



CHEYENNE TROPIC CIGARS ARE HERE TO STAY

NOVEMBER/DECEMBER 2016 ★ VOLUME 19 ★ NUMBER 6

Tobacco Business

TPE 2017:

A SHOW PREVIEW

PREMIUM CIGARS:

BEYOND
DEEMING REGS

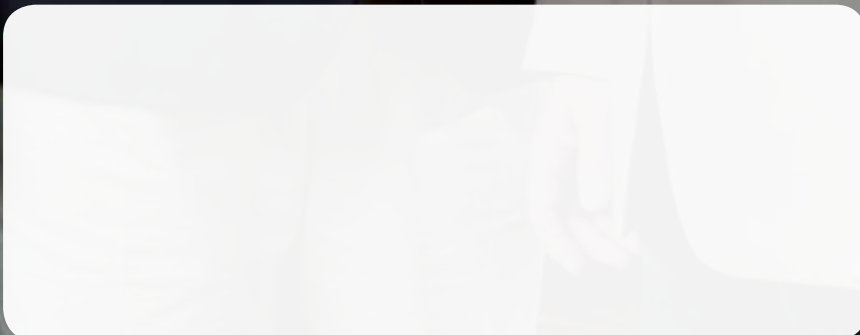
SWEDISH MATCH'S
GREAT SNUS STORE
ADVENTURE

SMOKER'S ABBEY:
CREATING A STIR
IN NASHVILLE



NATO'S UNIFYING ERA

FIFTEEN YEARS STRONG, THE NATIONAL ASSOCIATION OF TOBACCO OUTLETS
IS NOW SHARPLY FOCUSED ON WHERE RETAILERS NEED IT THE MOST:
FIGHTING LOCAL LEGISLATION



Getting Back to Business

By the time you read this, the nation will have a new leader. At the moment, however, the close of the most contentious presidential campaign in decades is still several days away—and, we think it's safe to say, eagerly anticipated by both sides.

Whether you've been enthralled or appalled by the degree of drama invoked during this particular election year, there's no denying that it's been hugely distracting. And as passionately as the different factions feel about their respective candidates, there seems to be one thing on which both sides agree: it will be a tremendous relief to stop poring over diatribes about missing emails and tax returns and be able to channel all that time and energy back into taking care of our businesses.

After all, as several of contributors to this issue have pointed out, there is plenty to do on that front—much of it related to regulation. For example, Cigar Rights of America's Glynn Loope urges premium cigar retailers to support a joint effort by CRA, CAA and IPCPR to cut off funding for the FDA to use in its effort to regulate cigars (See p. 72).

In a similar vein, associations representing the embattled vapor industry are calling upon retailers for help. In *A Vapor Voice* (p. 84), Tony Abboud outlines a step-by-step way for both business owners and consumers to make their voices heard in support of the Cole-Bishop Amendment, which would change the predicate date for newly deemed tobacco products to August 8, 2016. SFATA's Pamela Gorman also urges retailers to support Cole-Bishop and, in her column on page 20, describes an ambitious grass-roots cross-country advocacy bus tour her organization is conducting. In addition to support for Cole-Bishop, SFATA is calling on vapor retailers to speak out against "regressive sin taxes" on vaping products, which have been under consideration in more than 25 states over the past 18 months.

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With all that's happening on the regulatory front, it can be hard to stay current on top industry issues—let alone the innovative new products and trends reshaping the market. Fortunately, this year's Tobacco Plus Expo brings top-of-mind topics, fresh ideas, and market introductions under one roof with the addition of a series of educational sessions. Attendees can hear from their peers at morning presentations on topics ranging from running a successful humidor program to the profit potential of cannabis accessories then spend the afternoon browsing all of the latest tobacco products and accessories on the trade show floor. Sessions on federal and local regulatory developments led by NATO's Tom Briant (See p. 80) are sure to be a show highlight.

With both a new administration and newly elected leaders at the state and local government level likely to play a part in the business climate going forward, digesting the election outcome is sure to fodder for discussion at the show. *TBI* intends to get that conversation rolling with a feature story by *TBI*'s senior editor, Renee Covino, who will be talking to retailers about their post-election plans over the next few weeks. If you have political views to share, please reach out to us at editor@tobonline.com. We would love to hear from you.

See you at the show!

—Jennifer Gelfand

NJOY Files for Chapter 11

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At the time of the filing, the company had an accumulated deficit of \$234.4 million, according to the documentation. While NJOY's troubles predated the FDA deeming regulations, the company cited "substantial expenses" related to compliance as one factor contributing to its filing, along with a reported \$2.5 million in expenses incurred defending a patent infringement case brought against it and other e-cigarette companies by Imperial Tobacco's Fontem Ventures.

NJOY had hired Barclay's Capital to explore a potential sale of its business earlier this year but was unable to find a buyer, says Jeffrey Weiss, NJOY's interim president and general counsel. Under Chapter 11, NJOY will look to continue operation, paying staff and certain suppliers essential to its operations, while trying to sell its assets.

Industry observers say that more vapor companies are likely to struggle in today's regulatory climate. Still, retailers asked about the filing were relatively sanguine. "I haven't stocked their products for a long time," said the manager of a vapor shop in New Jersey. "I don't think it will have any affect on the market."



Swisher Recognizes Arkansas Farmer

David Wildy was named the 2016 Swisher Sweets/Sunbelt Expo Southeastern Farmer of the Year.

In October, David Wildy, a diversified row crop farmer from Manila, Arkansas, was selected as the overall winner of the Swisher Sweets/Sunbelt Expo Southeastern Farmer of the Year award for 2016. Wildy was chosen as Farmer of the Year over nine other state winners who were finalists for the award.

The award recognizes excellence in agricultural production and farm management, along with leadership in farm and community organizations. The award also honors family contributions in producing safe and abundant supplies of food, fiber and shelter products.

A full-time farmer since 1975, Wildy farms more than 12,000 acres and grows cotton, corn, soybeans and wheat. He is a new grower of peanuts and potatoes. He also has a small beef cattle herd. Wildy is known for his generosity in sharing his farm and its resources with agricultural scientists and researchers from the private industry and from the University of Arkansas, Arkansas State University and the U.S. Department of Agriculture.

Peter Ghiloni, president and chief executive officer of Swisher International of Jacksonville, Florida, praised Wildy for his farming accomplishments. "David is an outstanding representative of our nation's best farmers," said Ghiloni. "It is an honor for our company and our Swisher Sweets cigar brand to recognize David and his farm."

"Farming is a tradition in our family," said Wildy in accepting the honor. "And receiving this award is a humbling experience that we will all treasure."

As the Southeastern Farmer of the Year, Wildy will receive a \$15,000 cash award plus \$2,500 as a state winner from Swisher International. He will also receive the use of a Massey Ferguson tractor for a year from Massey Ferguson North America, a \$500 gift certificate from the Southern States Cooperative, a Columbia jacket from Ivey's Outdoor and Farm Supply, and a smoker-grill from Hays LTI.



EAS Announces Cue Vapor System

E-Alternative Solutions has signed a multi-year marketing and distribution agreement to exclusively market a revolutionary new system in the U.S.

E-Alternative Solutions (EAS) announces the widespread release of the Cue Vapor System, which it will begin distributing to high-volume retail locations starting early next year. The Cue Vapor System is a patent-pending technology that delivers full-flavor, all-day vaping with just the push of a button. "It is vaping made simple," says Alex Basile, CEO of Digirette, the inventor of the device. "Click in the desired pre-filled, leakproof cartridge and push the button. No coils to change or tanks to fill."

EAS and Digirette recently signed a multi-year distribution agreement whereby EAS, a sister company to Swisher International, will be the exclusive distributor of this technology in the U.S. "Cue is unique because it combines the satisfaction of sub-ohm vaping technology with the ease-of-use and simplicity of an e-cigarette," says Jacopo D'Alessandris, president of EAS. "Many people are turned off by vaping because of its complexity. Whether you're a cigarette smoker looking for an alternative or a die-hard vaper, Cue will give you satisfying vapor with just one click."

EAS intends to offer the device in six dif-

ferent colors: black, blue, white, orange, pink and red. The 5ml refill cartridges will be available in varying nicotine levels (zero, 3mg and 6mg) and in multiple flavors, including a variety of tobaccos, fruits, desserts, mints and drinks. All e-liquids are made in the U.S. with domestic and imported ingredients.

EAS intends to make Cue available with significant support, including a multi-million-dollar advertising campaign directed to television, radio, print and digital that will ensure brand awareness nationwide. State-of-the-art merchandising material, in-store support, and category management practices will drive visibility in stores and immediate ROI for retailers. The widespread release of Cue will be supported by EAS's experienced compliance team, which will take all necessary steps to file Pre-Market Tobacco Applications, stay apprised of relevant legislation, and advocate for consumers and retailers at state and federal levels.

"With Cue Vapor we want to make vaping simple for consumers to enjoy, and easy for retailers to sell," says D'Alessandris.

FDA Begins Deeming Reg Crackdown

Fifty-five retailers selling newly regulated products to minors received warning letters.

In September, FDA began sending warning letters to retailers after compliance checks found that products were being sold to minors. The agency issued warnings to 55 retailers ranging from national retail chains to tobacco shops and online merchants, who it said had been selling newly regulated products such as e-cigarettes, cigars and e-liquids to minors.

Retailers were warned for violating provisions enacted on August 8, which called for:

- Not allowing products to be sold to persons under the age of 18 (both in person and online);
- Requiring age verification by photo ID;
- Not allowing the sale of covered tobacco products in vending machines (unless in an adult-only facility); and
- Not allowing the distribution of free samples.





SFATA Announces New Executive Director

Former state legislator Pamela Gorman will head the Smoke-Free Alternatives Trade Association.

The Smoke-Free Alternatives Trade Association (SFATA) has announced that Pamela Gorman will serve as the organization's new executive director, replacing Cynthia Cabrera. In this role, Gorman will lead national and state advocacy and legislative efforts, oversee state chapters and represent SFATA with regulatory agencies, including at industry events; among other responsibilities.

"Pamela is a perfect fit to lead SFATA against a host of challenges on the national and state levels, with strong experience in policy and advocacy, and as an elected official," said Cap O'Rourke, president of SFATA's board of directors. "On behalf of the board, we look forward to working closely with Pamela to fight regressive policies that harm the small businesses that comprise our industry and stifle the potential [effect that] vapor products can have on helping reduce the public harm caused by smoking."

"Building upon the legacy of my predecessor and leveraging the strength of our organization, I will continue the fight on behalf of these businesses and the consumers they serve against industry-destroying policies and devastating taxes currently facing our membership," adds Gorman, who has a wealth of relevant experience, having founded U.S. Vapor, a firm providing public affairs consulting to small business owners and advocacy non-profit organizations working in the vapor industry.

Prior to that, she was director of government relations for NJOY, where she built the first government affairs department and program for an independent (not tobacco-owned) manufacturer. She was responsible for budget development, advocacy, issue communications and execution of key business legislative initiatives and issue response.

Gorman also previously served as senior manager of legislative policy and advocacy for RAI Services Company specializing in policy issue areas related to tobacco harm reduction, and completed terms as a state representative in the Arizona House of Representatives from 2005 to 2006 and as a state senator in Arizona from 2007 to 2010. She was part of the senate leadership team in her last term and served as the Senate Majority Whip.

Founded in 2012, SFATA has more than 1,400 members and 28 chapters located across the country, representing online retailers, brick-and-mortar vendors, distributors, manufacturers, professional service providers, importers and wholesalers.



Walgreens Pressured to Bail on Cigarettes

Two groups filed a shareholder proposal asking the board to review the risks of tobacco sales.

At press time, Deerfield, Illinois-based Walgreens was deep in the throes of a battle over whether a proposal for the chain to stop selling tobacco products at all 8,173 Walgreens locations should be on the agenda at the company's annual shareholder meeting in January. Shareholder advocates have been pushing for the measure, charging that the sale of tobacco products exposes Walgreens to financial risks that may undermine shareholder value.

However, company management is seeking to have the proposal omitted from the 2017 proxy statement. "In our conversations with the company over the last six years, we thought management understood the inherent hypocrisy of a self-identified healthcare company selling a known lethal agent," said lead filer Tom McCaney of the Sisters of St. Francis of Philadelphia. "We were given several indications over the years that they would be discontinuing the sale of tobacco and are frankly somewhat mystified as to why it hasn't happened yet. The resolution is our attempt to have a more focused conversation and invite all shareholders to weigh in on the topic. This effort to shut down that open discussion by blocking a vote at the annual meeting is very discouraging, to say the least."

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Strength in Numbers

The industry's stakeholders must unite to combat challenges threatening its future.

By Pamela Gorman

The U.S. vapor industry stands at a pivotal crossroads as we head into the final stretch of 2016. To ensure our survival in 2017 and beyond, it is imperative that all members of the vaping community unite to fight to protect vapor products while underscoring that our industry spurs job creation, entrepreneurship and economic growth.

Our greatest hurdle remains on the federal level. As of August 8, 2016, the FDA started regulating the vaping industry under the 2009 Tobacco Control Act, which states, among other provisions, that any product that was not on the market prior to February 15, 2007 (aka "the predicate date") must be submitted for a lengthy approval process that will cost upwards of \$1 million per SKU. This rule will force most vaping products off the shelves, cause thousands of small businesses to close their doors and likely prompt adult vapers to revert to tobacco products or turn to the black market to purchase the products they enjoy.

Fortunately, we have a solution. U.S. Rep. Cole (R-Okla.) and Rep. Bishop (D-Ga.) have sponsored the bipartisan "Cole-Bishop Amendment" to the 2017 Agricultural Appropriations Bill that would change the "predicate date" for newly deemed products to August 8, 2016. The amendment has already passed the House Appropriations Committee and could be headed to the floor by the end of this year as part of an Omnibus bill, if our U.S. representatives and U.S. senators will impress upon their leadership the importance of this issue.

This proposal simply calls for a common sense adjustment of a date that was set in an old law to account for today's modern-day vapor products that simply didn't exist on the date listed in the 2009 tobacco act. All of the other regulations

in the law, which have applied to cigarettes and smokeless tobacco since the law was originally passed, will continue to apply to vapor products if this date is changed in the law. But we must get the bill passed with this amendment intact! Our industry is encouraging every local business owner and consumer of these products to reach out to their congressional elected officials so that appropriate action may be taken.

