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May 22, 2002

Name of Licensee
address
address

Re: Haw. Rev. Stat., Chapter 675
Enforcement Actions

Dear Licensee:

The purpose of this letter is to notify you that the State of Hawaii has taken action against certain tobacco manufacturers who are not in compliance with Haw. Rev. Stat., Chapter 675¹ ("Chapter 675"). The lawsuits were filed after numerous notices to certain non-participating manufacturers² ("NPMs") relating to their obligations under Chapter 675, and their subsequent failure to comply.

Upon prevailing in these actions, the selling of certain NPMs' product may be prohibited. At some future date a court may order that NPMs who have failed to place into escrow the funds required under Chapter 675 be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two years. (See specifically, Haw. Rev. Stat., §675-3(b)(3)(C).)

As you may be aware, on November 23, 1998 the State entered into the tobacco Master Settlement Agreement³ ("MSA") with leading United States tobacco product manufacturers. The MSA obligates the participating manufacturers, in return for a release of past, present and certain future claims against them, to: (1) pay substantial sums to the State, and (2) make substantial changes in their advertising and marketing practices with the intention of reducing underage smoking.

1 Hawaii Revised Statutes are found at www.capitol.hawaii.gov/site1/docs/docs.asp#hrs, find "2001 Hawaii Revised Statutes" and enter the chapter or section number.

2 Defined as a tobacco product manufacturer that has not joined the tobacco Master Settlement Agreement.

3 The MSA with exhibits is available on the NAAG website at www.naag.org. Under "Legislation" click on "Tobacco Settlement Documents"; under "Sections" click on "Master Settlement Agreement and Amendments."

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Shortly thereafter, the Hawai'i Legislature enacted the Tobacco Liability Act, or Chapter 675. This law states that any tobacco product manufacturer selling "cigarettes"⁴ to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after July 2, 1999 shall do one of the following: (1) become a participating manufacturer (as that term is defined in section II(jj) of the MSA) and generally perform its financial obligations under the MSA, or (2) place into a qualified escrow fund by April 15 of the year following the year in question the amounts (as such amounts are adjusted for inflation) set forth in Chapter 675.

Chapter 675 also provides that the attorney general may bring a civil action on behalf of the State against any NPM who fails to place into escrow the funds required under this section.

As a dealer of tobacco products made by NPMs, you are hereby notified that legal action has been initiated against NPMs who have sold cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after July 2, 1999, and who are not in compliance with Chapter 675.

You are welcome to call the undersigned at (808) 586-1189.

Very truly yours,

Alex R. Barrett
Deputy Attorney General

4 As defined in Haw. Rev. Stat. § 675-2(d).