |                                  |
| SMOKIN JOES MENTHOL GOLD 100 BOX          |                                  |
| SMOKIN JOES BLUE 100 BOX                  |                                  |
| <b>SMOKIN JOES PREMIUM</b>                |                                  |
| SMOKIN JOES PREMIUM RED KING              |                                  |
| SMOKIN JOES PREMIUM GOLD KING             |                                  |
| SMOKIN JOES PREMIUM MENTHOL KING          |                                  |
| SMOKIN JOES PREMIUM M GOLD KINGS          |                                  |
| SMOKIN JOES PREMIUM BLUE KING             |                                  |
| SMOKIN JOES PREMIUM NON-FILTER KING       |                                  |
| SMOKIN JOES PREMIUM RED KING BOX          |                                  |
| SMOKIN JOES PREMIUM GOLD KING BOX         |                                  |
| SMOKIN JOES PREMIUM RED 100               |                                  |
| SMOKIN JOES PREMIUM RED 100 BOX           |                                  |
| SMOKIN JOES PREMIUM GOLD 100 BOX          |                                  |
| SMOKIN JOES PREMIUM MENTHOL 100 BOX       |                                  |
| SMOKIN JOES PREMIUM GOLD 100              |                                  |
| SMOKIN JOES PREMIUM MENTHOL 100           |                                  |
| SMOKIN JOES PREMIUM MENTHOL GOLD 100      |                                  |
| SMOKIN JOES PREMIUM BLUE 100              |                                  |
| SMOKIN JOES PREMIUM CAN RED KING BOX      |                                  |
| SMOKIN JOES PREMIUM CAN RED KING BOX      |                                  |
| <b>TOP SELLING SKU</b>                    |                                  |
|   |                                  |
| <b>MAPLE LEAF</b>                         | 0                                |
| <b>NIGHTCLUB</b>                          |                                  |
| NIGHTCLUB RICH KING BOX                   | 0                                |
| NIGHTCLUB SMOOTH KING BOX                 | 0                                |
| <b>OUTDOOR FREEDOM</b>                    |                                  |
| OUTDOOR FREEDOM ORIGINAL KING BOX         | 0                                |
| OUTDOOR FREEDOM SMOOTH KING BOX           | 0                                |



Division of  
Advertising Practices

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

July 30, 2019

Mr. John DiCarlo  
Smokin Joes  
4900 Indian Hill Road  
Lewiston, NY 14092

Dear Mr. DiCarlo:

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 Joseph M. Anderson d/b/a Smokin Joes ("Smokin Joes") on July 16, 2019, 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 continue 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, 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

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<sup>1</sup> Smokin Joes stated in its July 16, 2019 letter that the four health warnings will appear exactly as shown on the packs and cartons submitted on this date.

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;
- Two varieties of the Outdoor Freedom brand: Original King Box and Smooth King Box;
- Two varieties of the Nightclub brand: Rich King Box and Smooth 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;
- 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);
- Twenty-one varieties of the Smokin Joes Natural brand: Non-Filter King Soft Pack, Red King (Soft Pack and Box), Red 100's (Soft Pack and Box), Purple King (Soft Pack and Box), Purple 100's (Soft Pack and Box), Silver King (Soft Pack and Box), Silver 100's (Soft Pack and Box), White King Soft Pack, White 100's (Soft Pack and Box), Menthol King Box, Menthol 100's (Soft Pack and Box), Menthol Gold King Box, and Menthol Gold 100's Soft Pack; 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).

Mr. John DiCarlo  
July 30, 2019  
Page 3

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 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 ("FSPTCA"). 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, including, but not limited to, "natural." Nor does this letter purport to interpret or express any opinion about the adequacy of Smokin Joes' packaging and advertising under the FSPTCA 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).

Because the FSPTCA 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), or [www.fda.gov/TobaccoProducts/ResourcesforYou/ForIndustry/default.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ForIndustry/default.htm), and sign up for FDA email updates at [www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

**This approval is effective on the date of this letter and runs through July 29, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

If you have any questions regarding this approval, please contact Aine Farrell at (202) 326-2409.

Very truly yours,



Mary K. Engle  
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.

July 9, 2019

*CONFIDENTIAL CONTAINS TRADE SECRETS  
AND PROPRIETARY BUSINESS INFORMATION*

**VIA FEDEX**

Mary K. Engle  
Associate Director  
Federal Trade Commission  
Division of Advertising Practices  
600 Pennsylvania Avenue, NW  
Mail Drop CC10528  
Washington, DC 20580

**Re: Wind River Tobacco Company, LLC  
Supplement to Teton Health Warning Advertising Plan**

Dear Ms. Engle:

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

WRT's most recent Plan for the quarterly rotation of health warnings on certain advertising of the Teton brands of cigarettes was approved on October 26, 2018. WRT wishes to include internet advertising for the Teton brand of cigarettes as part of the Plan.

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)(2) sets forth the requirements for warnings in advertisements, except for outdoor billboards, which are covered in Section 1333(b)(3).

WRT intends to begin advertising the Teton brand of cigarettes on the internet. Beginning on the date this supplement to the Plan is approved, the following label statements

required by 15 U.S.C. §1333(a)(2), shall be rotated in internet advertisements for the Teton brand of cigarettes 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.

The warnings will be displayed in an unavoidable manner on every webpage that advertises cigarettes where they may be viewed without scrolling and shall not be accessed through hyperlinks, pop-ups, interstitials or other means. WRT will comply with the format requirements of the Act by utilizing the warning formats submitted with the 1985 plans of the five (5) leading U.S. cigarette manufacturers and the size of the warnings will be proportionate to those warning formats. The warning statements on WRT's internet advertising for the Teton brand of cigarettes shall be rotated according to the dates approved by the FTC in its letter to WRT dated October 26, 2018. Screen shots of each warning as they will appear on the internet advertising of WRT are attached hereto as Exhibit A.

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

If you have any further questions regarding this supplement to 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

Enclosures



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

Division of  
Advertising Practices

July 31, 2019

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

Dear Mr. Koenigs:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan submitted on behalf of Wind River Tobacco Company, LLC (“WRTC”) on July 9, 2019, calling for quarterly rotation of the four health warnings in internet advertising for the Teton brand of cigarettes.

WRTC’s plan for rotation and display of the four health warnings in the aforementioned advertising for the Teton brand of cigarettes is hereby approved. Approval of the plan assumes that the plan is implemented in good faith. With respect to the question of whether it is legal to advertise cigarettes on the Internet, Section 1335 of the Cigarette Act prohibits advertising cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. The enforcement of that provision is the responsibility of the Department of Justice and you should contact them directly (Lawrence C. Keller at 202-598-2781) to determine whether such advertising on the Internet is permissible.

Please note that this letter only approves WRTC’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 (“FSPTCA”). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for WRTC’s cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of WRTC’s packaging and advertising under the FSPTCA 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).