There have been many promising developments that point to a bright future for our industry. Our neighbors across the Atlantic have taken a more evidence-based approach to vaping that can serve as a viable model for federal and state policy makers across the country. In an April report, Britain's Royal College of Physicians, one of the world's most respected medical associations, spoke favorably about vaping, and the British government earlier this year authorized its National Health Service to cover vaping products.

The Smoke-Free Alternatives Trade Association (SFATA), the vapor industry's largest trade organization, is combating the industry's challenges head on. Since we were founded in 2012, SFATA has been at the forefront of vapor advocacy, lobbying for sensible regulation of vapor products, such as prohibitions on selling to minors and support of child-resistant packaging, and our current largest national effort yet, getting the 2007 predicate date modernized through an act of Congress.

In addition to our federal lobbying efforts in Washington D.C. and our grass-tops/grass-roots efforts in the states fighting onerous taxation, we're participating in and helping sponsor the Right to Vape Tour. This grass-roots cross-country advocacy bus tour is stopping in various cities, registering voters who vape, engag-

Advocacy works, but we can't do it alone. There is strength in numbers. We need to unite all industry stakeholders so that the vapor community can overcome current hurdles."

ing public officials in their districts, and activating businesses and consumers to urge members of Congress to talk to their party leadership about keeping the predicate date change (aka Cole-Bishop Amendment) in the Omnibus bill during end-of-year negotiations.

Advocacy works, but we can't do it alone. There is strength in numbers. We need to unite all industry stakeholders so that the vapor community can overcome current hurdles. Together, we are building coalitions to show voters, as well as legislators and policymakers, that we need a regulatory environment that makes sense for our industry, that doesn't punish us for being something we are not, and that allows us to grow in a meaningful way. The time for aggressive action is now. Our survival is at stake.



Pamela Gorman is the executive director of the Smoke-Free Alternatives Trade Association, which represents the vapor industry through 1,400 members and 28 state chapters.

BREAKING NEWS FROM THE TMA

The following are excerpts from harm reduction, tobacco regulation and other tobacco-related news.



Farrell Delman,
President, TMA

ON THE FDA...

...CSP Daily News offered takeaways from the first day of **CSP's Total Nicotine Conference**: 1) According to the FDA's own estimates, it will take one full-time person 10.5 months to complete one pre-market tobacco application; 2) National Association of Tobacco Outlets' executive director Thomas Briant does not believe the Cole-Bishop Amendment to push the predicate date to August 8 will ever get to the president given the gridlock in Congress; and 3) A national law to raise the minimum age to buy tobacco products to 21 is unlikely.

...On August 16, U.S. District Judge Amit Mehta vacated a portion of the FDA Center for Tobacco Products' regulation regarding the agency's authority to pre-clear any tobacco product that has had significant modifications made to its labeling, such as changes in color or logo. Judge Mehta, however, specifically stated that FDA could require clearance for a tobacco product that changes the quantity within its package as it "neces-

sarily entails a change in the amount of constituent ingredients and additives."

Also, the judge said that the law could have "explicitly stated" that a **labeling modification** would trigger a regulatory approval requirement, but did not. The ruling resulted from a 2015 lawsuit filed by Imperial Brands, Reynolds American and Altria Group. Altria spokesperson Brian May said that his company was satisfied with Judge Mehta's ruling, but is still contemplating as to whether it will appeal the judge's decision concerning the quantity change.

...In its response to a **legal challenge to the FDA deeming rules** filed by Nicopure Labs, FDA said August 17 that all vapor products "present significant risks to the public health" even when nicotine-free liquids are used, and that the "only nicotine-free e-liquids that the rule brings under the FDA's regulatory authority are those that are made or derived from a tobacco product, or that otherwise meet the definition of a 'component' or 'part.'"

...Showing an inconsistency in **FDA's regulation of cigars**, University of Louisville Prof. Brad Rodu pointed out that FDA claims that "cigar smoking carries many of the same health risks as cigarette smoking" and therefore requires cigar packages and ads to display six new warnings, including labels stating that "cigar smoking can cause cancers of the mouth and throat, even if you do not inhale," and "cigar smoking can cause lung cancer and heart disease," while FDA's own research shows that cigar smokers consume about 1.5 cigars per day on average and that smoking up to two cigars daily is associated with "minimal significant health risks."

...As part of its release of a full listing of all retailers that were assigned civil money penalties and no-tobacco-sale orders, FDA said that it recently issued **55 warning letters** to retailers that sold the newly deemed cigars, e-cigs and e-liquids to minors.

...The **National Institute of Standards and Technology (NIST)** issued

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a new Standard Reference Material entitled “SRM 3222 Cigarette Tobacco Filler” with certified amounts of nicotine and two tobacco-specific nitrosamines—NNN and NNK—to help manufacturers and importers meet the federal requirement for reporting harmful or potentially harmful constituents (HPHCs) in tobacco products and tobacco smoke.

...In a September *Federal Register* notice, FDA requested nominations for voting members to serve on the **Tobacco Products Scientific Advisory Committee (TPSAC)**, with nominations received on or before November 14 to be considered first, and those received later to be considered as and when vacancies occur.

...In September, FDA released a preliminary review that stated its doubts on the post-marketing clinical trial data that pharmaceutical firm **Pfizer** used for its Chantix smoking-cessation drug, decreasing Pfizer’s chances of altering or removing the black-box “serious” warning that is on the drug’s label.

ON OTHER TOBACCO NEWS...

...A **Roswell Park Cancer Institute study**, authored by Dr. Maciej Goniewicz and published in the journal *Nicotine & Tobacco Research*, measured seven nicotine metabolites and 17 tobacco

smoke exposure biomarkers in the urine samples of 20 Polish smokers before and after they switched to pen-style M201 e-cigs. The results found that two weeks after switching, nine participants (45 percent) reported complete abstinence from smoking, while the rest cut back from an initial average of 16 cigarettes a day to an average of just one a day. In addition, while levels of total nicotine and some polycyclic aromatic hydrocarbon metabolites remained unchanged, exposure to known carcinogen NNK fell by 64 percent, and the volatile organic compounds acrolein, ethylene oxide, benzene, and 1,3-butadiene dropped by 56 percent, 61 percent, 76 percent and 84 percent, respectively, after the second week.

...Commenting on the aforementioned study, **Boston University School of Public Health Prof. Michael Siegel** said, “If anti-tobacco groups have any scientific integrity, this study should put an end to their misleading propaganda claiming or implying that vaping is just as hazardous as smoking, that switching from smoking to vaping has not been shown to have health benefits, and that we don’t know enough about the health effects of vaping to conclude that it is safer than smoking.”

...Renowned public health advocates David Sweanor, professor at the Univer-

sity of Ottawa, and Ken Warner, professor at the University of Michigan, joined forces to attack **North Dakota’s Measure 4 excise tax increase** on cigarettes, smokeless tobacco and e-cigarettes by arguing that while the cigarette tax hike “of at least \$1.73 on cigarettes” is reasonable, it makes no sense to comparably tax “less harmful alternatives.”

...On August 31, FDA issued two guidances, one of which was published in the *Federal Register* on August 31 as a draft guidance entitled “**Submission of Warning Plans for Cigars**,” which, when finalized, will “help those involved” in the manufacture, distribution and sale of cigars in the U.S. to understand the new warning plan requirements for cigars under FDA’s deeming rule.

...**Nevada Vaping Association Co-Chair Alex Mazzola**, owner of Las Vegas-based vape shop Flavor Vapor, is claiming that FDA regulations have put his three-year business in danger of going out of business. “FDA is portraying this as unsafe for kids, but we don’t want to sell to kids,” he says. “Two years ago, Gov. Sandoval signed a law making it illegal to sell to anyone under 18. So FDA can act like they are doing the healthy thing, but they are just putting us out of the game.” **TBI**



The background of the entire page is a close-up, slightly wrinkled image of the Swedish flag, featuring a blue field with a golden-yellow cross. The cross is composed of two thick bands, one vertical and one horizontal, intersecting in the center. The fabric texture is visible, with some folds and shadows.

SWEDISH MATCH: READY FOR THE SNUS REVOLUTION

HUGE IN SWEDEN, SNUS HAS YET TO TRULY CATCH ON
IN THE U.S.—BUT NEW POP-UP STORES BY SWEDISH
MATCH AIM TO CHANGE THAT.

BY JENNIFER GELFAND

Left: Located in what was once a dilapidated surf bungalow, Swedish Snus Store offers patrons a place to socialize, work and—of course—experience snus.

Right: Joe Ackerman, Marketing Director at Swedish Match



IN JULY, A SMALL SHOP OPENED ever so quietly in Williamsburg, the trendy Brooklyn neighborhood known as a habitat for the hippest of hip young New Yorkers. The first of its kind on American shores, the 300-square-foot storefront's modest size belied the ambitious goals behind its launch: to introduce snus—an alternative to combustible cigarettes that has yet to gain traction in the U.S.—to trendsetters.

"The idea originated in Sweden, where we the company experimented with a location that was part historical, part library, and part customer experience, and found that it was an excellent branding element for us—a way to talk more about Swedish Match and the brand and our message," explains Joe Ackerman, marketing director at Swedish Match. "Since one of the things that is difficult in tobacco today is raising awareness, when we considered some of the markets that we wanted to penetrate, we thought, 'What if we tried a similar approach on a pop-up basis to see if the concept would work in the U.S.?'"

The company decided to debut two versions of the idea in two different markets relatively simultaneously, choosing Los Angeles' Venice Beach and Brooklyn, New York as test markets. "In both stores, the intent was to blend Swedish culture and heritage with things indigenous to the area," explains Ackerman. "For example, in Brooklyn we use subway tiles on the counter and Swedish artwork on the walls."

EAST VS. WEST

Both locations offer a selection of General brand snus and lounge areas in which to experience them, but almost everything else about them is different—even the names. The Swedish Tobaccoconist in Williamsburg is very much a neighborhood shop, relying primarily on word-of-mouth marketing and seeking to cultivate a base of regular customers. The 700-square-foot Swedish Snus Store in Venice Beach, on the other hand, is a far more extensive presence, providing an array of seating options conducive to relaxation and to serving as a workplace alternative.

General snus is a smokeless and spitless upper lip tobacco that originated in Sweden more than 200 years ago.



“The Venice store is on Abbot Kinney Boulevard, one of the busiest shopping streets in the U.S., a highly trafficked tourist area with a more transient population,” explains Ackerman, who notes that the store got off the ground much faster as a result. “That’s a function of how many people go up and down that street and the fact that people there are looking for [interesting shops].”

The store lures in window shoppers with an array of seating options suited for both relaxation and productivity, including a window front laptop bar, outdoor banquettes and an indoor fireplace lounge, as well as a complimentary fruit- and herb-infused water bar, coffee and snacks. The setting is serene, featuring live bergamot plants and lime trees, rustic terrariums and communal reading materials and activities. There’s also free Wi-Fi and a meeting room equipped with audio/visual capability that patrons can reserve and use for free. “We wanted to create a welcoming place for people to go to socialize or, for people who work from home, to do business,” says Ackerman. “By creating a low-pressure destination we hope to incorporate ourselves into the community in a positive way.”

SNUS CAN'T LOSE

During its retail foray, Swedish Match has taken pains not to infringe on area retailers who sell its products, he adds. “We had conversations within a certain mile radius and worked out agreements to make sure our retailers felt comfortable with this. At both locations, we give out information about where customers can purchase our products. Our intent is to inform, not compete.”

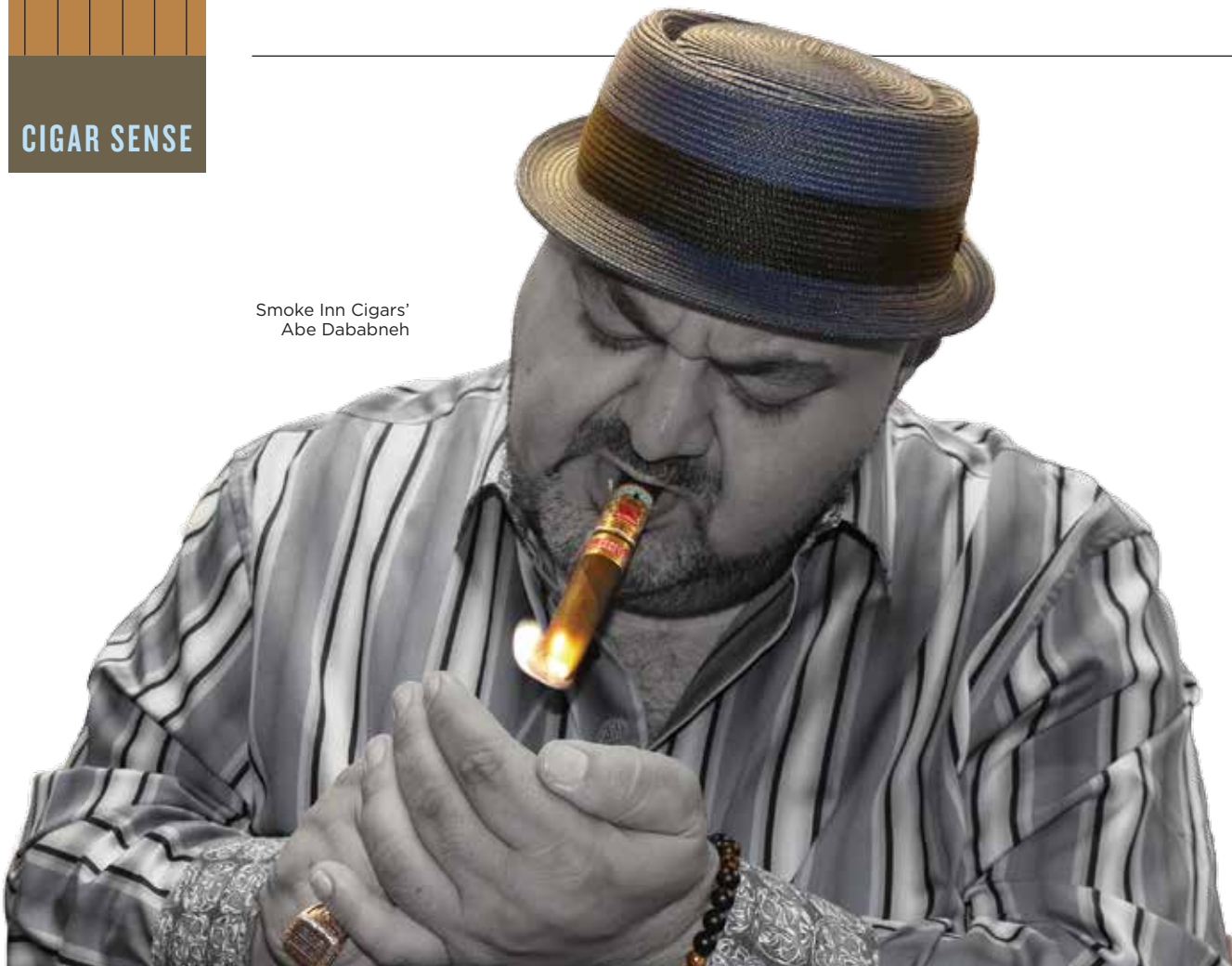


While the approaches and designs of the two locations differ, the primary goal is the same for both stores. "It's more about education than operating a store," explains Ackerman. "We're not judging their success by how many cans we sell. We're trying to raise awareness about the company and the brands and the benefits of using our products."

