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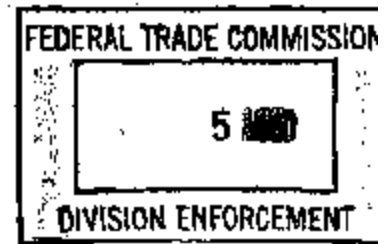
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September 5, 2001

Lisa M. Dwyer  
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**VIA HAND DELIVERY**

Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington D.C. 20580  
Attn: Laureen Kapin



Re: Compliance Report, In the Matter of Stoker, Inc., FTC Docket No. C-4013

Dear Secretary:

Enclosed for your review is a copy of Stoker, Inc.'s ("Stoker's") Compliance Report, with its associated attachments (including the packaging and advertising samples), in accordance with Part V of the Federal Trade Commission's ("FTC's") Order, *In the Matter of Stoker, Inc.*, Docket No. C-4013 (May 31, 2001). Notably, pursuant to the extension granted to Stoker in a letter, dated July 31, 2001, from Laureen Kapin in the Bureau of Consumer Protection, Division of Enforcement, the Compliance Report was due today, September 5, 2001.

In addition, please note that due to the size and shape of the packaging and advertising samples, duplication was not possible. Therefore, we are sending those exhibits only to Laureen Kapin in the Division of Enforcement.

Please do not hesitate to contact me if you have any comments or questions.

Sincerely,

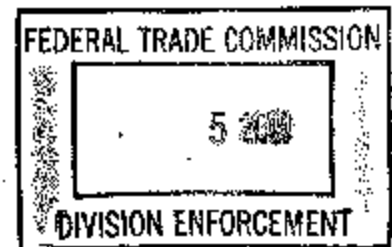
A handwritten signature in black ink that reads "Lisa M. Dwyer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lisa M. Dwyer

Enclosures

**FEDERAL TRADE COMMISSION COMPLIANCE REPORT**  
**STOKER, INC.**

(Docket No. C-4013)



**I. Compliance with the Smokeless Tobacco Act**

Paragraph I of the Federal Trade Commission's ("FTC's") order (the "Order"), in the matter of Stoker, Inc. ("Stoker"),<sup>1</sup> Docket No. C-4013, provides that Stoker "directly or through any corporation, subsidiary, division, or other device, in connection with manufacturing, importing, packaging, labeling, advertising, promotion, offering for sale, sale, or distribution of any smokeless tobacco product, shall not violate any provision of the Smokeless Tobacco Act ["STA"], 15 U.S.C. § 4401 *et seq.* or the implementing regulations."

To the best of its knowledge, Stoker is currently in compliance with the STA and its implementing regulations. Stoker has corrected the packaging labels on the products that the FTC cited in the complaint, and has enclosed copies of the corrected labels (or representative samples thereof) and the corrected point-of-purchase sales display in Package Sample Exhibits 13 and 15 (*i.e.*, Red Label Smokeless Tobacco (16 oz.), Wintergreen Smokeless Tobacco (16 oz.), and Our Pride Apple (Peach) Chewing Tobacco (3 oz.))<sup>2</sup> and in Advertising Exhibit 1 (*i.e.*, Oliver Twist Header Board).<sup>3</sup>

Moreover, Stoker has been working with Michael Ostheimer at the FTC ((202) 326-2699), to finalize its rotation plan, in accordance with 16 C.F.R. § 307.4(c), to ensure compliance with the STA. The final rotation plan, the Fourth Amended Rotation Plan, was submitted to Michael Ostheimer on August 31, 2001, (*see Attachment 1*), and it details the manner in which Stoker is complying with the STA and its implementing regulations. The product index in Appendix C to the rotation plan lists the products sold by Stoker, and serves as a guide to the Package Sample Exhibits attached hereto, which contain representative samples of the product labeling/packaging that has been used since at least June 7, 2001.

In addition, as required by the Order, Stoker has enclosed all promotional materials, other than the product labeling/packaging, which have been issued since at least June 7, 2001, including copies of: (1) the Spring/Summer catalog,<sup>4</sup> (2) point-of-purchase sales displays (headers),<sup>5</sup> and (3) the Stoker flyer.<sup>6</sup>

<sup>1</sup> Stoker, Inc. ("Stoker") is a holding company with two wholly owned subsidiaries, RBJ Sales, Inc. and Fred Stoker & Sons, Inc.

<sup>2</sup> An index to the Package Sample Exhibits can be found in Attachment 1C (Appendix C to the Fourth Amended Rotation Plan).