Because the FSPTCA 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



Craig A. Koenigs, Esq.  
July 31, 2019  
Page 2

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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

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

Very truly yours,

*Mary K. Engle by Elizabeth Tucci*  
Mary K. Engle  
Associate Director

July 17, 2019

*CONFIDENTIAL CONTAINS TRADE SECRETS  
AND PROPRIETARY BUSINESS INFORMATION*

**VIA FEDEX**

Mary K. Engle  
Associate Director  
Federal Trade Commission  
Division of Advertising Practices  
600 Pennsylvania Avenue, NW  
Mail Drop CC10528  
Washington, DC 20580

**Re: Wind River Tobacco Company, LLC  
Supplement to American Bison Health Warning Display Plan**

Dear Ms. Engle:

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

WRT's most recent plan for the simultaneous display of health warnings on the packaging of the American Bison and Nashville brands of cigarettes was approved on February 26, 2019. WRT wishes to add a packaging color variation for the American Bison Blue brand style to 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 one of its existing brand styles, American Bison Blue, in an additional package color variation. WRT intends to manufacture the American Bison Blue brand style in both the current blue packaging and in red packaging. The packaging for the American Bison Blue with

blue packaging previously was reviewed by your office and is part of the existing Plan. WRT now seeks approval for the simultaneous display of health warnings on the packaging of the American Bison Blue in red packaging. 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 the approval of this supplement to the 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 American Bison Blue brand style in red packaging 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 the American Bison Blue brand style in red packaging 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 the American Bison Blue brand style in red packaging for the one (1) year period beginning on the Effective Date.

WRT has provided sales figures for its cigarette brands and brand styles for calendar year 2018 (January 1, 2018 to December 31, 2018) (WRT’s fiscal year is the calendar year January 1 to December 31) and estimated sales figures for the American Bison Blue brand style in red packaging for the one (1) year period beginning on the Effective Date. Please note that WRT also manufactures the Teton brand of cigarettes, which is subject to a separate health warning display plan approved by the FTC.

WRT’s sales volume for calendar year 2018 (January 1, 2018 – December 31, 2018) for the American Bison, Nashville and Teton brand styles and the and estimated sales volume for the American Bison Blue brand style in red packaging for the one (1) year period beginning on the Effective Date are set forth in Schedule A. For calendar year 2018, the sales volume for any one brand style of cigarettes manufactured or imported by WRT did not exceed one-fourth of one percent of all cigarettes sold in the United States in that year. Further, WRT does not anticipate that the sales volume for any one brand style

of cigarettes it manufactures or imports for the one (1) 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 (1) 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 prior to WRT's manufacturing of the American Bison Blue cigarettes in red packaging. The warning labels will appear on the packs and cartons of the American Bison Blue cigarettes in red packaging, exactly as they appeared on the packaging submitted to the FTC with WRT's letter dated June 19, 2019.

### **III. Advertising**

WRT currently has approved advertising plans in place for American Bison 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 American Bison brand cigarettes that was approved on April 23, 2002; a plan for the display of health warnings on internet advertising for American Bison brand cigarettes that was approved on June 24, 2004; a modification of the previously approved schedule for quarterly rotation of the four warnings in advertising that was approved on February 27, 2018; and, a modification of the plans for the display of health warnings on non-internet advertising for American Bison and Nashville brand cigarettes that was approved on August 13, 2018. Any advertising of the American Bison Blue brand style of cigarettes in red packaging shall be conducted in accordance with the above-referenced advertising plans.

### **IV. Miscellaneous**

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

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

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

Sincerely,

ROETZEL & ANDRESS, LPA

  
Craig A. Koenigs

**SCHEDULE A**

The following is a list of the American Bison, Nashville and Teton cigarette brand styles that WRT manufactures and the annual sales volume in cigarettes for calendar year 2018 (January 1, 2018 to December 31, 2018) for each brand style. WRT's fiscal year is January 1 to December 31. The list also includes the American Bison Blue brand style of cigarettes in red packing that WRT intends to manufacture and the estimated sales volume for the one (1) year period beginning on the Effective Date

| <u>Brand</u>   | <u>Size / Packaging</u> | <u>Brand Style</u>   | <u>Calendar Year Sales Volume</u> |
|----------------|-------------------------|--|-----------------------------------|
| American Bison | King / Box              | Blue (Blue Packaging)<br>Gold<br>Yellow<br>Green (Menthol)<br>Dark Green (Menthol) | [REDACTED]                        |

Estimated One (1) Year Sales

|  |            |                      |            |
|--|------------|----------------------|------------|
|  | King / Box | Blue (Red Packaging) | [REDACTED] |
|--|------------|----------------------|------------|

| <u>Brand</u> | <u>Size / Packaging</u> | <u>Brand Style</u>  | <u>Calendar Year Sales Volume</u> |
|--------------|-------------------------|---|-----------------------------------|
| Nashville    | Kings / Box             | Red<br>Gold<br>Silver<br>Green (Menthol)<br>Black (Menthol) | [REDACTED]                        |
|              | 100's / Box             | Red<br>Gold<br>Silver<br>Green (Menthol)<br>Black (Menthol) | [REDACTED]                        |

| <u>Brand</u> | <u>Size / Packaging</u> | <u>Brand Style</u>  | <u>Calendar Year Sales Volume</u> |
|--------------|-------------------------|---|-----------------------------------|
| Teton        | Kings / Box             | No. 18 Blue Kings<br>No. 18 Yellow Kings<br>No. 18 Green Menthol Kings                        | [REDACTED]                        |
|              | 100's / Box             | No. 6 Red 100's<br>No. 6 Gold 100's<br>No. 6 Green Menthol 100's<br>No. 6 Black Menthol 100's | [REDACTED]                        |

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Selected packaging samples from those  
submitted with the plan.

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

# AMERICAN BISON



MADE IN USA

Wind River Tobacco Co., LLC  
Wilson, NC 27893  
Sale only allowed in the United States



# AMERICAN BISON

Visit us at: [windrivertobacco.com](http://windrivertobacco.com)  
Please Don't Litter



Our premium quality  
cigarette delivers a smooth  
smoking experience with an  
unmistakably rich taste.  
A truly perfect blend, created  
by true master craftsmen  
and proudly made in the USA.

Blue Sky

AMERICAN BISON  
EXPERTLY CRAFTED



# AMERICAN BISON



Underage  
Sale  
Prohibited

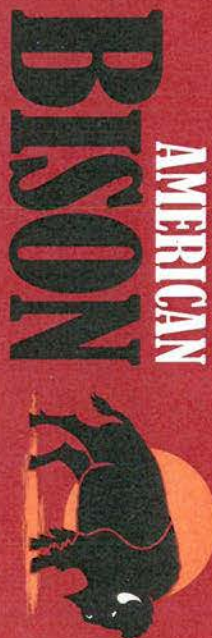
BLUE  
KING BOX

CLASS 1  
20  
CIGARETTES

M 1 2 3 4 5 6 7 8 9 10 11 12  
Y 18 19 20 21



Underage Sale Prohibited



Wind River Tobacco Co., LLC  
Wilson, NC 27893  
Sale only allowed in the United States

MADE IN USA



200 CLASS A CIGARETTES

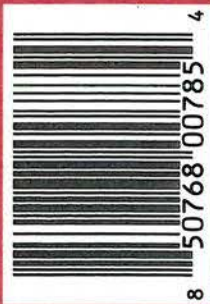
# AMERICAN BISON

BLUE  
KING BOX

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



AMERICAN  
BISON



FSC

200 CLASS A CIGARETTES

BLUE  
KING BOX

# RED TAVERN





Division of  
Advertising Practices

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

August 8, 2019

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, Wind River Tobacco Company, LLC's ("WRTC") plan for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the American Bison and Nashville brands of cigarettes was approved on February 26, 2019. In your July 17, 2019 letter, you now propose to expand WRTC's plan to include one additional variety of the American Bison brand.