That effort has been an ongoing challenge for the company, which has been making snus for more than 200 years but has had difficulty gaining traction in the U.S. market. The company is hoping that efforts to win a "modified-risk tobacco product" (MRTP) designation from the Food and Drug Administration (FDA) will change that by enabling the company to market its products as a healthier alternative to combustible cigarettes. "It's frustrating trying to be patient about getting the word out when you know you have a product that has certain attributes," says Ackerman. "There is a lot of confusion in the category about the difference between moist snuff and other tobacco products. We are waiting for an FDA decision about our MRTP designation. Our hope is that if and when that is announced, it will help lead to additional interest and awareness so that people can learn about the benefits."

In the meantime, the regulatory changes now under way may help pave the way for a migration from vaping to snus—which makes this an opportune time for the pop-up snus store concept. For now, the Los Angeles and Brooklyn stores are both deemed temporary, slated to close at the end of 2016. But if the response is positive, Ackerman hasn't ruled out the idea of a more permanent retail presence. "We are going through the evaluation process, assign[ing] what we would do differently," he says. "We're testing the concept to see if it's something we want to incorporate into a bigger marketing plan and, if so, how—possibly by making the stores permanent or by taking them to different cities." **TBI**

Smoke Inn Cigars'
Abe Dababneh



Five Ways to Move Past the Freeze

Take lessons on how to grow your cigar business from premium tobacconists who refuse to let the halt on product innovation stall their business sense.

By Renée Covino

By now you know that running your stogie business on what's new isn't going to cut it moving forward, thanks to the halt on stogie innovation/new products as of the FDA's August 8, 2016 deadline.

But is that necessarily a bad thing? To return to the art of selling stogies rather than the fairly recent trend of constantly pushing the latest stick out to customers?

In July, thousands of new cigar brands

were launched, for what many fear might be the last time, at the International Premium Cigar & Pipe Retailers Association show.

"The question I throw out to retailers is 'how many [of those new cigar brands] really represent a new experience?'" asks Bill Sherman, executive vice president of Nat Sherman International. "Look at what we're doing now—building a cigar business on new brands and brand inno-

vation. Here you are, as a retailer, cultivating a customer by encouraging them to come in and try something new—they get excited, then the next week they come in looking for something different. That whole evolution of continuously selling something new is a new phenomenon in cigar selling. In the past there was much more brand loyalty."

Sherman sees the shift already beginning to take shape "towards a balance of

brand loyalty versus relying on new product introductions.” He believes that the name of the game will be to cultivate not only what’s existing in the market right now, but for retailers to cultivate what he calls the “humidor experience” to continue to drive business in a confused marketplace.

He is far from alone. In the tobacconist world, retailers are honing “back to business” skills that tobacco outlets could learn from, particularly those that want to grow a strong cigar business and be sustainable for future growth, under regulation or not.

INVEST IN STAFF, EVEN MORE THAN CIGARS. Cigar inventory is an important investment, but especially now, investing in staff is priority No. 1. When it comes to selling cigars, tobacconists are quick to say they don’t think of their staff as clerks in the store, they think of them as advocates of the business. So when owner Dave Garofalo of Two Guys Smoke Shop, with three locations in New Hampshire, is looking for a cigar salesperson for one of his stores, he actually posts for two jobs—a cashier for \$7 an hour and a salesperson for \$12 an hour.

“Every person always applies for the salesperson job, which is good, because I don’t need cashiers, I need salespeople,” he relays. Once they indicate to Garofalo that they want to sell cigars, he is ready to invest in them with ongoing training, which includes novice employees learning from veteran employees because Two Guys Smoke Shop always has two salespeople on the floor at all times selling cigars. “An important part of it is storytelling. The customer that comes in wants to hear the sizzle—that’s what sells cigars,” he says.

The type of training Garofalo is referring to is a process of interacting with customers day in and day out. “This type of training does not rely on vendors,” he states. “If a vendor comes in to do an event in our store and he outsells our people,



then I need to hire that guy; something is very wrong if our people need to rely on a vendor to sell. Instead, what we typically hear from vendors is praise for how our staff helped and made their event amazing. I want to hear that vendor reps helped our people succeed in ringing up the registers, not that they sold for them.”

What this equates to is “looking at your cigar salespeople as apprentices and mentoring them, whether they stay or whether they move on,” says Abe Dababneh, owner of Smoke Inn Cigars in West Palm Beach, Florida.

But chances are, they’ll stay if you educate and “take care of them” with health benefits, bonus structures and 401ks, says Garofalo. “As I grew, I let them grow with me,” he maintains, recognizing that he has many “legacy” employees that have been working for him for 10, 15, 20 years and more. Some have even brought on sons and daughters that have become long-time employees, too. “It’s so much work to reeducate new employees; it’s so much easier to take care of the good ones that you’ve got,” he advises, adding that he subscribed to this method of retention “long before it was a fashionable thing.”

Once cigar staff has been trained, it’s important to “give them the power to make decisions,” asserts John Anderson, owner of W. Curtis Draper Tobacconist, with two stores and one cigar lounge in the Washington, D.C. area. He tells his people to think about making decisions in terms of “‘what would John do?’ And if it’s the wrong decision, we will figure it out,” he says. “It’s a learning curve, but empowering people is a big part of our business.”

THE TOBACCO OUTLET TAKEAWAY: If you want to get serious about selling premium cigars, consider fully investing in cigar-dedicated salespeople.



SELL THE EXPERIENCE. With good staff in place, what brick-and-mortar cigar sales are ultimately about is the experience, especially today when anyone can click and buy cigars online, tobacconists recognize. “At the end of the day, it’s experience in the stores that make customers come back,” says Anderson. “I have some of the best tobacconists in the world selling in my stores—iconic merchants that do a phenomenal job and know it’s all about the experience. If we give our customers more than they expect, they come back. Price is not important. You want them to leave feeling that everything you did and said was all about them.”

Anderson relays that one of his best teaching points for selling the experience is when a customer walks in asking for a brand that is not sold in the store. He shows his staff how to engage them and get them involved anyway, to try something else, and to leave feeling good about the transaction that just transpired. “We are in the experience business, not the cigar business,” he says.

Dababneh adds that even part-timers need to be taught that “if you haven’t greeted a customer who walks past, you failed for the day.” He stresses that “all the little things matter” when you’re selling a premium product, such as cleanliness in the bathrooms, working faucets, first impressions walking into the store and walking into the humidor, and ultimately, how comfortable they are and how much time customers want to spend in your store.

THE TOBACCO OUTLET TAKEAWAY: Selling premium cigars requires leaving customers with a premium experience. Details matter.

USE ONLINE REVIEW SITES AS SURVEILLANCE. Setting out to sell a great experience does not end with the experience. There should also be a measure of performance, and perhaps the easiest and cheapest way to gauge it is online social media platforms, as well as online business review sites such as Yelp.

“Historically, you didn’t know if you

had a problem in your store unless someone told you to your face,” says Michael Herklots, vice president of retail and brand development for Nat Sherman. “But today, all you have to do is be active across platforms, engage with the reviews and share them with the team.”

Herklots emphasizes that these reviews are often “not necessarily about the products we sell, but mostly about everything else—the service, the people and the overall experience.” He adds that engaging in these tools are “so easy and free, and allows retailers to manage their business; these review sites become your surveillance.”

THE TOBACCO OUTLET TAKEAWAY: Get in the online game across platforms and use customer feedback as a serious business tool.

WHEN CIGAR SKUS ARE BAD TENANTS, EVICT THEM. What tobacco-nists let go of in inventory is often a key component to success, they say. And now, more than ever, streamlining successful SKUs will be imperative. “You have to track them just like batting averages,” says Garofalo. “We look at it on a daily basis along with our employees—they know the profit margins of each product and they know it by week of the year prior, too.” And most importantly, they know what to do when the numbers aren’t there.

“I have to get rid of product that will hurt me,” he continues. “My biggest competition is one click away, which is on every customer’s cell phone as they check out prices online when they’re in my store. So if I can’t make margin, it has to go. I could personally love to smoke a particular cigar, but if it’s not good for my business, I can’t sell it in my store.”

Similarly, Dababneh figured out what he had to do with brands that are not moving—they go to a discount bin or 20 percent off table, or he gives manufactur-

Falling in love with inventory can cost you your cigar business. SKUs have to be tracked and manufacturers have to be informed.

ers the opportunity to switch them out. “Every foot of retail space in humidors are like tenants that pay rent, and if they’re not paying their full rent, we need to evict them,” he reasons. “And it’s in manufacturers’ best interest to switch product out. Don’t be afraid to ask.”

Herklots agrees that often manufacturers will take back product that isn’t selling in your store and use it for promotions. “They’d much rather work with you to preserve their retail, rather than you feeling it’s your mistake that you have to deal with yourself,” he says.

THE TOBACCO OUTLET TAKEAWAY: Falling in love with inventory can cost you your cigar business. SKUs have to be tracked and manufacturers have to be informed.

THINK OUTSIDE OF THE BOX WITH EVENTS AND PROGRAMS. Dababneh and Smoke Inn are known among tobacco-nist peers for thinking “completely outside of the box” with events like multi-vendor activities and promotions like radio shows, according to Herklots.

Dababneh is more modest, saying “there are very few original ideas—it’s not that I thought these up, but I do try to look around and then try to make something my own.”

He admits that he often gets other retailers who come to his major event every year so that they can observe first-hand and be

inspired. “I’m a big believer that everything in this industry is good for the whole. Any kind of positive experience is good and is seed for growth. We’re a small industry.”

And so this year, Dababneh is giving away a Cadillac for Smoke Inn Cigars’ 20th anniversary event. “Don’t be afraid to ask—people will work with you and some more than others. Some manufacturers are very out of the box—you’ll know them because they’re quick to respond and they work with you,” he offers.

Garofalo says that what’s helped him in this vein is his rewards program that he started back with the “computer age in ’97,” but continuously updates. “Once you start tracking, you’ll be amazed to find out the quiet guy is your best customer, and you’ve never really taken care of him; you assumed it was the loudmouth that hangs out for the day, but he is actually buying cheaper cigars.”

To reward his best customers, Garofalo holds a special dinner every year that is on par with receiving a wedding invitation; a chef is brought in to the banquet area of one of his stores and the attendance is very limited. Unlike at a monthly cigar event, these customers are not targeted for sales that night. Instead, they are being rewarded for their loyalty and the business they’ve already given to the store.

“The next thing you know, they’re bringing in their friends the next time they come into the store, who often become future top customers,” Garofalo explains. “We see how powerful word-of-mouth can be when more people want to become a part of a night they can’t buy to attend. We’re giving them an out-of-the-box experience, and it just makes them even more loyal. It’s called reciprocity.”

THE TOBACCO OUTLET TAKEAWAY: Go big and go original when planning your future cigar events. Loyalty will be the payoff. **TBI**

From the PAX Perch

The new CEO of what is reportedly the most premium platform in the vapor world shoots from the hip with *TBI*.

By Renée Covino

PAX, the San Francisco-based company, puts out what has been dubbed the “iPhone of vaporizers,” now in its third generation. It is also the genius behind the sleek closed (pod) system nicotine delivery device that looks more like a USB thumb drive than an e-cigarette. It additionally launched a super-premium THC vaporizer, expected to further increase its exposure to the cannabis category, currently available in two states—Colorado and California.

PAX 3, Juul and PAX Era, respectively, are the technological offspring of PAX Labs, a premium electronic player intending to reinvent the smoking experience.

Tobacco Business International recently

caught up with Tyler Goldman, PAX’s technology-savvy CEO since August. Here are his industry and company thoughts from a premium perch:

TBI: Please give us an update on Juul since the August 8 deadline passed. How have sales been, and where is Juul selling the best, channel-wise?

Goldman: Sales have continued to grow for us in quite an accelerated fashion; it’s true of the starter kits and the (pod) refills—both are much higher than we anticipated. That’s resulted in a shortage. We are working very hard, but we’re still not there yet, to get the supply chain output to meet the current demand, so it’s halted opening up new doors. Today we’re only in 7 percent of

c-stores—our primary distribution is in c-stores and vape stores, which is newer. We increased our production to 2 million pods per month, but we’re still only meeting 50 percent of demand. With new automated machinery, we should be at 5 million pods by January. We expect to significantly expand our distribution footprint.

TBI: It was recently reported in the *New York Post* that a “slew of opportunistic tobaccoists” throughout New York City have been jacking up prices for the flavored nicotine pods used to refill Juul. Some shops were reportedly marking up four-packs of so-called “Juulpods” by as much as 88 percent—to \$29.99 from the suggested retail price of \$15.99. What happened and how do you fix the price gouging?