<sup>3</sup> An index to the Advertising Exhibits can be found at Attachment 2.

<sup>4</sup> *See Attachment 2*, Exhibit 4.

<sup>5</sup> *See Attachment 2*, Exhibits 1-3.

<sup>6</sup> *See Attachment 2*, Exhibit 5.

## **II. Compliance with Recordkeeping Requirements**

Paragraph II of the Order provides that Stoker "and its successors and assigns shall, for five (5) years after the last dissemination of any package or advertisement covered by this [Order], maintain and upon request make available to the [FTC] for inspection and copying all smokeless tobacco product packaging and advertisements."

**LeAnne Moore, Esq., the General Counsel of Stoker, keeps samples of all packaging and advertising covered by the Order in a locked cabinet, so that Stoker may provide samples to the FTC upon request. Other than Ms. Moore, only the following employees of Stoker have access to the cabinet: (1) Bobby Stoker, President, (2) Judith S. Fisher, Vice President, (3) Ronald C. Stoker, Secretary/Treasurer, and (4) Brian Hays, Director of Quality Control/Safety.**

## **III. Receipt of Order by All Current and Future Personnel**

Paragraph III of the Order provides that Stoker "and its successors and assigns shall deliver a copy of this [Order] to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this [Order]. [Stoker] shall deliver this [Order] to current personnel within thirty (30) days after the service of this [Order], and to future personnel within thirty (30) days after the person assumes such position or responsibilities."

**In accordance with the Order, Stoker delivered a copy of the Order to all current officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the packaging and advertising of Stoker smokeless tobacco products, within the 30 day period prescribed, or as soon as practicable thereafter.<sup>7</sup> A list of those individuals, with their titles, corporate affiliations, and addresses is attached hereto.<sup>8</sup> That attachment also includes signed statements from the affected persons acknowledging receipt of the Order.**

**In addition, Stoker shall deliver the Order to future affected personnel, agents, and representatives, within thirty (30) days after the persons assume their position or responsibilities, for the duration of the Order. Compliance with this provision shall be documented with a signed statement from each affected person acknowledging receipt of the Order.**

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<sup>7</sup> Stoker interprets paragraph III of the Order as applying only to officers, directors, personnel, managers, employees, representatives, and agents that have "responsibilities" for the packaging and advertising of Stoker products. Based upon that interpretation, within the prescribed time period, Stoker distributed the Order to officers, directors, and employees that have true responsibility for ensuring that the packaging and advertising comply with the STA and the Order, and work with the independent contractors handling such matters. Accordingly, Stoker believes that it is in full compliance with this provision. On approximately July 25, 2001, Stoker spoke with Lauren Kapin in the Bureau of Consumer Protection, Division of Enforcement, at the FTC. During that conversation, Stoker was apprised that the FTC interprets this provision more broadly and believes that it applies to all agents that handle packaging and advertising. Immediately thereafter, in cooperation with FTC's broader interpretation, Stoker delivered copies of the Order to its packaging and advertising agents. In the future, in cooperation with the FTC's interpretation, Stoker shall deliver the Order to affected agents that handle packaging and advertising matters, as well as to those personnel and agents that have true responsibility for such matters.

<sup>8</sup> See Attachment 3.

#### **IV. Corporate Change Affecting Compliance Obligations**

Paragraph IV of the Order provides that Stoker "and its successors and assigns shall notify the [FTC] at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this [Order], including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this [Order]; the proposed filing of a bankruptcy petition; or a change in corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which [Stoker] learns less than thirty (30) days prior to the date such action is to take place, [Stoker] shall notify the [FTC] as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, [FTC], 600 Pennsylvania Avenue, N.W., Washington D.C. 20580."

**Since the Order was issued, on May 31, 2001, and served on June 7, 2001, Stoker has not undergone any corporate change that may affect its compliance obligations under this Order.**

**Notarized Statement of Truth**

On the 31 day of August, 2001, to the best of my knowledge, I Bobby Stoker understand that all of the facts submitted in this Compliance Report are true.

Bobby B. Stoker

Bobby B. Stoker

President

Stoker, Inc.

P.O. Box 707

Dresden, Tennessee 38225

Tel: (731) 364-5419

Fax: (731) 364-3322

STATE OF TENNESSEE  
COUNTY OF WEAKLEY

On this the 31 day of August 2001, personally appeared before me, Bobby B. Stoker, who upon oath, did acknowledge himself to be the President of Stoker, Inc. and who as such President is authorized to execute this document for the purposes herein stated.

Raymona M. Donoho

Notary

My commission expires November 22, 2004