WRTC'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 19, 2019 letter 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, WRTC's plan for simultaneous display of the four health warnings on packaging for the American Bison Blue (red packaging) king size hard pack variety is hereby approved.

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 WRTC'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 ("FSPTCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made

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<sup>1</sup> WRTC stated in its July 17, 2019 letter that the four health warnings will appear exactly as shown on the sample packs and cartons submitted on this date.

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

Craig A. Koenigs, Esq.  
August 8, 2019  
Page 2

on packaging or in advertising for WRTC's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of WRTC's packaging and advertising under the FSPTCA 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).

Because the FSPTCA 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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

**This approval is effective on the date of this letter and runs through August 7, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

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

Very truly yours,

**MARY  
ENGLE**

Digitally signed  
by MARY ENGLE  
Date: 2019.08.08  
14:55:42 -04'00'

Mary K. Engle  
Associate Director

LAW OFFICES OF  
**FINGER, ROEMER, BROWN & MARIANI, L.L.P.**  
102 WEST THIRD STREET, SUITE 200-13, LOBBY LEVEL  
WINSTON-SALEM, NORTH CAROLINA 27101

M. NEIL FINGER  
HENRY C. ROEMER, III, P.C.  
ANDREW G. BROWN  
PETER R. MARIANI

TELEPHONE 336 723-4311  
TELEFAX 336 759-0965  
[henry@hcroemerlaw.com](mailto:henry@hcroemerlaw.com)

OTHER OFFICE:  
105 SOUTH BRIDGE STREET  
P.O. BOX 8  
JONESVILLE, N.C. 28642  
336 835-4000

August 7, 2019

Via Email

Mr. William Ducklow  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Mail Drop CC-10528  
Washington, DC 20580

**Re: Request for Approval of a Revision to Warning Statement Rotation Plan for carton packaging relating to substitution of cellophane cartons in lieu of cardboard cartons for ASHFORD cigarettes (ASHFORD FULL FLAVOUR and ASHFORD GREEN) – King Size hard pack**

Dear Mr. Ducklow:

I am writing this letter on behalf of El Morro Ship Chandlers ("El Morro"), the importer for the above indicated product. El Morro's address has not changed. The current company officer responsible for overseeing this matter is Louis Snelders, it's President, and his phone number is 787-749-9760.

In accordance with letters dated December 7, 2010 and October 16, 2018, a Warning Statement Rotation Plan for the ASHFORD brand of cigarettes (King-Size hard pack) was approved by the Federal Trade Commission (the "Packaging Plan").

The manufacturer has revised its cartons such that the packs of twenty (20) will now be cellophane wrapped. This is in connection with the European Union requirement that the manufacturer utilize a Track and Trace code or so-called Unique Identifier. Exposing the bottom of the packs is important for compliance with this requirement, hence the use of cellophane wrapping.

Enclosed with our letter of July 15, 2019 were samples of the actual product packaging presenting each of the warnings for each of the two styles: ASHFORD FULL FLAVOUR and ASHFORD GREEN. The warnings on the cartons of the ASHFORD FULL FLAVOUR King Size hard pack and ASHFORD GREEN King Size hard pack will appear exactly as shown on the samples provided with my July 15, 2019 letter. El Morro will keep records demonstrating compliance with this Packaging Plan.


Please grant El Morro approval of a revision to the Packaging Plan substituting the cartons consisting of cellophane wrapping in lieu of cardboard.

El Morro advises us that they estimate a few master cases of the previous product packaging remain in inventory, and they kindly request you to allow a "sell through" of the product for up to 3 months until extinguished.

El Morro will continue to follow the approved rotation schedule for display of the warnings in packaging contained in its December 7, 2010 letter. The warnings on the packs will continue to appear as previously approved by the FTC.

It is hoped that you can grant this approval as soon as possible. If you could fax or email us the approval, it would be most appreciated. Thank you for your courtesy and cooperation.

Sincerely,

  
Henry C. Roemer, III

HCRiii/mhr

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Selected packaging samples from those  
submitted with the plan.



FINEST INTERNATIONAL  
QUALITY

*Ashford*<sup>®</sup>

*King Size*

AMERICAN BLEND

GREEN

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



EST. 1770

*Ashford*<sup>®</sup>

FINEST INTERNATIONAL  
QUALITY

FULL FLAVOUR

*King Size*

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

AMERICAN BLEND



Division of  
Advertising Practices

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

August 8, 2019

Henry C. Roemer, III  
Finger, Roemer, Brown & Mariani, L.L.P.  
102 West Third Street, Suite 200 B, Lobby Level  
Winston-Salem, NC 27101

Dear Mr. Roemer:

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, El Morro Ship Chandlers's ("El Morro") December 7, 2010 plan for quarterly rotation of the four health warnings on packaging for certain varieties of the Ashford brand of cigarettes, and subsequent October 15, 2018 request to change the name and modify the packaging for one variety of the Ashford brand were approved.

By letter dated August 7, 2019, you now propose to modify the cartons for two varieties of the Ashford brand.

It appears that the health warnings on the sample cartons for the Ashford Full Flavor king size hard pack and Ashford Green king size hard pack varieties submitted with your letter of July 15, 2019 continue to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup>

Please note that this letter only approves El Morro's submitted packaging modifications with respect to the statutory requirements in force prior to the June 22, 2009 enactment of the Family Smoking Prevention and Tobacco Control Act ("FSPTCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for El Morro's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of El Morro's packaging and advertising under the FSPTCA 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).

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<sup>1</sup> El Morro stated in its August 7, 2019 letter that it intends to run out its existing inventory of previously approved cartons for the Ashford Full Flavor king size hard pack and Ashford Green king size hard pack varieties.

Mr. Henry C. Roemer, III  
August 8, 2019  
Page 2

Because the FSPTCA 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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

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

Very truly yours,

**MARY** Digitally signed  
by MARY ENGLE  
**ENGLE** Date: 2019.08.08  
14:53:30 -04'00'

Mary K. Engle  
Associate Director



# NAT SHERMAN

an Altria Company

August 13, 2019

Ms. Mary K. Engle  
Associate Director  
U.S. Federal Trade Commission  
Bureau of Consumer Protection  
Division of Advertising Practices  
600 Pennsylvania Avenue, NW, CC-10528  
Washington, DC 20580

Re: Sherman's 1400 Broadway N.Y.C., LLC ("Sherman's 1400") – Packaging Rotation Plan

Dear Ms. Engle:

Sherman's 1400's health warning display plan for packaging was most recently approved by letters dated September 14, 2018 and June 12, 2019.