Goldman: We poorly calculated the ratio of pods to device, meaning how many consumers would stick with it. We thought at a higher price point there would be less demand, but nothing else even came close to what we were doing, so we missed the boat by comparing it to other products in the category. We learned we have a high attachment rate, which is why we're able to sell our products at such premium prices. Regarding what happened in New York, we tried hard to police it, but the best way to police it is to make sure they have product available. We're trying our best to stop [the price gouging] because it doesn't benefit us or our customers, but it's a reflection today of the huge demand for the current product.

TBI: *Are your brands catching on in the tobacco outlet channel and do you think they have the potential to do well in the channel moving forward, given the high price points?*

Goldman: We sell through multiple channels and tobacco-related stores have become a bigger and bigger point of distribution. As consumers seek out more premium products, they tend to go back to channels they are more comfortable with, and so tobacco stores have an opportunity to sell a large amount of premium products to satisfy consumer demand. I'm getting a lot of emails from tobacco retailers looking to get as much Juul as they can—the product has crossed over to adult smokers in all channels. However, that channel is with vape stores and c-stores from our

perspective—our issue is with supply. We need to do a better job on supply with all the channels, and we're working on it.

TBI: *What was your reaction to the announcement that NJOY filed for bankruptcy under Chapter 11?*

Goldman: I've done a lot of work with technology companies, and generally what you find in industries that are technology-driven around a product is that it's important to meet consumer satisfaction needs, because the ultimate consumer votes for the best products by continuing to engage with them. I don't know how NJOY ran their business, but my overall industry experience has shown me that those companies that deliver the best product experiences are going to get the greatest



Those who come out on top deliver the highest levels of engagement and satisfaction. A lot of players in this industry focus on marketing and promotion versus product development and R&D. We believe in the latter.”

consumer attachment and engagement. Those who come out on top deliver the highest levels of engagement and satisfaction. A lot of players in this industry focus on marketing and promotion versus product development and R&D. We believe in the latter.

TBI: Please share any interaction you have had thus far with the FDA regarding the PMTA process for Juul. How do you expect the costs associated with getting FDA approval to affect your business?

Goldman: FDA is not at the forefront of my mind. We are going through the process of getting FDA approval; we're in the middle of it right now for Juul. My understanding is that we've had an ongoing dialog with FDA and it's a very positive one. The costs associated with getting approval are not immaterial, but they're

not changing the way we do business in any way. They're not out of the ordinary for a business of our size; it's not limiting how we're running the business.

TBI: So you're not halted on innovation?

Goldman: Our R&D budget is very high. I think it's possible that companies like ours that are innovative will go to other markets because now it's harder to launch in the U.S. market. We are definitely working on things that relate to vapor technology, including the e-cigarette category. How and when is still to be determined, but we're proud of how Juul is performing, and it's incumbent upon us to evolve technologically and deliver new experiences. We look at ourselves as a technology company that wants to produce better and better technologies, like wild horses run[ning] amuck.

TBI: Where do you see PAX in the market moving forward? What role would you like the company to take in the vaporizer/eCig/cannabis world?

Goldman: We want to build the greatest lifestyle experiences in these categories. The category is not driven by enough quality products, value-added to lifestyle. Many companies don't look at it that way, and I don't think cannabis necessarily looked at it that way, but we're looking for better opportunities to produce that. There are a lot of parts involved in providing a great level of experience, including making our products available. We have a lot of work to do and right now, I'm spending half my time on the recruiting side. We need more talent in a number of places, including channel experts in tobacco stores, vape stores, and dispensaries. If you know of any, send them my way. **TBI**

NATO & the Tobacco Plus Expo are Teaming up!

Tom Briant will be presenting educational sessions at the 2017 TPE show in Las Vegas. For more information, see p. 80

PHOTOS BY ANTHONY CAMERA

NATO Executive Director Tom Briant

P.46

It was November 2014 and the tobacco battleground was in Westminister, Massachusetts. The local board of health had proposed an outright ban of all tobacco sales—the first of its kind.

There was no doubt that such a measure would devastate retailers selling tobacco in that town, including tobacco outlets and convenience stores. The National Association of Tobacco Outlets (NATO) was there and ready—it had organized a ma-

jor grass-roots campaign that was greatly responsible for the attendance of a large chunk of the town's population—about 500 citizens—at the board of health's public hearing in a school gymnasium.

The way NATO's executive director Tom Briant recalls it, virtually everyone there opposed the ban. "We had people waving the American flag, and the crowd was so supportive speaking against the ban on tobacco sales that the chairwoman of



NATO President Frank Armstrong, owner of Blue Ridge Tobacco



NATO'S

UNIFYING



ERA

FIFTEEN YEARS STRONG, THE NATIONAL ASSOCIATION OF TOBACCO OUTLETS HAS DROPPED ITS TRADE SHOW, BUT ADDED A UNIFYING REACH THAT IS NOW SHARPLY FOCUSED ON WHERE RETAILERS NEED IT THE MOST: FIGHTING LOCAL LEGISLATION.

BY RENÉE COVINO



the board of health closed the hearing. She wouldn't let anyone else speak after the first three testified, because people were wildly applauding and she thought we were being too appreciative of what was being said [against the ban]."

What happened next was even more amazing, according to Briant. "A gentleman stood up and started singing 'God Bless America' and the entire audience stood and sang in unison with him," he

tells *Tobacco Business International*. "Because ultimately, this wasn't about smoking, this was about freedom, liberty and personal rights. People spoke that night who didn't smoke because they knew that this ban had the potential to take away rights that people should be able to enjoy and decide for themselves."

Board members went on to vote 2-1 against the ordinance. Not only was it defeated, but no other city has attempted to

adopt a similar ban since.

Of course they don't all go like that, but this Westminster story encompasses "everything we fight for every day at NATO: freedom, liberty and personal rights, because that's what America is all about," says Briant, a nonsmoker. "It encapsulates my favorite NATO anecdote to date."

The story also represents where NATO, now celebrating its 15th year as an association, wants to sharply focus on: helping



NATO Board Member Mary Szarmach in a Smoker Friendly cigar lounge.

retailers fight local legislation against tobacco, or what it calls the NATO Local Project. And it even dropped running its NATO trade show and conference to be able to fully commit moving forward.

“We positioned ourselves to be 100 percent legislative,” says Frank Armstrong, president of NATO and owner of Blue Ridge Tobacco, a chain of eight tobacco outlets in Winston-Salem, North Carolina. In fact, he considers his greatest accomplishment as president this year to be “making a smooth transition from having a trade show to strategically positioning ourselves to taking on all local initiatives that are out there. Our ability and our strength to react to local concerns is the best in the country, and we’re going to continue that and improve upon it.”

Simply put, NATO ended its “show era” to embark on its “unifying era”—bringing forces in the industry together to fight and make progress primarily at the local level.

LOCAL SHIFT BEGINS

In 2012, NATO started its Local Project because “we saw a shift in the anti-tobacco strategy,” explains

“The work Tom does... there’s nobody else in the business like him. He is a workhorse and takes a lot of pride in his role,”

—MARY SZARMACH,
SMOKER FRIENDLY
INTERNATIONAL

Briant. NATO responded to the changing strategic moves of a never-ending battle.

“[The anti-tobacco groups] had previously focused on lobbying state legislators and Congress to pass tax increases and smoking bans, but they found it was increasingly difficult to do that because the industry itself was becoming more organized and responding to unfair taxes and unreasonable legislations,” he says. “So they shifted [their] strategy, and the focus now is at the local level where they can go city to city or county to county and try to pass these ordinances, and maybe then, when they have enough of them passed, bring that issue to the state level and the state legislature.”

So NATO was quick to recognize that its primary focus needed to be on local issues. “We’re the only national retail trade association that focuses on local and state issues,” Briant relays, adding that its other focus is “certainly on FDA issues, because retailers need to know what’s happening and how to comply.” But local is clearly the key.

In 2015, there were 450 local tobacco ordinances proposed across the country, according to NATO.

HAPPY 15TH ANNIVERSARY NATO!

Origination: The idea for creating NATO originated in 2001 with Don Bores, a long-time industry member who was also part-owner of *Tobacco Outlet Business* magazine (now known as *Tobacco Business International*). Bores recognized that tobacco outlet stores did not have a national organization that monitored and responded to tobacco legislation, and he thought it was an important part of a three-pronged approach to supporting tobacco retailers: a B2B industry trade show (TPE), a B2B industry magazine (TBI), and a tobacco retail association (NATO).

How Tom Briant Came on Board:

Bores' former colleagues at Brown & Williamson Tobacco Corporation recommended Briant, an industry attorney who, at the time, represented the Minnesota Wholesale Marketers Association, a tobacco wholesale group. Briant also helped form the Minnesota Tobacco Store Association (MTSA), the only one of its kind in the country at the state level. MTSA became the model for NATO. Briant humbly maintains that Bores was the driving force behind NATO, "I just picked up the ball and ran with it."

Early Membership: NATO was officially formed in March of 2001, and by the end of that first year, it had about 400 tobacco outlet member stores.

Membership Today: With the adoption of a bylaw amendment by the NATO board of directors in 2009 that allowed any kind of retailer that sells tobacco products to join the association, the number of retail stores that are NATO members increased dramatically to about 51,000, consisting mostly of convenience stores.

Biggest Challenge Facing Tobacco

Retailers Today: While FDA legislation is certainly a big concern, it's not at the top of the list, according to NATO. The first concern is the

increase in the number, kind and restrictiveness of local tobacco ordinances.

Most Notable Tobacco Regulations in NATO's History:

One of the highest profile local tobacco proposals was the total tobacco sale ban proposed by the Westminister, Massachusetts Board of Health. Through a major grass-roots campaign fueled by many townspeople who saw the proposed ban for what it was—"namely an infringement on the liberty and freedom to buy and use legal products," according to Briant—the ban was defeated and not one single city has attempted to adopt a similar ban since.

There have also been numerous attempts to pass a variety of restrictions on the promotion, advertising and sale of tobacco products. However, "the First Amendment of the U.S. Constitution protects free speech and the U.S. Supreme Court has ruled that free speech encompasses 'commercial speech,' which is product promotion and advertising," Briant relays. Advertising a legal product is an essential right that must be upheld, he stresses. Every city and state that has attempted to ban tobacco advertising has ended up repealing the ban or having it struck down by a court.

Most Troubling Regulatory Trends of

Late: One recurring legislative trend on the state level is the annual attempt by lawmakers to extract more revenue from adults who buy tobacco by raising taxes on cigarettes and other tobacco products. "It is extremely unfair that a minority of adults who choose to use tobacco products are singled out and taxed to pay for programs that benefit everyone," states Briant. "What lawmakers need to understand is that a point of diminishing returns has been reached as consumers adjust their buying habits and seek out lower

taxed tobacco products in neighboring states or over the Internet, resulting in law-abiding retailers losing tobacco sales and states losing tax revenue to neighboring states, or as a result of Internet sellers not collecting any excise taxes."

Another troubling trend is the adoption of retail tobacco restrictions by local governments, which only result in local residents seeking out their preferred tobacco products by driving a few miles to the next city or town. This is especially troublesome, according to Briant, because FDA retail compliance inspections demonstrate that, on average, 95 percent of retailers comply with the law and do not sell tobacco products to minors. "Rather, the FDA's Population Assessment of Tobacco and Health study has confirmed that most underage youth obtain tobacco products from social sources such as friends, older siblings, parents and strangers. In other words, adopting further retail restrictions does nothing to reduce youth access to tobacco because the vast majority of youth do not obtain tobacco products from retail stores," he affirms.

How NATO Can Help:

NATO's expertise on tobacco issues has allowed the association to encourage retailers to become involved by calling and emailing their elected officials to express their opinion on a tobacco proposal, to testify at local and state hearings on tobacco legislation, and to encourage their customers to stand up and be heard when a tobacco excise tax increase or other tobacco restriction is proposed. NATO has simplified the process for retailers to become active in the legislative process; it is this simplification that drives so many more retailers to take that first step and take action when a tobacco restriction or tax increase is proposed.



NATO is known for helping to organize local grass-roots campaigns, such as the Westminster, Massachusetts tobacco ban protest pictured above.

"Always a Phone Call Away"

Who is the mild-mannered attorney behind the strong and powerful NATO? Perhaps NATO's executive director Tom Briant is best understood through the words of NATO's only original/still active board member, Mary Szarmach, immediate past president of NATO and VP of trade marketing and government relations for Smoker Friendly International:

"For the six states we've done business in, and now out of Florida, too, there was never a time, as I was running to a state capital, that I didn't call Tom on my way there to go over my testimony and the key points," she tells *TBI*. "That's 15 to 20 times a year for all the states we do business in. He is always a phone call away, and that's not just for me as a long-time member of NATO, that's for anybody. He will help you write testimony, a letter to the editor, an op-ed for a local paper, you name it; he's always there to help.

"The work Tom does...there's nobody else in the business like him. He is a workhorse and takes a lot of pride in his role," Szarmach continues. "He's very informed and he's grown a lot with the association, too. He's become very comfortable with public speaking. We're up against such [an] organized and well-funded [anti-tobacco movement], we need a one-stop source. NATO, with Tom Briant behind it, has become that for tobacco retailers."

"This year, if the numbers hold, we are looking at almost 650—that's 200 more than just a year ago," Briant maintains. "So the number of local issues is multiplying year to year to year."

And local is the real challenge for retailers because it hits them, literally, in their backyard. This is often the point when retailers who might not have been members of NATO come on board. NATO will help them fight every step of the way, from explaining details about the ordinance, advising them how to respond, and even going to public hearings and helping them testify, as it did in Westminster. City legislators are all ears when local businesses make some noise.

"Local is all about local," states Briant. "Local elected officials want to hear from their local business people. They want to hear what this is going to do to your store and what it's going to do to the jobs that you create in the community." Hearing that an ordinance will just force folks to drive to the next city or town to buy the tobacco products in question is often enough to get legislators' ears up. "They realize that [it] doesn't accomplish anything, so that's why I say local is all about local," Briant emphasizes.

Bob Roberts, NATO treasurer/secretary and owner of Smoke em, Inc., a chain of eight tobacco outlets based in Scottsdale, Arizona, attests to the fact that NATO has made his retail channel more aware of how important it is to become engaged in local legislative issues.

"NATO's been talking about fighting

legislation for 15 years, but only in the past five has it really drilled down to the local level," he begins. "Tobacco retailers typically don't get engaged in statewide issues, but NATO has awakened them and is helping them realize how essential it is that they become engaged now for their own preservation. The fact is, a lot of these ordinances are either unconscionable, ill-advised or ineffective, so not only do we want to fight locally, but we want to inform locally, and most credibility comes from individual retailers, as opposed to big corporate entities throwing their weight around."

RETAIL EXPANSION

The way to truly get local attention is through larger local numbers. Even before the Local Project, NATO realized it needed to expand beyond the traditional tobacco outlet channel to achieve a true retail force, so in 2009 it did just that, uniting tobacco outlet retailers with liquor stores, grocery stores, drugstores, and convenience stores—"any and all retailers of tobacco products needed this opportunity, and we needed them to join in the battles we are fighting," explains Briant. "The [anti-tobacco movement members] are so well-organized and so well-funded; and it was and is imperative to have a lot more buy-in from the store perspective, whether at the federal level or the local level. We now represent tens of thousands of retailers, and that always means something to legislators."

Anne Flint, vice president of NATO



NATO board members Mary Szarmach of Smoker Friendly; Anne Flint of Cumberland Farms and Bob Roberts of Smoke em, Inc.

It's the little guys who are going to be in that community for a long time. So we have strength in numbers from all over, but it still comes down to the local retailer that effectively helps us fight these battles."

and senior category manager of tobacco at c-store chain Cumberland Farms in Framingham, Massachusetts, remembers her first exposure and instant attraction to NATO: "I was at an industry conference several years ago and went to hear Tom Briant speak. The value proposition that Tom articulated regarding NATO made sense to me," she tells *TBI*. "After he finished, I immediately went up to him and asked if convenience stores could become members—and just like that, Cumberland Farms was on its way to becoming the first major c-store member."

Fast-forward to what NATO represents to Flint today. "As a member of NATO for many years now, I have seen the organization evolve to become the premier resource for all engaged in tobacco retailing," she says. With a high concentration of stores in legislatively volatile Massachusetts, Cumberland Farms has seen "first-hand the effect burdensome legislation can have on retailers trying to sell a legal product in a responsible manner," according to Flint. "NATO has been there every step of the way providing advocacy, best practices and other support. Its boots-on-the-ground strategy, coupled with its experience in the industry, make it an invaluable partner to our organization."

Today, NATO has established itself as an important ally to the convenience store channel because it is the only national association that focuses on tobacco at the federal, state and local levels, Flint adds. "As these battles move increasingly from Capitol Hill to City Hall, NATO's expertise has been invaluable in supporting Cumberland Farms and other c-stores on legislative and other regulatory issues that matter to our daily business."

But all this work with chains in the c-store channel does not mean NATO doesn't stand for single stores—if anything, "we need the single store more than ever, because it's much more powerful to have four or five mom-and-pops fighting on the local issues than even one representative from a major chain, which is really viewed as a corporate person," according to Roberts. "It's the little guys who are going to be in that community for a long time. So we have strength in numbers from all over, but it still comes down to the local retailer that effectively helps us fight these battles."

At the other end of the spectrum, the industry's big corporate entities recognize NATO's value, too. Manufacturer members like Altria understand that "one of NATO's greatest strengths is its grassroots work with retailers to keep them informed on legislative policy issues," ac

All Aboard NATO

NATO offers five types of membership to all industry players, based on the primary business activity:

★ **Tobacco Store, Grocery Store, Liquor Store, Service Station** —

You are either a tobacco store that sells primarily tobacco products and tobacco accessories, or a grocery store, liquor store, or service station.

★ **Convenience Store** — Your company operates one or more convenience store that sells tobacco products.

★ **Wholesale/Distributor** — Your company is primarily engaged in the business of wholesaling tobacco products/accessories to tobacco stores, or distributing tobacco products/accessories.

★ **Manufacturer** — Your company is primarily engaged in the manufacturing or importing of tobacco products or tobacco accessories.

★ **Associate** — Your company is primarily engaged in the business of providing services or non-tobacco-related ancillary products to tobacco retailers.

For more information on NATO membership, visit natocentral.org/join.

FDA has had a big effect on all aspects of the industry, and I think that makes it more imperative for the industry to be unified—that means everybody involved in the sale of tobacco to act as a unified front. It will be more effective and more cost-effective for getting things done.”

cording to David Sutton, spokesperson for Altria. “This is important work in helping to bring the unified voice of retailers to make sure that the perspectives of retailers are heard in the public policy debate.”

Working with NATO for many years, Altria considers NATO to be “an excellent partner for us on public policy issues facing the tobacco products business and our retail trade partners,” Sutton adds. And, in turn, NATO depends on the likes of Altria, R.J. Reynolds, Swisher International, Swedish Match, ITG Brands, National Tobacco, Nat Sherman and King Maker Marketing, to name a few, for their support.

FORWARD MARCH

Beyond the local fight, NATO has other industry initiatives that contribute to its unifying era.

Perhaps the most obvious one is the continuing struggle to understand and be compliant with the FDA as one entity. “We are all recognizing that the voices of our industry are stronger when brought together and NATO has been at the forefront of that cooperative effort,” says Flint. “I believe that with the release of the deeming regs, more and more tobacco organizations are seeing the need to become unified and speak with one voice.”

Roberts agrees that “FDA has had a big effect on all aspects of the industry, and I

think that makes it more imperative for the industry to be unified—that means everybody involved in the sale of tobacco to act as a unified front. It will be more effective and more cost-effective for getting things done.” He adds that “really it’s the FDA that’s unified us more than ever. Now we all have a common interest because the FDA regulations affect everyone and every aspect of this business.”

Other forward-marching efforts include:

★ NATO is aligning with Tobacco Plus Expo (TPE), with Briant presenting two educational seminars at the 2017 TPE show on January 25-26 at the Las Vegas Convention Center.

★ NATO is in the conversation stage with other industry associations to align resources to continue to fight state and local legislation.

★ NATO is putting out industry webinars from its website natocentral.org/webinars. The first one was in August, focusing on deeming regulations and how they affect tobacco retailers.

★ NATO is planning regional legislative meetings to begin with a NATO Regional Educational Conference on January 18, 2017 in Orlando, Florida. **TBI**





MAKING THE SCENE

Smoker's Abbey is creating a stir in the hipster hood of Nashville, Tennessee. By Peter Barry

When you step inside many cigar shops, you often get the sense that you've entered an oasis of calm in the midst of a busy world; you're usually met with the laid-back, comforting feeling of people relaxing into leather chairs and taking a breather. But when you step through the front door of Smoker's Abbey in East Nashville, Tennessee, it's different.

There's an energy to it that feels more like the comings and goings of a busy Starbucks: young people, mostly engaged in animated chatter, interacting with various types of technology, sporting asymmetrical hairstyles and hipster beards. Also notable is the array of ethnic and gender diversity represented.

And when you meet the owners, long-haired Joshua Stump, age 42, and his short-haired business partner Adam Gleaves, age 33, they, too, defy cigar shop expectations, wearing T-shirts and shorts and displaying a lot of body art. Over the course of a conversation, it becomes abundantly clear that something different is happening here.

Smoker's Abbey has only been open since 2013, which raises the question: what can be learned about marketing tobacco products from such newcomers? But that's precisely the point. The world of tobacco retailing is changing, and that change is being accelerated by the new FDA rulings. In fact, neither Stump, who originally opened the shop on his own, nor Gleaves, who added his business background and financial support to the venture just over a year ago, had any prior experience in either retail or in the cigar business.

Perhaps it was the fearlessness that comes with ignorance, but the shop was formed in their image, around the things that are important to them: cigars, community, music and church. While the early days had some rough stretches, lately it feels like something is coming together.

IN THE BEGINNING...

Stump explains, "I've been a pastor most of my life. I got into smoking cigars being with small groups of guys at church, so cigars became a hobby. But I'd always

been looking for a little business to get going. I really didn't have enough money to start, but I didn't know how much a shop [would] cost. I had no tobacco shop experience before I opened the store."

And three years ago, East Nashville was a dramatically different place—the last place you'd expect to find a shop for premium cigars. Says Stump, "There were a couple of issues right out the gate. First of all, because this is a neighborhood kind of going through gentrification, there's a lot more money here now than there was three years ago. A lot of the development you see here, the trendiness and the retail shops, wasn't here. There certainly was not a clientele for coming in and buying a box of cigars.

"I picked this area because it's where I live, but I also believed it was going to grow and change. It was very affordable to be here. It's definitely changing now. There wasn't really an audience for premium cigars when I moved in. It was lower income, and probably for the first year-and-a-half people thought it was a



head shop. It took a while for us to get past that and let the community know what we were doing.”

Stump, however, knew the landscape and the community. Because of his work as a pastor, he already had connections with the local artists and musicians, and he applied that aesthetic to the shop when it opened. “Because the neighborhood had a lot of artists and was transitioning into a sort of hipster scene, if you want to say that, we really wanted to start out with artisan and boutique brands instead of all the corporate mainstream cigars. That actually probably hurt us in the early days because the few cigar-smoking guys that were around came in wanting their Montecristos and Rocky Patels.”

OPENING DOORS

As an outsider and a newcomer, Stump had to work at creating connections and keeping his shelves stocked. “It wasn’t easy,” he recounts. “We had to beg, borrow and steal. But the biggest thing was probably going to the convention [IPCPR]. We just stood in line and made ourselves known.”

It also helps that one of the premier boutique brands calls Nashville home. “One thing that helped us out tremendously was the cooperation of Crowned Heads cigars—they’re a Nashville-based company, very well respected in the boutique mar-

ket, and they kind of took a risk with us, I think, in the early days. John Huber [co-founder of Crowned Heads] made a lot of phone calls to help us get some accounts open,” says Stump.

“I think now in the boutique world we’re known fairly well,” he adds. “When we go to the conventions, the boutique guys already know who we are. They’re pursuing us, which is kind of nice. We’ve expanded our range, but we still deal with a lot of family-owned companies—we sell through a lot of Fuente. And this week we have a Padron [Cigars] event; that would have never made sense before, we just didn’t have that kind of clientele.”

Back then it was still a struggle. Says Gleaves, “Fifteen months ago we had six boxes in the humidor.” From that low point, things started to change, with the area starting to catch up to the vision. Says Stump, “One thing that’s happened is that Nashville has something like 100 people a day moving into the city. A lot of new people are coming in to look for cigars.”

Instead of spending money on advertising and promotion, the duo made investments in their inventory. Says Stump, “We’ve done some advertising in the local publications that are handed out for free, but honestly the biggest thing has been inventory. We spend most of our marketing money on getting really cool stuff.”

Adds Gleaves, “Now if there’s a limited-release cigar, we’ll try our hardest to get it and, typically, our relationships with the boutiques give us the first run at it. That helps set us apart because we’ve got guys driving in from 30 miles out, passing two cigar shops to get here because they know we have the limited-edition cigars that they can’t otherwise get.”

Today their humidor boasts 300 facings, with some of the popular lines being Camacho, Avo, Caldwell, Viaje, Tatuaje and the products of A.J. Fernandez.

While getting the right selection of cigars is half the battle, the other half is letting people know you have them. Stump and Gleaves use email marketing and social media to help spread the word, says Stump. “We have a growing email list that gets about a 19 percent open rate—people tell me that’s really good, but it sounds terrible to me. We also use Instagram, Facebook and Twitter.” Gleaves stresses that “Instagram is huge for us.”

Using that online presence, they keep their friends and customers connected to what’s happening at the shop in real time, announce when something new arrives and remind everyone of upcoming events.

However, their web presence doesn’t translate into an online shop or online sales—by design, explains Stump: “We don’t really have an online store because



we really wanted to focus on the brick-and-mortar side of it. And honestly, it's super hard to compete with the guys that just do online all the time."

GO-TO GATHERING SPOT

From inception, Smoker's Abbey has offered a lot of in-house events. Stump describes the landscape: "Events can be hit-or-miss because Nashville is such an oversaturated market, so we try to do things that are just out there a little bit—sometimes they're successful, and sometimes they're not. So we've incorporated the release of cigars with some other events, like the season premiere of *The Walking Dead* where we brought in TVs and stuff." They also offer Pokers Abbey, a weekly night of Texas Hold 'Em, where the stakes are the cigars themselves.

"We also have comedy nights once a month; we've had singer/songwriter nights. We've had Grammy-watching parties and the Super Bowl. We had a DJ come in and do a late-night dance party." Gleaves shares another point of differentiation from other cigar shops: "We're also open later than any normal cigar shop, 'til 1 a.m. on weekends and midnight on weekdays. So that in itself attracts people who are just out and looking for something else to do, who maybe don't want a bar and their coffee shop's closed."

In-house events that mirror their interests and the interests of the people they engage with help the duo to gain traction in the community. "Word-of-mouth for us is huge," adds Gleaves, "just from the experience that people have here; they're kind of blown away by the fact that it's a different atmosphere. We see it all the time where some guy comes in one week, and the next time he comes in he brings a friend or his wife. So we see friends coming together and meeting in the shop."

But they also get out into the community as local supporters of other events, and to showcase their passion for cigars. "The other thing that we've done that's been very successful," says Stump, "is getting involved in local events, local festivals specifically—music festivals, art festivals. We were just at one in August called the

Tomato Art Festival, which had around 60,000 visitors. The streets are filled with vendors, so we actually set up a cigar lounge on the street and sell cigars. We give people a place to sit down, and have big fans blowing to cool them down.

"Then we did the VolksFest, a three-day Oktoberfest at a local park with German food and beer and polka music playing, so we set up a smoking tent. We're going to the Salemtown Halloween Block Party in October. So we go to the whiskey festivals and beer festivals, and now the festivals contact us because they've seen us at so many. They really provide good face-to-face contact."

And there's no better way to make new friends than when people are already having fun, which gets back to the energy that characterizes the cigar shop. Gleaves explains: "The interesting thing for me is seeing the diversity of the people who walk through the door, and the fact that there's conversation happening. We've joked about having a reality TV show because every day here is an adventure, and it's typically pretty hilarious. I also think it's a safe place for people. If you sat here for three or four hours you'd see every type of person you could think of."