With this letter, we seek approval for our plan to continue to simultaneously display the four health warnings on previously approved packaging for our current brand styles in order to comply with the Federal Cigarette Labeling and Advertising Act ("FCLAA"). Regarding packaging materials for our current brand styles, each version of the four warnings is equally produced then equally used in the production process (25% A, 25% B, etc.) to ensure that we achieve simultaneous display of the four warnings on all our brand styles. Through the date of this application, the Surgeon General health warnings for the previously approved packaging of our brand styles have been equalized in accordance with our plan.

## Current brand and brand styles

The actual hard pack and carton packaging, with each of the four health warnings, for the following brands and styles remains the same in all material respects and are in compliance with Section 911 of The Family Smoking Prevention and Tobacco Control Act of 2009. The warnings will appear exactly as shown on the samples provided on August 24, 2015, January 9, 2017, February 4, 2017, July 25, 2017 and August 21, 2017 as well as the packaging submitted for Nat's Dark Smooth on April 4, 2019 and May 2, 2019.

Black & Gold (black paper/gold filter/queen)  
Cigarettellos (brown paper/non filter/queen)  
Classic (white paper/cork filter/king)  
Classic Blue (white paper/cork filter/king)  
Classic Menthol (white paper/cork filter/king)  
Havana Ovals (brown paper/non filter/queen)  
Hint Menthol (brown paper/brown filter/queen)  
MCD (brown paper/brown filter/queen)  
MCD Gold (brown paper/brown filter/queen)  
MCD Menthol (brown paper/brown filter/queen)  
MCD Silver (brown paper/brown filter/queen)

### TOWNHOUSE

12 East 42nd Street, New York, NY 10017  
tel. 212-764-5000 fax 212-764-5134

### CORPORATE

10 Sterling Boulevard, Englewood, NJ 07631  
tel. 201-735-9000 fax 201-735-9099

### MANUFACTURING

7615 Boeing Drive, Greensboro, NC 27409  
tel. 336-665-6060 fax 336-605-1795

Current brand and brand styles (cont.)

Nat's King (white paper/cork filter/king) (Rich Taste)  
Nat's Blue King (white paper/white filter/king) (Mellow Taste)  
Nat's Dark Smooth (white paper/cork filter/king)  
Nat's Menthol King (white paper/cork filter/king)  
Nat's Yellow King (white paper/white filter/king) (Rich Smooth Taste)  
New York Cut Blue (white paper/white filter/king)  
New York Cut Menthol (white paper/white filter/king)  
New York Cut Original (white paper/cork filter/king)  
Originals (brown paper/cork filter/queen)  
Originals Blue (white paper/white filter/queen)  
Originals Menthol (white paper/white filter/queen)  
Originals Yellow (brown paper/brown filter/queen)  
Select King (white paper/cork filter/king)  
Select Blue King (white paper/white filter/king)  
Select Menthol King (white paper/cork filter/king)  
Select Yellow King (white paper/white filter/king)

Note: Sherman's 1400 is not seeking approval for the Fantasia brand style (multi-color paper/gold filter/queen) as we are not manufacturing that cigarette style at this time.

Sherman's 1400 total domestic shipments for the twelve-month period ending December 31, 2018 were [REDACTED] sticks. We estimate our total sales for all cigarette brands and brand styles to be [REDACTED] sticks for 2019. In compliance with FCLAA, Section 1333(c)(2), kindly be advised that Sherman's 1400 manufactured and sold in each of its brands less than one-fourth of one (1%) percent of all cigarettes sold in the United States in its prior fiscal year ending December 31, 2018. Thus, Sherman's 1400 will take advantage of the alternative to quarterly rotation of the health warnings for each of the foregoing brand styles pursuant to Section 1333(c)(2).

Sherman's 1400 will display the four health warnings an equal number of times on the hard packs and cartons of each of the current brand styles for the twelve-month period beginning on the date of the approval of this plan; or until such time as the authority to approve cigarette health warning statement plans moves from the FTC to the FDA. Sherman's 1400 will maintain records that show compliance with this packaging plan. Sherman's 1400 will maintain compliance with our most recent FTC approved plan for display of the health warnings in advertising.

If you require additional information, please do not hesitate to contact me at 201-735-9008.

Sincerely,



Brendon Scott  
Vice President, Chief Financial Officer

/smw



Division of  
Advertising Practices

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

August 23, 2019

Mr. Brendon Scott  
Sherman's 1400 Broadway N.Y.C., LLC  
10 Sterling Boulevard  
Englewood, NJ 07631

Dear Mr. Scott:

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 Sherman's 1400 Broadway N.Y.C., LLC ("Sherman's 1400") on August 13, 2019, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Black & Gold, Cigarettellos, Classic, Havana Ovals, Hint, MCD, Nat's, New York Cut, Originals, and Select brands of cigarettes.

Sherman's 1400'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 24, 2015, January 9, 2017, February 4, 2017, July 25, 2017, August 21, 2017, April 4, 2019, and May 2, 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.<sup>1</sup>

Accordingly, Sherman's 1400's plan for simultaneous display of the four health warnings on packaging for the following box varieties is hereby approved:

- the queen size variety of the Black & Gold brand;
- the Non-Filter queen size variety of the Cigarettellos brand;
- three "International style" king size varieties of the Classic brand (Regular, Blue, and Menthol);
- the Non-Filter queen size variety of the Havana Ovals brand;

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<sup>1</sup> Sherman's 1400 stated in its August 13, 2019 letter that the four health warnings will appear exactly as shown on the packs and cartons submitted on these dates.

- the Menthol queen size variety of the Hint brand;
- four queen size varieties of the MCD brand (Regular, Gold, Menthol, and Silver);
- five king size varieties of the Nat's brand (King (Rich Taste), Blue (Mellow Taste), Menthol, Yellow (Rich Smooth Taste), and Dark Smooth (Dark Smooth Taste));
- three king size varieties of the New York Cut brand (Blue, Menthol, and Original);
- four queen size varieties of the Originals brand (Originals, Blue, Menthol, and Yellow);  
and;
- four king size varieties of the Select brand (Select, Blue, Menthol, and Yellow).

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 Sherman's 1400'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 ("FSPTCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made in advertising or on packaging for Sherman's 1400's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Sherman's 1400's packaging and advertising under the FSPTCA 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).

Because the FSPTCA 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), or [www.fda.gov/TobaccoProducts/ResourcesforYou/ForIndustry/default.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ForIndustry/default.htm), and sign up for FDA email updates at [www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

**This approval is effective on the date of this letter and runs through August 22, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

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

Mr. Brendon Scott  
August 23, 2019  
Page 3

If you have any questions regarding this approval, please contact Aine Farrell at (202) 326-2409.

Very truly yours,

**MARY**  
**ENGLE**

Digitally signed by  
MARY ENGLE  
Date: 2019.08.23  
14:28:28 -04'00'

Mary K. Engle  
Associate Director



Darren C. Broughton  
Vice President and Associate General Counsel

September 10, 2019

*Via Overnight Delivery*

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

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

Dear Ms. Engle:

Pursuant to section 4 of the Federal Cigarette Labeling and Advertising Act (“FCLAA”) (15 U.S.C. § 1333), Philip Morris USA Inc. (“PM USA”) seeks approval of a warning rotation plan for the packaging of newly authorized products (“HeatSticks”), which FCLAA defines as cigarettes.

On April 30, 2019, the U.S. Food and Drug Administration (“FDA”) authorized the marketing of HeatSticks following its review of the products’ Premarket Tobacco Product Applications under section 910(b) of the Food, Drug, and Cosmetic Act. FDA’s marketing order states that each package and advertisement for HeatSticks must bear the rotating Surgeon General warnings required under FCLAA, except the order requires the removal of the Surgeon General’s carbon monoxide warning. FDA’s summary explains that “the [carbon monoxide] warning is misleading with respect to these products which, although categorized as cigarettes, do not produce carbon monoxide above environmental levels and do not increase CO-related health risks.”<sup>1</sup> In the marketing order, FDA instructed PM USA to submit a warning plan to FTC that includes this change.

Consistent with FCLAA’s requirements and FDA’s marketing order, PM USA plans to rotate the required warning statements quarterly on each of the HeatSticks packages in accordance with the following schedule, based on the date on which the products are packaged:

---

<sup>1</sup> See FDA, PMTA Technical Project Lead Review (Apr. 30, 2019), at 12, 89-90.

| HeatSticks Brand | Styles                      | Q3 2019<br>(July-Sept) | Q4 2019<br>(Oct-Dec) | Q1 2020<br>(Jan-Mar) | Q2 2020<br>(Apr-Jun) | Q3 2020<br>(July-Sept) | Q4 2020<br>(Oct-Dec) |
|------------------|-----------------------------|------------------------|----------------------|----------------------|----------------------|------------------------|----------------------|
| MARLBORO         | Non-menthol<br>(Silver Pkg) | C                      | A                    | B                    | C                    | A                      | B                    |
|                  | Smooth Menthol              |                        |                      |                      |                      |                        |                      |

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

Marlboro brand HeatSticks are available in one size, 45 millimeters, and in hard packs only. The products will be sold in packs only. Cartons will not be “offered for sale, sold, or otherwise distributed to consumers.” FCLAA, §1332(4).

The warnings are as follows:

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

PM USA will maintain records that show compliance with this warning rotation plan. For each product referenced above, we provided sample packaging displaying each of the warning statements as enclosures to our letter dated June 11, 2019. The warning statements will appear exactly as shown on the samples provided on that date.

For all advertising for HeatSticks, including advertising for the IQOS system, PM USA agrees to use the warning statement formats that were submitted to the Federal Trade Commission with the 1985 Plans of the five leading U.S. cigarette manufacturers (including PM USA). The warnings will be rotated quarterly according to the schedule above and, consistent with the rotation plan for product packaging as required by the FDA, will exclude the carbon monoxide warning. At this time, we anticipate that our largest advertisement will not exceed 14 square feet.

The products will be advertised using direct mail, point-of-sale materials, and magazines. For all non-periodical advertising (excluding digital advertising), including direct mail and point-of-sale materials, PM USA will rotate the warnings according to the date the advertising is ordered.<sup>2</sup> In periodical advertising, such as magazines, PM USA will rotate the required warnings according to the cover date of the publication.

<sup>2</sup> The “date the advertising is ordered” means the date on which PM USA approves the final artwork to release to the supplier, consistent with PM USA’s usual business practice.

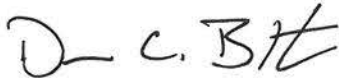
September 10, 2019

Page 3 of 3

The products will be advertised on websites owned by PM USA, including getiqos.com and marlboro.com, and by e-mail. PM USA agrees to use the warning statement formats that were submitted to the Federal Trade Commission with the 1985 Plans of the five leading U.S. cigarette manufacturers (including PM USA). The size of the warnings will be proportionate to those warning formats. The warnings will be rotated on the first day of the calendar quarter according to the rotation schedule above and, consistent with the rotation plan for product packaging as required by the FDA, will exclude the carbon monoxide warning. If PM USA advertises on third-party websites, the warnings will be rotated on the same schedule and will use the same warning statement format as websites owned by PM USA. The cigarette warnings on websites will be superimposed on the screen in an unavoidable manner on every page advertising cigarettes, may be viewed without scrolling, and will not be displayed through hyperlinks, pop-ups, interstitials or other similar means.

If you require additional information, please do not hesitate to contact me at (804) 484-8704.

Sincerely,

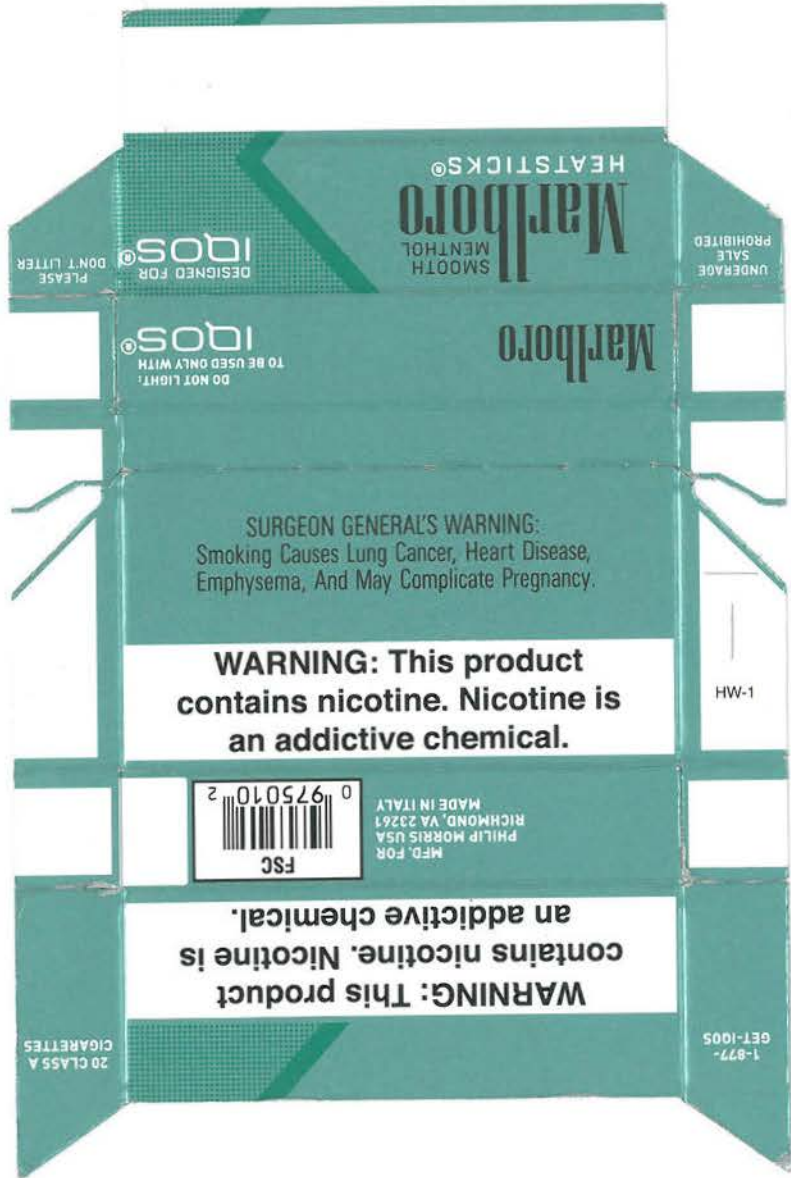
A handwritten signature in black ink, appearing to read "D. C. Broughton". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Darren C. Broughton

cc: Ms. Rosemary Rosso (by email only)  
Ms. Bonnie McGregor (by email only)  
Ms. Melanie C. Holloway



Selected packaging samples from those  
submitted with the plan.