Says Stump, "Our store motto is, 'Find rest for your soul.'" That motto ties in to the name, Smoker's Abbey, chosen as a nod to a background in the ministry and creating a gathering space as a kind of church for cigar smokers. "We get people who come in, light up and don't say a word, collecting themselves for whatever they're processing."

Gleaves echoes that sentiment by adding, "And then you'll get someone [wcoming] in who knows Joshua's a pastor and they'll share their life story and end up crying in the back. It is diverse."

It's an environment that they foster: "We get gay, straight, black, white, Christian and agnostic," says Stump. "I don't know [of] that many places in our community where pastors and gays hang out and smoke together, but they do here. It's ethnically very diverse, and we also get people from all income levels, too."

The diversity also serves to bring in the most coveted demographic: women. Percentage-wise, says Stump, “We probably have the highest rate of women of any shop in Nashville that I’ve seen.” Those women aren’t just visiting, they smoke cigars, too. “The women might have started with flavored cigars, but they’ve moved on to regular ones.”

CUSTOM CIGAR DEBUT

This past summer Stump and Gleaves decided to do something to commemorate the third anniversary of the shop being open, so they ventured into a new area for them—custom-made cigars. “We have a lot of full-bodied cigar smokers,” says Stump, “so we went with a full-bodied Nicaraguan blend that was put together for us at Esteban Carreras, made in the factory in Nicaragua. We call it the St. Francis—fitting with the Smoker’s Abbey theme, we went with a Franciscan monk.”

“We wanted something that was really earthy—it’s a maduro, very espresso. The packaging is real simple, it just has a brown ribbon on the foot of the cigar, no band, to represent the simplicity of the Franciscan monk’s robe.”

How was the response? Knowing the taste of their clientele paid off: “The first 60 days we sold 500 cigars,” says Stump.

PICKING UP ON PIPES

Outside the large humidor is an array of jars filled with pipe tobacco, and another rack of shelving displaying pipes—evidence of a new trend. “Pipes have actually been catching on pretty well, [especially with] the younger generation,” says Stump. “They come and say, ‘My granddad smoked a pipe,’ and they buy a pipe. So we start out with these starter pipes all the way up to Tsuge. We’ve got Moonshine and BriarWorks. Until the FDA changes go into effect, we’re still selling tobacco by the ounce. We talk to our pipe tobacco distributors and they still don’t know what that’s going to look like. We do have some blends that we make, seasonal blends and others, but at some point that will end with the new rules.”

While Smoker’s Abbey prides itself on the diversity of its customers, it doesn’t do much promotion through memberships or other types of insider advantages. “I have a couple clients that want to store cigars here, so that’s why we have the [gym-type] cigar lockers,” says Stump.

Adds Gleaves, “We’ve talked about the clientele changing and the gentrification—and not having that base to start with—so memberships haven’t really made sense for us. We anticipate that may change. We also don’t want to make it where the regulars don’t want to be here, or that you’re excluded if you don’t have a membership. But there will be some benefits to memberships that people would want to take advantage of, like the lockers.”

The shop does plan to have membership lockers built, and also plans to get a beer license, says Gleaves. “We’re shooting for local beers, and we’re looking to rotate in their seasonal stuff, like German-style for Oktoberfest—a couple of local breweries do that. We’re going to support local as much as we can, while still celebrating the seasons as we go.”

Stump paints the big picture: “We have a space that’s ours behind one wall, where we’re planning on putting in a larger bar. Once we get the green light for that, that’ll be when our membership lockers will come into play. Whenever we do expand, we’re going to put in a performance stage so that we can do more of the stand-up comedy and the songwriters’ nights and things like that, and have the space for bachelor parties and birthday parties.”

But it’s not just the late-night party crowd that they want to provide a “church” for. Stump elaborates, “We’re going to have an office space so people can come in the middle of the day and work. Especially in this city, there are a lot of creative businesses, whether [it’s] software design, or guys designing lights for a concert tour.”

“There’s a huge startup culture here in technology and healthcare,” adds Gleaves, so they’re looking to provide an answer to all the needs of the people in their community.

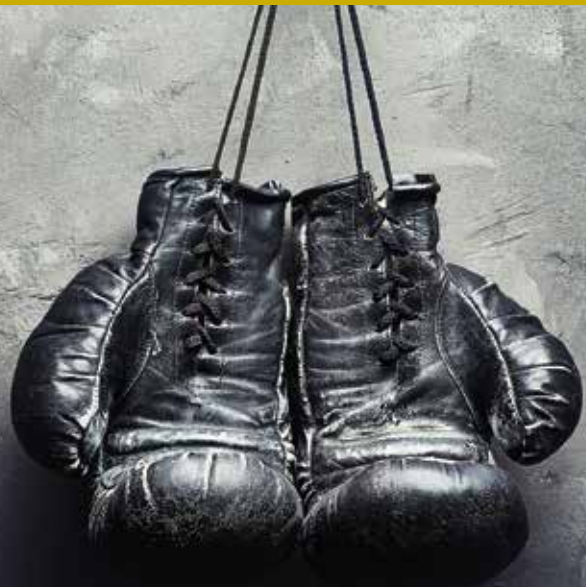


With so much going on that’s exciting and positive, Stump and Gleaves seem sanguine about the recent FDA ruling and its potential impact on their business. “It doesn’t feel like doom and gloom,” says Gleaves. “Some of what people are smoking now they may never get again, so they’re excited to purchase it—and hold onto it—which is great for us.”

Three years after launching, Joshua Stump and Adam Gleaves are in the enviable position of owning a cigar shop that is finding its niche in a fast-growing local environment, weaving itself into the fabric of daily life. Smoker’s Abbey is a cigar shop that is part of the local scene, and is also responsible for helping to *make* that scene, which may just end up being the best marketing strategy of all. **TBI**

Graphic Warning Label Litigation: Round 3

Health Groups, Anti-Tobacco Organization and Doctors Sue FDA



On October 4, 2016, six health-related organizations, one anti-tobacco advocacy group, and three doctors filed a federal lawsuit in the United States District Court for the District of Massachusetts against the U.S. Food and Drug Administration seeking to compel FDA to issue a new set of graphic warning labels for cigarette packages and cigarette advertisements. This is the third lawsuit generated as a result of the requirement in the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA) that FDA create new pictorial warning labels for cigarettes.

The plaintiffs in this third lawsuit are the American Academy of Pediatrics, the Massachusetts Chapter of the American Academy of Pediatrics, the American Cancer Society, the American Cancer Society Action Network, the American Heart Association, the American Lung Association, the Campaign for Tobacco-Free Kids and three doctors.

Background

In the FSPTCA, FDA was required to create and issue new text and graphic warning labels to be placed on cigarette packages and in cigarette advertisements.

Tobacco industry members previously filed two federal lawsuits against the graphic warning label requirement, with one lawsuit filed before FDA created the new warning labels and the second after FDA issued a new rule with nine different graphic warning labels in June of 2011. Neither of the industry lawsuits sought to overturn the new text warnings, but rather focused on the pictorial warning labels.

In the first lawsuit, the federal district court and the federal appeals court ruled that requiring new graphic warning labels was not unconstitutional. However, in the second lawsuit, the federal courts overturned the nine graphic picture warning labels and the U.S. Circuit Court of Appeals for the District of Columbia held on appeal that “FDA failed to present any data...showing that their proposed graphic warnings will accomplish the agency’s stated objective of reducing smoking rates.” The appeals court decision sent the matter back to FDA to essentially redo the graphic warning labels. This appeals court ruling was issued in August of 2012. Since that time, FDA has announced that the agency was undertaking research to support a new set of graphic warning labels, but has not yet issued anything.

Third Lawsuit

The plaintiffs in this new lawsuit claim that FDA’s failure to create and issue a second set of graphic cigarette warning labels violates the agency’s statutory duty under the FSPTCA, which requires that graphic warning labels be created. In addition, the plaintiffs claim that the failure of FDA to issue new graphic warning labels impedes their ability to educate the public about the “consequences of smoking,” and “to help provide the motivation for smokers to undertake the difficult task of quitting.”

Specifically, the plaintiffs are asking the Federal District Court for the District of Massachusetts to declare that FDA is in violation of the FSPTCA, to order FDA to submit to the court a proposed timetable for an expedited rulemaking to create a second set of graphic warning labels, and to compel FDA to complete a new set of graphic warning labels by a certain date. FDA has 60 days from October 4 to respond to this lawsuit complaint with a formal answer. **TBI**

Thomas Briant is the executive director and legal counsel of NATO, the National Association of Tobacco Outlets.





Golfing for Good

M&R Holdings helped the Michael Martin Golf Tournament raise more than \$50,000 for the University of Mount Olive.

More than 200 golfers participated in this year's Friendly Mart/Michael Martin Memorial Golf Tournament, which raises money for student scholarships and the Trojan Club at the University of Mount Olive in North Carolina. Held on Thursday, August 18, the event honored North Carolina Highway Patrolman Michael Martin, a Mount Olive College alumnus killed in the line of duty.

M&R Holdings was one of the sponsors of the tournament, which also featured breakfast by Stevens Sausage, a silent auction, lunch courtesy of platinum sponsor McCall's Bar-B-Que & Seafood, and other donations courtesy of many sponsors and supporters. "This tournament continues to be tremendously popular among golfers, continuously

supported by local businesses, and successfully executed," said Dr. Philip P. Kerstetter, president of the university. "We are deeply grateful to Tournament Director Neil Price and committee members, including Dwayne McKay, Bill Clingan, A. N. Martin, Steve Martin, Dean Rouse, Jimmy Adams and all of the vendors and participants that made this event happen."

Tournament Coordinator Neil Price, who works with Friendly Mart, the underwriting sponsor of the tournament, said, "I would really like to extend a special thanks to our vendors and suppliers as they are an integral part of making the tournament the success it is through their monetary support and participation. We also want to thank those who donated to our raffle. Local businesses

truly showed their dedication to the community and to the students at the University of Mount Olive. We couldn't do it without their support."

According to initial reports, this year's tournament proceeds will be more than \$50,000, bringing the 29-year total to over \$690,000.

The University of Mount Olive is a private institution rooted in the liberal arts tradition with defining Christian values. The university, sponsored by the Convention of Original Free Will Baptists, has locations in Mount Olive, New Bern, Wilmington, Goldsboro (Seymour Johnson Air Force Base), Durham (Research Triangle Park), Washington, Jacksonville, and in Smithfield at Johnston Community College. For more information, visit Umo.edu. **TBI**





The Battle to Preserve the Premium Cigar Industry is now a Two-Front War

The cigar industry needs all hands on deck to fight for survival.

At 1:00 p.m. on July 28, a voice bellowed within the convention hall in Las Vegas and announced that the 2016 International Premium Cigar & Pipe Retailers Association annual trade show was now closed. With those words, an entire industry began to ponder its uncertain future, brought on by the issuance of a needless slate of federal regulations, being advanced by the U.S. Food & Drug Administration (FDA).

Even as record orders for cigars were logged by new companies and staples of the industry alike, and even as hundreds upon hundreds of new lines were being introduced into the market to beat an arbitrary and needless deadline of August 8, the cloud that now descended upon

this historic industry was never far from the minds of these artisan craftsmen.

The resolve, however, to attack this federal regulatory overreach is as strong and resolute as ever, while taking on a new front to protect the simple pleasure of enjoying a cigar, while preserving thousands of American small businesses, jobs and a historic relationship with Latin America.

Now this effort will involve the courts. On July 15, 2016 in a historic collaborative announcement, Cigar Rights of America (CRA), the International Premium Cigar & Pipe Retailers Association (IPCPR) and the Cigar Association of America (CAA) filed a joint lawsuit against the FDA, asking the District Court for the District of Columbia for

a declaratory injunction to “vacate, set aside and enjoin the enforcement of the final rule” because it violates numerous federal statutes, as well as the federal rulemaking process.

Mark Pursell, CEO of IPCPR, stated, “Our three associations pledged to work together to develop the appropriate response to the FDA’s new deeming rule. After a thorough and detailed legal review, we are challenging this unlawful regulatory action in federal court to protect the statutory and constitutional rights of our industry and its members. The fact that all three of our organizations are acting in one voice speaks to the urgency and seriousness of this action.”

The complaint challenges:

- ★ FDA's improper application of the February 15, 2007 grandfather date to cigars and pipe tobacco, which subjects those products to more intrusive regulations than cigarettes and smokeless tobacco;
- ★ FDA's impermissible assessment of a tax in the form of user fees, and its allocation of these user fees only to cigars and pipe tobacco and not to other newly deemed products;
- ★ FDA's failure to perform an adequate cost-benefit analysis to take into account the effects of the final rule on small businesses, as is required by the Regulatory Flexibility Act;
- ★ FDA's unjustified decision to require cigar health warning labels to take up 30 percent of the two principal display panels of packages;
- ★ FDA's unlawful designation of tobacconists who blend finished pipe tobacco or create cigar samplers of finished cigars as "manufacturers," which subjects those businesses to greater regulation than if they were "retailers";
- ★ FDA's incorrect decision to regulate pipes as "components" or "parts" rather than as "accessories."

CAA President Craig Williamson said, "We all worked in good faith to inform and educate the FDA on the unique nature of our industry, its members and our consumers. We hoped the FDA would craft a flexible regulatory structure that accounted for the uniqueness of our industry. Instead, we got a broad, one-size-fits-all rule that fails to account for how cigars and premium cigars are manufactured, distributed, sold and consumed in the United States. The

FDA exceeded its statutory authority and violated the federal rulemaking process when crafting this set of broad and sweeping regulations. This challenge asserts nine violations of federal law and rulemaking authority. We are asking the court to enjoin the enforcement of this unlawful regulatory scheme. We are confident that when the court reviews our case on its merits, we will prevail."

FDA ignored the law to craft these expansive and sweeping regulations and cannot justify many of the arbitrary and capricious regulations it purports to enact. This lawsuit is a specific and detailed challenge to FDA's unprecedented assertion of rulemaking authority. We are acting in one voice to protect the legal rights of our industry at all levels, from the manufacturer, the community retail tobacconist, to the adult patrons of cigars.

But Congress can still act to correct this clear overreach by an overzealous band of federal bureaucrats. By this writing, there will be about four weeks left this year for Congress to adopt a budget, with language that was approved by the U.S. House of Representatives Appropriations Committee on April 19 of this year that forbids FDA from using funds to advance these regulations.