HEATSTICKS®  
**Marlboro**  
SMOOTH  
MENTHOL

DESIGNED FOR  
**IQOS**  
PLEASE DON'T LITTER

UNDERAGE  
SALE  
PROHIBITED

**Marlboro**

DO NOT LIGHT!  
TO BE USED ONLY WITH  
**IQOS**

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

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

HW-1



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

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

20 CLASS A  
CIGARETTES

1-877-  
661-1005



HEATSTICKS®  
**Marlboro**

DESIGNED FOR  
**iQOS**  
PLEASE  
DON'T LITTER

UNDERAGE  
SALE  
PROHIBITED

**Marlboro**

DO NOT LIGHT  
TO BE USED ONLY WITH  
**iQOS**

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

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

HW-2



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

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

20 CLASS A  
CIGARETTES

1-877-  
GET-1005



Division of  
Advertising Practices

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

September 13, 2019

Mr. Darren C. Broughton  
Vice President and Associate General Counsel  
Altria Client Services  
6603 West Broad Street  
Richmond, VA 23230

Dear Mr. Broughton:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed on behalf of Philip Morris USA Inc. (“PM USA”) on September 10, 2019, calling for: (1) quarterly rotation of health warnings in advertising up to fourteen square feet in size for Marlboro IQOS “HeatSticks”; (2) quarterly rotation of health warnings in Internet advertising for Marlboro IQOS “HeatSticks”; and (3) quarterly rotation of health warnings on packs for two 45 mm hard-pack varieties of Marlboro IQOS “HeatSticks.”<sup>1</sup>

PM USA’s plan for rotation of the warnings in the aforementioned advertising for Marlboro IQOS “HeatSticks,” including such advertising for the Marlboro IQOS system, is hereby approved. With respect to the question of whether it is legal to advertise cigarettes on the Internet, Section 1335 of the Cigarette Act prohibits advertising cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. The enforcement of that provision is the responsibility of the Department of Justice and you should contact them directly (Lawrence C. Keller at 202-598-2781) to determine whether such advertising on the Internet is permissible.

The warnings on the sample packs for the Non-Menthol and Smooth Menthol 45 mm hard-pack varieties of Marlboro IQOS “HeatSticks” submitted with your June 11, 2019 letter

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

appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>2</sup> PM USA's plan for quarterly rotation of health warnings on packs for the Non-Menthol and Smooth Menthol 45 mm hard-pack varieties of Marlboro IQOS "HeatSticks" is hereby approved effective on the date of this letter.

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

Please note that this letter only approves PM USA's health warning display 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 ("FSPTCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging or in advertising for PM USA's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of PM USA's packaging and advertising under the FSPTCA, 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 any requirement for Marlboro IQOS HeatSticks pursuant to FDA's marketing order.


Because the FSPTCA 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), or [www.fda.gov/TobaccoProducts/ResourcesforYou/ForIndustry/default.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ForIndustry/default.htm), and sign up for FDA email updates at [www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

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

Very truly yours,

MARY  
ENGLE

Mary K. Engle  
Associate Director

 Digitally signed by MARY  
ENGLE  
Date: 2019.09.13  
15:58:28 -04'00'

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<sup>2</sup> PM USA stated in its September 10, 2019 letter that the health warnings will appear exactly as shown on the packs submitted on June 11, 2019. This approval does not extend to cartons.

<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.

# Holland & Knight

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

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

September 18, 2019

## VIA E-MAIL

Ms. Mary K. Engle  
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. Engle:

On behalf of Japan Tobacco International U.S.A., Inc., a California corporation with its principal office at Glenpointe Centre West, 500 Frank W. Burr Boulevard, Suite 24, Teaneck, New Jersey 07666 and its affiliates (collectively "JTI"), 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 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:

(1) redesigned packages and cartons of cigarettes for the ten previously approved hard pack "LD by L. Ducat" brand styles as submitted under cover of our letter dated August 21, 2019, namely:

Red (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

(2) packages and cartons of cigarettes for six additional hard pack "LD by L. Ducat" brand styles as submitted under cover of our letter dated August 21, 2019, namely:

Red Club (Kings and 100's), Menthol Club (Kings and 100's) and  
Blue Club (Kings and 100's).

The Label Statement Rotation Plan of JTI submitted to the Federal Trade Commission on August 28, 1985 (the "Plan"), as subsequently amended, was approved most recently on April 5, 2019 (for all then current brand styles of all brands). The "LD by L. Ducat" individual packages and cartons with the former design submitted on October 28, 2016 will no longer be manufactured once approval of the redesigned packages and cartons is received.

In support of JTI's application for extension of FTC approval of its simultaneous display plan for packages and cartons to cover those packaging varieties, JTI affirms as follows:

- (a) the cigarettes sold by JTI in the U.S. continue to comply with the two-tiered test in Section 4(c)(2) of the Act. The total number of cigarettes sold by JTI in the United States during JTI's last fiscal year ended December 31, 2018 (all of which were imported) was less than [REDACTED] and the total number of cigarettes of any brand style sold by JTI 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 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 for sale in the United States (all of which were imported) are packaged into brand styles which meet the requirements of clause (i);
- (b) the statutorily mandated warnings will appear exactly as shown on the sample individual packages and cartons (or bundles) 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's behalf and approved by the Federal Trade Commission; and
- (c) JTI 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 for the Plan and JTI 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 unless and until submitted and approved otherwise. JTI will maintain compliance with its approved advertising plan.

JTI will import and sell packages and cartons of each brand style referred to in this letter in equal numbers of each warning label throughout the one-year period after this application is approved as 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.

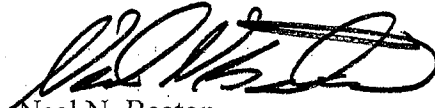
If you should have any further questions in connection with this application, please call me at (212) 513-3470. We enclosed a Federal Express airway bill and envelope under cover of our letter dated August 21, 2019 for your use, if possible, in transmitting an approval letter to us in order to ensure its timely receipt. In addition, it would be appreciated if such approval letter

Ms. Mary K. Engle  
September 18, 2019  
Page 3

could be faxed to me at 212-341-7103 or sent to me as a pdf attachment to an e-mail at  
neal.beaton@hkllaw.com.