In the words of Congressman Jeff Denham of California, speaking to the nation's community of tobacconists and manufacturers on July 24, "We've got to win at this. This is a freedom that I enjoy—that Americans should have the opportunity to enjoy across the country. And if we don't beat this rule back, if we don't define this in Congress, we will continue to see an overreach that will take our freedoms away completely. We have an opportunity, a very small window. We need a grassroots effort to contact every member of Congress and tell them how important this is, not just

from the small business approach, but explain from every consumer across the country. Hit people in their own district, and tell them this is something that is just wrong."

Every member of Congress needs to hear from you, as never before, that cigar manufacturers, retail and distribution channels and you, the consumer, deserve and demand that premium handmade cigars should not be subject to draconian federal regulations that will assuredly alter the course of cigar history.

We are calling for every manufacturer, retail tobacconist and consumer in America to contact their U.S. member of Congress and two senators. Visit their district offices, call their local offices and their Washington, D.C. offices to voice your disapproval of the cigar regulations. Invite them to your local cigar shops, host a "Cigar Town Hall," or get your cigar brethren together for a group call.

Tell them to support H.R. 662, S. 441 and the actions of the House Appropriations Committee that call for exemption and "No Funding for FDA Actions Against Premium Cigars." Tell them that you are watching, and you will remember their actions on Election Day. Tell them who you are: cigar voters. **TBI**

Visit CigarRights.org for more information.

J. Glynn Loope is executive director of Cigar Rights of America.



The Little Cigarette Company That Could

Against all odds, Grover, North Carolina-based Cheyenne International continues to thrive in a Big Tobacco-dominated marketplace. *TBI* talks to CEO David Scott about how they do it

By Jennifer Gelfand

“We knew we could make great products and felt we had an opportunity to be a leader as the premium-brand alternative.”

When Cheyenne International took home the Best New Product Award for its newly introduced Cheyenne Tropical brand at TPE 2016, we at *TBI* weren't surprised. Cheyenne's well-earned reputation for overcoming adversity dates back to its origins, when four partners decided to launch a small tobacco company in 2002, a time when big players dominated and the regulatory environment seemed to be growing harsher by the day.

Fourteen years later Cheyenne is going strong, but when you think about it, you just have to ask what the heck the company's founders were thinking. “It sounds crazy, right?” answers David Scott, CEO of Cheyenne International and one of the company's founding members. “But sometimes crazy just has a way of working out. Cheyenne was founded by four partners in 2002 who are smart, driven and seasoned—each bringing their own area of expertise and knowledge to the table. The notion was to bring affordable, high-quality tobacco products to adult consumers and provide jobs in what was typically an economically depressed area of North Carolina. We knew we could make great products and felt we had an opportunity to be a leader as the premium-brand alternative.”

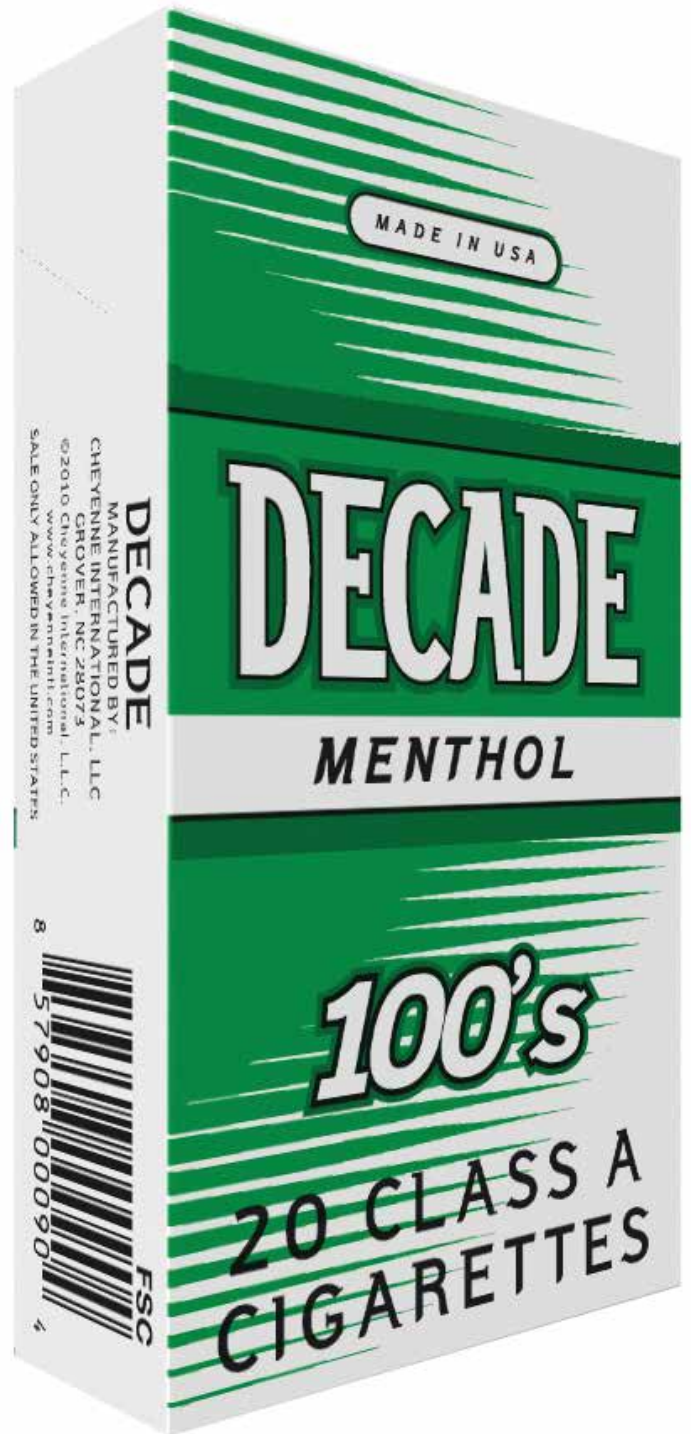
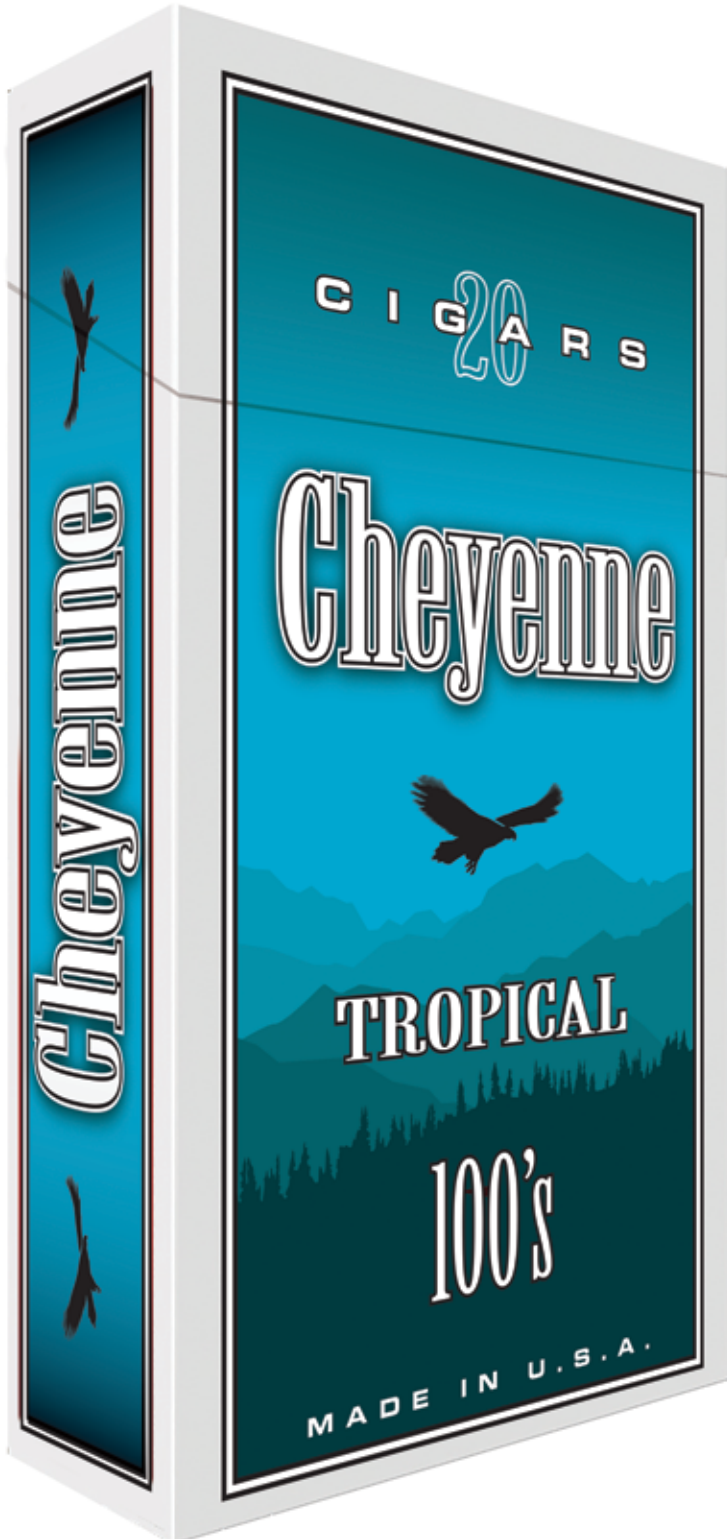
That simple premise—offering a high-quality alternative to major cigarette brands at a fair price—proved a winner, and the company has continued to build on that foundation ever

since. Cheyenne currently offers three distinct cigarette brands: Cheyenne Cigarettes, Decade Cigarettes (a value-priced brand) and Aura Cigarettes (an all-natural blend), each distinct but all of which couple quality and value.

What's more, Cheyenne has leveraged the company's core philosophy to expand into other tobacco product categories, notes Scott. “After the introduction of cigarettes, we subsequently entered the filtered cigar category and never looked back. Since then, we've expanded our offerings into a variety of profitable tobacco categories, working diligently to ensure our mission was at the heart of every product: high quality at a fair price.”

In addition to cigarettes and filtered cigars, the company now also markets cigarettes, cigarillos, moist smokeless, pipe tobacco and vapor brands. “We've had success in all categories, but our cigarette, filtered cigar and moist smokeless products are at the core of our success,” notes Scott. “Filtered cigars are dominated by our flagship brand, Cheyenne. As a product that revolutionized the category, it offers exceptional taste in the iconic Cheyenne Cigar packaging. Our smokeless brands, Klondike, Derringer and Decade, have made waves in the MST category by utilizing a unique manufacturing process that allows our unmatched taste and value to shine through.”

Scott attributes Cheyenne's successful expansion to taking a disciplined approach when exploring new





“Being in tune with industry trends and consumer preferences is important, but it doesn’t mean we feel compelled to jump on every trend that passes by.”

opportunities and new arenas. “The introduction of new products is not something we take lightly,” he says. “As I mentioned earlier, we ensure that our mission is at the heart of each product we introduce. Being in tune with industry trends and consumer preferences is important, but it doesn’t mean we feel compelled to jump on every trend that passes by. Diversification is not a bad strategy, but we know where our strengths lie and prefer to play to those strengths.”

Having come of age at a time of immense regulatory change, Cheyenne is also well-versed in navigating legislative developments. Early on, the company took an active role in advocating for the industry even as a newcomer to tobacco manufacturing. “While regulatory devel-

opments haven’t changed our plans, we have learned to efficiently operate within them,” he explains. “We’ve had our ear to the ground on regulatory issues since day one. We knew going into this that if we weren’t 100 percent involved and invested in the regulatory side of the industry, we’d never thrive.”

Today, says Scott, Cheyenne continues to devote significant resources toward representing its interests, and those of the industry, to legislators. “Our company has built an impeccable regulatory team that is on the forefront of issues that affect our business. We lobby not only for ourselves, of course, but on behalf of wholesalers and retailers alike. Is future regulation a concern? Of course. But we’re well-positioned to

“We will navigate the regulatory landscape with a clear vision of success that our retailers and wholesalers can depend on. By doing such, we will further emerge as a leader in the tobacco industry.”



handle it. We're proactive, involved and dedicated. We support our wholesale and retail customers to ensure their compliance and success as well. We believe that working together, which includes working with regulators, is the best way to forge a prosperous path forward."

The company is also committed to working with its retail partners to help them market products and build their businesses. "Product education, merchandising and compliance is important to retail customers and we're there every step of the way to help them," says Scott. "Building customized programs that work for our retailers is right in our bailiwick. We truly believe that there is no one-size-fits-all program, which is why customization is so important. As a small company, we have the luxury of

being nimble enough to provide these customizations."

While many express concern about consolidation and competing in a rapidly consolidating industry, Scott is confident that Cheyenne will continue to thrive as an independent player by "making doing business simple."

"We will continue to provide quality products and excellent service to our customers," he explains. "We will navigate the regulatory landscape with a clear vision of success that our retailers and wholesalers can depend on. By doing such, we will further emerge as a leader in the tobacco industry. As consolidation occurs, there is still room for the 'small guy.' We will thrive as the small business champion who is reliable, competent and fair." **TBI**

TPE 2017

What: Tobacco Plus Expo

When: January 24-26, 2017

Where: Las Vegas Convention Center

How: tobaccoplusexpo.com

Why: To build your business!



Reinventing TPE

In October, Tobacco Plus Expo (TPE) announced that Thomas Briant, executive director of the National Association of Tobacco Outlets (NATO), would help present two educational sessions at the trade show. The development is just one of the innovations being introduced at TPE 2017, which has added a series of compelling sessions, panel presentations and roundtable discussions geared toward helping prepare retailers and manufacturers for the challenging regulatory path ahead.

“Now that NATO recently elected to focus its efforts primarily on fighting local anti-tobacco initiatives, TPE is an excellent foundation to communicate our

message to the thousands of retailers that come to the show,” says Briant of NATO’s participation in the annual show’s educational sessions. “Together we can prepare them with the tools and techniques necessary to succeed and thrive in this new tobacco era.” Two NATO-generated sessions will focus on helping independent tobacco retailers learn about current local, state and federal legislation, and learn how to become engaged and respond to these threats.