Thank you for your continued cooperation in this matter.

Very truly yours,



Neal N. Beaton

Enclosure



## Attachment 1

### Export 'A'

Export 'A' is printed using the gravure method. Rotation of warnings is based on percentage on each sheet of packaging printed. With four health warnings, equal distribution is 25% of the sheet per warning.

#### **Export A 72 Slide and Shell Pack:**

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' 72 Slide and Shell Bundle:**

Export 'A' uses a paper-foil bundle rather than a standard carton. The bundle is printed using two sets of cylinders, each configured with 3 ups. The two cylinders print one full sheet per rotation; one sheet contains 6 bundles. Warnings A and B are printed on one cylinder and Warnings C and D are printed on the other. Each warning comprises 50% of the cylinder and 25% of the total sheet. Each warning appears 3 times per sheet.

### Wave/Wings/LD by L. Ducat

Wave, Wings and LD by L. Ducat are printed using the offset method. Rotation of warnings is based on percentage on each sheet of packaging printed. With four health warnings, equal distribution would be 25% of the sheet per warning. All packaging is preprinted and supplied to the factory where it is made into final consumer packaging.

#### **Wave/Wings/LD by L. Ducat Round Corner KS/100s Box:**

The round corner box utilizes 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 at 11 times per set of two sheets in a rotation, comprising 25% of the sheets.

#### **Wave/Wings Soft Pack KS/100s:**

Soft pack styles are printed using a plate with 16 total facings. Each sheet contains 16 ups and is printed in one rotation. Warnings A, B, C and D each comprise 25% of the sheet. Each warning is printed 4 times.

**Wave/Wings/LD by L. Ducat Cartons KS/100s:**

All round corner box and soft pack styles share the same carton printing configuration. These cartons are printed using plates with 4 facings. Each sheet is printed with 4 ups per rotation. Warnings A, B, C and D each comprise 25% of the sheet, appearing once.

Selected packaging samples from those  
submitted with the plan.

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

**LD**

**CLUB  
BLUE**

*L. Ducat*

AMERICAN BLEND

Made in Turkey by  
JT International U.S.A. Inc.  
Contact us: 1-844-532-4477  
LD by L. Ducat



**LD**

**CLUB  
BLUE**

*L. Ducat*

MADE WITH SIGNED WITH  
PASSION P R I D E

10.26 (US) FV/02  
14322322

**LD**

**CLUB  
BLUE**

*L. Ducat*

**LD**

**CLUB  
BLUE**

*L. Ducat*



UNDERAGE  
SALE  
PROHIBITED

A PRODUCT OF  
JT INTERNATIONAL  
20 CLASS A  
CIGARETTES

FIND OUT MORE AT  
[LOCIGARETTES.COM](http://LOCIGARETTES.COM)

A M E R I C A N B L E N D

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



M E N T H O L  
G R E E N

A M E R I C A N B L E N D



M E N T H O L  
G R E E N

A PRODUCT OF JT INTERNATIONAL  
Made in Turkey for JT International U.S.A., Inc.  
Contact us: 1-844-532-4477  
LD by L. Ducat  
200 CLASS A CIGARETTES

M E N T H O L  
G R E E N

*L. Ducat*



*L. Ducat*

*L. Ducat*



*L. Ducat*





Division of  
Advertising Practices

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

September 18, 2019

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 on behalf of Japan Tobacco International U.S.A., Inc. and its affiliates (collectively “JTI”) dated September 18, 2019, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the “LD by L. Ducat” brand 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 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, JTI’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following sixteen hard pack varieties of the “LD by L. Ducat” brand: Red (Kings and 100’s), Blue (Kings and 100’s), Silver (Kings and 100’s), Menthol (Kings and 100’s), Menthol Green (Kings and 100’s), Red Club (Kings and 100’s), Blue Club (Kings and 100’s), and Menthol Club (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>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 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 (“FSPTCA”). Moreover, it is not in

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<sup>1</sup> JTI stated in its September 18, 2019 letter that the four health warnings will appear exactly as shown on the packs and cartons submitted on these dates.

<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.

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 FSPTCA 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).

Because the FSPTCA 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/TobaccoProducts/Resources/You/ucm176164.htm](http://www.fda.gov/TobaccoProducts/Resources/You/ucm176164.htm).

Please note that Section 802 of the Tariff Suspension and Trade Act of 2000 prohibits the importation of cigarettes unless at the time of entry the importer presents a sworn statement signed by the original cigarette manufacturer stating that the manufacturer has submitted and will continue to submit the list of ingredients to FDA.

**This approval is effective on the date of this letter and runs through September 17, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

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

Very truly yours,

MARY ENGLE  
Digitally signed by MARY ENGLE  
Date: 2019.09.18 14:39:34 -04'00'

Mary K. Engle  
Associate Director

PAIGE S. FITZGERALD  
804.697.1404 telephone  
804.698.5114 facsimile  
paige.fitzgerald@troutman.com



September 9, 2019

**By Federal Express  
and Electronic Mail**

Ms. Mary K. Engle  
Associate Director  
Division of Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

**Cigarette Health Warning Plan  
Firebird Manufacturing, LLC and PALMETTO brand extension**

Dear Ms. Engle:

On behalf of Firebird Manufacturing, LLC ("Firebird"), we hereby submit a request to approve Firebird's Surgeon General's Equalization Plan as required under the *Federal Cigarette Labeling and Advertising Act of 1984* (15 U.S.C. § 1331 (1998), et seq.), as amended ("FCLAA"), for display of the warning on the packaging for the fifteen (15) brand styles of the PALMETTO brand that have been previously approved, and three (3) additional styles of PALMETTO brand hard pack varieties. Firebird previously submitted its 2018 Plan Renewal on October 29, 2018, for its fifteen (15) previously-approved styles of the Palmetto brand. The FTC approved that plan on October 30, 2018.

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

Firebird is manufacturer of the Palmetto brand. Scott D. Batson is COO. The location of the factory is at 1057 Bill Tuck Highway, South Boston, VA 24592. Firebird has not, to date, imported any cigarettes.

A plan has been approved for the following fifteen (15) varieties of the Palmetto brand: Red Kings Soft Pack, Red 100's (Soft Pack and Box), Gold Kings Soft Pack, Gold 100's (Soft Pack and Box), Blue Kings Soft Pack, Blue 100's (Soft Pack and Box), Menthol Green Kings Soft Pack, Menthol Green 100's (Soft Pack and Box), Menthol Gold Kings Soft Pack, and Menthol Gold 100's (Soft Pack and Box).

Firebird submits a plan for the following three (3) additional styles:

Palmetto Red Kings Box, Palmetto Menthol Green Kings Box, and Palmetto Gold Kings Box



Sales of Firebird's cigarettes for fiscal year 2018<sup>1</sup> were approximately [REDACTED] sticks, which should qualify the company for the Section 1333(c)(2) exemption.<sup>2</sup>

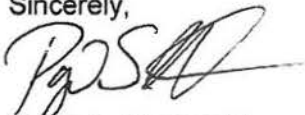
Sample packs and cartons displaying the health warnings for the three new brand styles listed above were provided as enclosures to our July 19, 2019 letter. The warnings will appear exactly as shown on the sample packs and cartons submitted with letters dated May 27, 2016, June 26, 2018, and July 19, 2019.

Firebird will equalize the four health warnings on the packs and cartons for each brand style listed above for the one year period beginning on the date of the approval of this Plan. Beginning on the date of approval of this Plan, Firebird will ensure that the printer will print all four warnings in equal numbers on each printed sheet of packaging for all cartons and packs, so when sheets are cut, the display of warnings will be approximately equalized on packs and cartons for each brand style. Based on the above, Firebird requests approval to use the equalization option provided in Section 1333(c)(2) of the FCLAA. Firebird will keep records demonstrating compliance with this Plan.

Firebird does not advertise at this time. Should Firebird desire to advertise its products, it will submit an advertising Plan to FTC in advance.

We submit that the foregoing complies with the requirements set forth in the FCLAA, and request expedited approval of this request. Should this request conform to your requirements, we request that the letter evidencing approval be emailed to me at [paige.fitzgerald@troutman.com](mailto:paige.fitzgerald@troutman.com). Should you require any additional information with respect to the foregoing please contact me at (804) 697-1404, or on my cell phone (804) 938-2570.

Sincerely,



Paige S. Fitzgerald

<sup>1</sup> Note that Firebird Manufacturing LLC uses a calendar year as its fiscal year.

<sup>2</sup> Firebird also manufactures the Cherokee brand of cigarettes for Cherokee Tobacco Company. Cherokee Tobacco Company submits the warning plan for the Cherokee brand.

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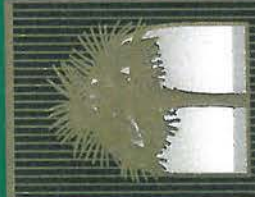
Selected packaging samples from those  
submitted with the plan.

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

7

6/26/13

Underage  
Sale  
Prohibited



Menthol  
Green

MADE IN USA

KINGS

Palmetto  
Menthol Green  
KINGS BOX

KINGS

MADE IN USA

Menthol  
Green



Palmetto

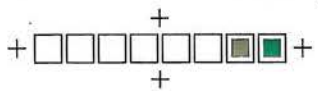
KINGS BOX

Palmetto  
Menthol Green

Palmetto



Firebird Manufacturing, LLC  
South Boston, VA 24592  
TP, VA 15004  
Made in USA



20 CLASS A  
CIGARETTES



# Palmetto<sup>®</sup>

R e d  
KINGS BOX

MADE IN USA



UNDERAGE  
SALE  
PROHIBITED

# Palmetto<sup>®</sup>

R e d  
KINGS BOX

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

MADE IN USA

R e d  
KINGS BOX

# Palmetto<sup>®</sup>





Division of  
Advertising Practices

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

September 19, 2019

Paige S. Fitzgerald, Esq.  
Troutman Sanders LLP  
1001 Haxall Point  
P.O. Box 1122  
Richmond, VA 23219

Dear Ms. Fitzgerald:

The Federal Trade Commission has delegated to the Associate Director for Advertising Practices its authority to review cigarette health warning display plans submitted to the Commission pursuant to Section 1333(c) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331-1341 (“the Cigarette Act”). Pursuant to that delegation, I have reviewed a revised proposed plan filed on behalf of Firebird Manufacturing, LLC (“Firebird”) on September 9, 2019, calling for simultaneous display (*i.e.*, the alternative to quarterly rotation) of the four health warnings on packaging for certain varieties of the Palmetto brand of cigarettes.

Firebird’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 of May 27, 2016, June 26, 2018, and July 19, 2019 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, Firebird’s plan for simultaneous display of the four health warnings on packaging is hereby approved for the following eighteen varieties of the Palmetto brand: Red Kings (Soft Pack and Box), Red 100’s (Soft Pack and Box), Gold Kings (Soft Pack and Box), Gold 100’s (Soft Pack and Box), Blue Kings Soft Pack, Blue 100’s (Soft Pack and Box), Menthol Green Kings (Soft Pack and Box), Menthol Green 100’s (Soft Pack and Box), Menthol Gold Kings Soft Pack, and Menthol Gold 100’s (Soft Pack and Box).

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.

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<sup>1</sup> Firebird stated in its letter of September 9, 2019 that the four health warnings will appear exactly as shown on the packs and cartons submitted on these dates.

<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.

Paige S. Fitzgerald, Esq.  
September 19, 2019  
Page 2

If Firebird 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 Firebird'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 ("FSPTCA"). Moreover, it is not in any way an approval of any other design element, statement, or representation made on packaging for Firebird's cigarettes. Nor does this letter purport to interpret or express any opinion about the adequacy of Firebird's packaging under the FSPTCA 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).

Because the FSPTCA 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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

**This approval is effective on the date of this letter and runs through September 18, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

If you have any questions regarding this approval, please contact Aine Farrell at (202) 326-2409.

Very truly yours,

**MARY** Digitally signed by  
**ENGLE** MARY ENGLE  
Date: 2019.09.19  
14:59:32 -04'00'

Mary K. Engle  
Associate Director



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

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September 23, 2019

Ms. Mary K. Engle  
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". 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

According to 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 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 our letters dated October 3, 2017, October 17, 2017 and December 7, 2017.

The sales volumes in cigarettes for each brand for fiscal year 2018 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 2019 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  
Vice 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    |
| Menthol King 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   |



Division of  
Advertising Practices

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

September 25, 2019

Ms. Jennifer Straus  
Vice President  
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 revised proposed plan filed by Farmers Tobacco Co. of Cynthiana, Inc. (“Farmers Tobacco”) on September 23, 2019, 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 health warnings on the sample packs and cartons submitted with your letters dated October 3, October 17, and December 7, 2017 continue to appear to meet the requirements of the Cigarette Act in force as of the date of this letter for size and conspicuousness.<sup>1</sup>

Accordingly, 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),

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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 the Commission has most recently approved.

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;

- Nine varieties of the VB Made in the USA brand: Red hard pack (Kings and 100's), Gold hard pack (Kings and 100's), Menthol hard pack (Kings and 100's), 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 ("FSPTCA"). 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 FSPTCA 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).

Because the FSPTCA 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/TobaccoProducts/ResourcesforYou/ucm176164.htm](http://www.fda.gov/TobaccoProducts/ResourcesforYou/ucm176164.htm).

**This approval is effective on the date of this letter and runs through September 24, 2020, or until the authority to approve cigarette health warning statement plans moves from the FTC to the FDA, whichever comes first.**

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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.

Ms. Jennifer Straus  
September 25, 2019  
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If you have any questions regarding this approval, please contact Connor Sands at (202) 326-3343.

Very truly yours,

**MARY** Digitally signed  
by MARY ENGLE  
**ENGLE** Date: 2019.09.25  
14:56:11 -04'00'

Mary K. Engle  
Associate Director