TPE will also provide a home for NATO headquarters on the expo floor where all show attendees—from buyers for large chains to the owners and managers of independent tobacconists, smoke shops,

vapor shops and c-stores—can learn how to help change the laws that will directly affect their businesses.

“TPE is proud to have the expert guidance of Tom Briant and we welcome the entire NATO team and its retail members to further strengthen and solidify TPE as the best business-to-business show in the tobacco industry,” says Jason Carignan, chief marketing officer of Kretek International, parent company of TPE. “The addition of our all-day conference track is an important step in the show’s evolution that will help educate retailers and manufacturers for a changing regulatory and competitive landscape.” The show’s lineup of educational sessions will focus on the



The 2017 show will include educational sessions, experiential lounges and an online show platform.

regulatory environment, new products and trends, merchandising, leveraging data, social media and more, says Carignan.

In addition to the extensive educational program, TPE 2017 will also feature a re-designed trade show floor. Aimed at making the show more accessible and efficient for buyers, the new layout organizes exhibitors by category (tobacco, vapor, alternatives and general merchandise), enabling attendees to easily browse the product categories that most interest them.

There will also be plenty of opportunities to discover innovative new products, including experiential lounges on the show floor offering sampling, testing, new product demos and forums for idea-shar-

ing. Information on new products being launched at the show will be distributed to attendees, both prior to and during TPE 2017, to maximize exposure.

A new online show platform and app will enable buyers to locate companies and products on the show floor and to manage their schedules. After the show, the website will remain online, giving buyers year-round access to information on the products and services exhibited at TPE.

“Our innovations will deliver exactly what our attendees need in today’s changing environment: to encounter new products, explore emerging trends and network with one another,” promises Carignan. “From dates selected to coincide

with those preferred by buyers to a show floor designed for easy navigation, every aspect of TPE will connect buyers with the products, services and resources they need to grow their businesses.”

These enhancements underscore TPE’s commitment to delivering a great experience to all attendees and exhibitors, adds Mark Cassar, CEO of Kretek International. “TPE continues to grow year-over-year by embracing the continual evolution that characterizes virtually every category in this industry—from premium cigars and tobacco to e-cigarette and vapor products.”

For more information about attending or exhibiting at the show, as well as ongoing updates, visit tobaccoplusexpo.com. **TBI**



Bonnie Herzog



Tom Briant



Frank Armstrong



Jacopo D'Alessandris



Tyler Goldman



Terry Gallagher



Don Longo

Introducing **TPE** 2017 Educational Sessions...

TPE 2017

This year's show will feature an exciting lineup of expert speakers leading seminars on a broad range of top-of-mind issues, including:

- **Tobacco: State of the Industry**
Bonnie Herzog, Managing Director—Beverage, Tobacco & C-Store Equity Research Analyst, Wells Fargo Securities
David Bishop, Managing Partner, Balvor LLC
- **FDA Regulatory Update: Perspectives, Guidance and Litigation Updates**
Tom Briant, Executive Director of NATO
- **Realizing the Profit Potential of OTP: Premium Cigars, RYO & Smokeless**
Kelly Michols, President, Scandinavian Tobacco Group/Lane USA
Frank Armstrong, President, Blue Ridge Tobacco
- **The Future of Vapor**
Jacopo D'Alessandris, President, E-Alternative Solutions/Swisher International
Austin Hopper, CEO, *The Vaping Advocate* magazine & Managing Director of North America Gilla
Bryan Haynes, Partner, Troutman Sanders LLP
- **Boosting Your Bottom Line with Vapor Products, Accessories and the Alternative Market**
Tyler Goldman, CEO, PAX Labs
- **How to Succeed in a Changing Market: The Way Forward for Tobacco Retailers**
Terry Gallagher, Smoker Friendly
- **Fighting Back! How to Beat Local Legislation on Your Homefront**
Tom Briant, Executive Director, NATO
- **Tobacco Category: Still the Key to C-Store Profits**
Don Longo, Publisher, Convenience Store News

*More sessions and speakers will be announced over the coming weeks.
Visit TobaccoPlusExpo.com for more information.*

Take Action to Save Vapor and Support Cole-Bishop

Faced with an unpredictable, unaffordable and ultimately unrealistic application process, more and more vapor shops across the country are facing the reality that they may soon have to close their doors. This will put thousands of Americans out of work and eliminate a healthier alternative to tobacco for adult consumers.

If the vapor industry is going to survive—if vapor products are going to remain on the shelves and not in some back alley—we all have to rally around a common objective. Right now, that means finding a way to work with members of both parties in Congress to change the predicate date. No matter what else you may have heard or read, there is only one viable path to save the vapor industry this year: the Cole-Bishop Amendment.

During a markup of the Agriculture, Rural Development, Food and Drug Administration bill, Representatives Tom Cole (R-Okla.) and Sanford Bishop (D-Ga.) offered a bipartisan approach that would accomplish the goal of protecting small businesses and preserving the industry, while setting the stage for common-sense regulations that would protect youth and ensure the safety of consumers.

In Congressmen Cole and Bishop, we have a rare opportunity in an otherwise stymied and polarized Congress to work with members across the political spectrum to achieve our goal of keeping new and innovative vapor products on the market.

COLE-BISHOP

HOW CONGRESS CAN INTERVENE TO SAVE VAPOR



SAVING SMALL BUSINESSES

AMENDING THE PREDICATE DATE

By amending the “predicate date” from February 15, 2007 to the effective date of the final deeming regulations, the Cole-Bishop Amendment will save thousands of small and mid-size businesses, and tens of thousands of jobs.

PROMOTING PUBLIC HEALTH

A HEALTHIER ALTERNATIVE TO TOBACCO

Responsibly manufactured vapor products are not only a safer alternative to traditional combustible products, but also provide many individuals with a viable path to reduce tobacco smoking and even quit altogether.





RESPONSIBLE REGULATIONS

SETTING A HIGH STANDARD FOR SAFETY

The Cole-Bishop Amendment provides much-needed regulation of vapor products as the new technology that they are rather than the tobacco products that they are not, setting an unprecedented high standard of safety within the industry.

Join the fight to save vapor at SaveVapor.org

#WeAreVapor

Take Action: #WeAreVapor

It is up to you. We will only be successful if we stick together and make our voices heard. So, the Vapor Technology Association (VTA) is issuing a call to action to all of the vapor product manufacturers, wholesalers, small business owners and entrepreneurs, as well as to all the customers that they serve.

We urge everyone in the vapor community—industry leaders, manufacturers, small business owners and consumers—to get behind this campaign that is already underway. Go to SaveVapor.org and get involved in our community-wide effort to save vapor. There you will be able to find your representative and participate in the #WeAreVapor campaign, a grassroots effort to organize our community in a way that will make *your* voices heard in Washington.

As we all know, social media can be a powerful tool if we all come together around this common objective. This is how our vapor community's first and only social media campaign directed at Congress works. **TBI**

We urge everyone in the vapor community—industry leaders, manufacturers, small business owners and consumers—to get behind this campaign that is already underway.”

Follow these three easy steps to make your voice heard:

1.

TAKE A PHOTO!

Businesses: Take a photo in front of your place of business with your colleagues. **Customers:** Take a photo in front of your nearest vape shop.

2.

TAG YOUR ELECTED OFFICIALS!

At SaveVapor.org you can look up the Facebook and Twitter handles of your two senators and one representative by using the Find Your Federal Officials module. Jot down the handles so that you can tag them in your posts and tweets.

3.

POST YOUR PHOTO WITH A MESSAGE!

Post your photo to Twitter and Facebook using **#WeAreVapor** and **#SupportColeBishop** with one of the simple messages suggested by our public affairs team.

All these details can be found at VTA's advocacy website, SaveVapor.org, which also gives you many other advocacy tools to call your member of Congress and/or send him/her an email. Use social media as an avenue to make your position known. Write a letter for your local paper. Do your part to save the vapor industry now, before it is too late.

To learn more about the Vapor Technology Association or how to get involved, visit our website at vaportechnology.org.

Tony Abboud is national legislative director of the Vapor Technology Association.



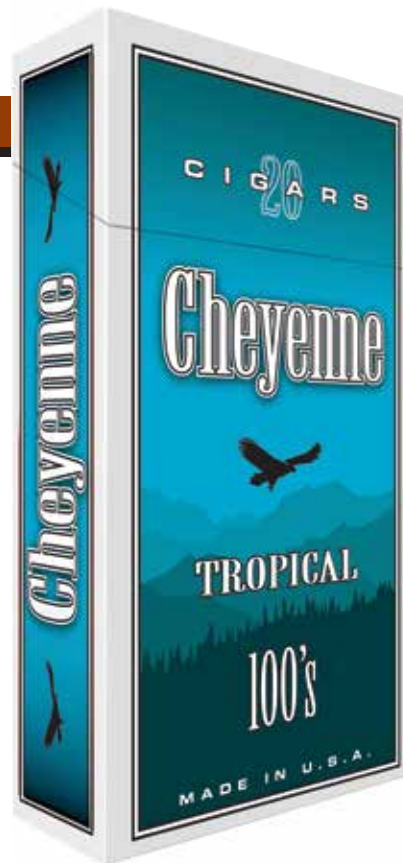


Designs by DjEEP

Kretek International is launching its new Executive Series of disposable lighters in a four-lighter collection. A dramatic design departure for disposable lighters, the new series will be available after December 10 across the U.S. It features a new Soft Touch deep matte black finish that feels soft to the touch. Each lighter has a metallic color inset with textured grip. The new Soft Touch series of lighters will be available only on DjEEP's 24 slant-tray, pre-pack display.

"The technique used to produce these lighters is amazing. The sophisticated design represents what DjEEP means to lighter users who appreciate style and durability," says Karim Rihan, Kretek's DjEEP marketing manager. "We know that half of disposable lighter buyers are willing to pay more for something better to pull out of their pocket and show off. This is it."

DjEEP will also be introducing its new Elegant series early in 2017 to go with the Soft Touch Executive collection, new Marilyn Monroe graphics, Hot Body LacquerWrap and Chrome Luxury Designs. Kretek International, 800-358-8100, salesinfo@kretek.com



Cheyenne's Tropical Cigar Line Is a Keeper

Cheyenne International has announced that it will be making the limited-edition Cheyenne Tropical Cigars a part of the company's permanent lineup. Introduced in February 2016, Tropical debuted at the 2016 Tobacco Product Expo (TPE) show and won a best new product accolade for innovation, taste and value. In less than a year since its debut, the limited-edition style has gained substantial industry recognition.

"We are excited to announce that we are stripping away the 'Limited Edition' banner from the packaging and are permanently adding Tropical to the Cheyenne Cigar lineup," says a company spokesperson. "After popular demand from distributors, retail partners and loyal adult consumers, Cheyenne International has decided to officially add Tropical as the eleventh Cheyenne Cigar offering. Tropical is a tangy, citrus-infused cigar that delivers the exceptional taste, quality and profit that is expected from the Cheyenne Cigar brand." Cheyenne International, sales@cheyenneintl.com

A No. 4 for the Miranda Collection

The newly redesigned Nestor Miranda Collection was launched during Miami Cigar & Co.'s 25th anniversary in 2014. The collection featured three different cigars (NMC Connecticut, Habano, and Maduro.) The sleek packaging and cigar blends were well received, but Nestor Miranda felt the portfolio was not complete. He ultimately decided it was time to create an NMC blend featuring his favorite wrapper, the Corojo.

The Nestor Miranda Corojo is a medium-to-full-bodied Nicaraguan puro that comes in 20-count boxes and retails for between \$7.50 and \$9.50. The blend is available in four sizes: Robusto (4.5x50), Corona Gorda (6x46), Toro (5.5x54) and Gordo (6x60).

"Nestor has been adamant about introducing his beloved Corojo wrapper to the collection," says Jason Wood, vice president of the company. "We would have loved to introduce it sooner, but we decided to wait until the blend was perfect. The reaction from the retailers at this year's IPCPR solidified our thoughts on the blend." Miami Cigar, miamicigarandcompany.com



Selva Selections

Maya Selva is offering a new Grand Pressé cigar and new accessories: the Flor de Selva and Cumpay ashtrays. The company's first box-pressed cigar, the Flor de Selva Grand Pressé Maduro is a *prensado* full of dark chocolate and spicy aromas. The company is also celebrating a 92 rating for its Villa Zamorano Expreso. mayaselvacigars.com



Sparkling Sales

Spark Vapor brands, the makers of Cig²O and Vapage electronic vaping products, have introduced the “Vapor Station”: a complete 50-piece, counter-top vape shop in one space-saving, compact display. The Vapor Station contains six ready-to-vape Solstice brand sub-ohm kits, three Solstice adjustable air-flow Pyrex replacement tanks, five Solstice two-pack atomizer replacements, and 36 15ml bottles of Vapage Premium eLiquid blended for today’s sub-ohm vaping systems.

The Vapor Station offers retailers an easy, single brand solution that eliminates the risk and investment in many high-priced, non-Fontem licensed brands. Each prepack holds more than \$850 worth of product. Spark Industries, Camarillo, California, 800-280-8089, or sparkvapor-brands.com

Optimizing Optimo Cigarillos

Optimo Cigars, a Swisher International brand, has introduced the **Optimo Cigarillo** in four new unique blends encased in first-class **natural leaf wrappers**. Available in two-count, resealable foil pouches, Optimo Natural Leaf Cigarillo flavors include:

- **Sweet** – slow burning and delicious with exceptional satisfaction and pleasure;
- **Silver** – unsweetened blend that doesn’t hold back on rich flavor and pleasing aroma;
- **Blue** – laid-back vanilla taste like a slow groove on a chill afternoon;
- **Mango** – transports your senses with the artistry of an exotic, balanced blend.

Each Optimo Cigarillo pairs a top-quality natural leaf wrapper with an artful blend of imported tobaccos to deliver a smooth, rich, satisfying taste. The newly designed packaging celebrates the vibrancy of the urban landscapes of decades past where the brand made a name for itself as a trusted, high-quality cigar. Optimo Cigarillos are available in “two for 99 cents” pouches. Swisher International, 800-874-9720



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