



§§ 69-2704 through 69-1710 (Reissue 2009) (commonly referred to as Complementary Legislation). In performing those responsibilities, affiant has also become familiar with the provisions of the Nebraska Cigarette Tax Act, Neb. Rev. Stat. §§ 77-2601 through 77-2622 (Reissue 2009 and Supp. 2011), Nebraska Department of Revenue (NDR) Regulations implementing said Act, including 316 NAC § 57-019, and the NDR website found at <http://www.revenue.state.ne.us/cig/manufacture.html#index> containing the Nebraska Directory of Certified Tobacco Product Manufacturers and Brands (Directory) and the list of Nebraska licensed cigarette wholesale dealers.

3. Affiant is familiar with Nebraska Attorney General Opinion No. 98005 dated January 22, 1998, an accurate copy of which is attached, as Attachment 1, to the Affidavit of Joseph Messineo, dated February 28, 2012, which was previously submitted by Plaintiff in the above captioned case. Pursuant to Neb. Rev. Stat. § 84-205 (5) (Reissue 2008), the Nebraska Attorney General is required to provide his or her legal opinion in writing on questions requested by the head of any state executive department, such as the Tax Commissioner, who is the head of the NDR; however, such legal opinions are not binding in a judicial proceeding. *See State ex. Rel. Spire v Beerman*, 235 Neb 384, 455 NW2d 749 (1990). The description of the "Nebraska Cigarette Tax" contained in Opinion No. 98005 is unchanged to date except the amount of the tax has increased and the purposes for which the revenue is expended may have changed. (Affidavit of Messineo, Attachment 1, pp. 1 and 2, IB "Nebraska's Cigarette Tax"). The scope of Opinion No. 98005, on its face, involves only the application of the Nebraska Cigarette Tax Act to cigarettes manufactured at a facility which was owned and operated by the Omaha Tribe of Nebraska, a federally recognized Indian Tribe, and

which was also located on the Omaha reservation in Nebraska. Underlying the legal analysis of that Opinion was the fact that the cigarette manufacturing plant was a tribal enterprise. It was owned by the Tribe, established by tribal funds and revenue generated went to the Tribe. The Opinion analyzes the Tribe's legal interest in its manufacturing plant in comparison to the competing interest of the State of Nebraska in collecting cigarette tax. The Opinion provides: "...we conclude that Nebraska is preempted from imposing its cigarette tax on cigarettes manufactured and sold by the Tribe on its Reservation." (Affidavit of Messineo, Attachment 1, p. 8, IV Conclusion). The Opinion on its face does not apply to a cigarette manufacturing facility which is not owned by a Tribe nor does it apply to cigarette sales occurring off that Tribe's reservation.

4. Ohserase Manufacturing LLC (Ohserase) has submitted information about its cigarette manufacturing facility to the NDR and the NAGO in order for its cigarette products, specifically Signal brand, to be approved for sale in Nebraska. Attached hereto as Attachment 1 is a true and accurate copy of a letter dated December 6, 2010, and received by the NAGO on or about December 8, 2010, from Dale White, General Counsel for Ohserase explaining the corporate structure and identifying the four individual owners of Ohserase. Attached hereto as Attachment 2 is a true and accurate copy of the Nebraska Certificate of Tobacco Master Settlement Agreement, Form 55B, signed by Justin Tarbell as Managing Director and submitted to the NAGO and the NDR for the purpose of being included on the Directory. Attached hereto as Attachment 3 is a true and accurate copy of a letter dated December 23, 2010, and received by the NAGO on or about December 27, 2010, from Dale White, General Counsel for

Ohserase, with a multiple page document enclosed which responds to specific questions posed by the NAGO as follows: paragraph 1 identifies the four individual members with equity ownership of Ohserase; paragraph 4 states that Platinum Distribution is the sole entity designated as Ohserase's state licensed distributor in Nebraska; paragraph 10 states that Ohserase shares no profits with the St. Regis Mohawk Tribe; and paragraph 11 states that Ohserase asserts no sovereign immunity from suit in Nebraska. Attached hereto as Attachment 4 is a Consent to Suit signed by Justin Tarbell on behalf of Ohserase and a "Action by Unanimous Written Consent of the members of Ohserase Manufacturing, LLC" authorized Justin Tarbell to act on behalf of Ohserase.

5. Pursuant to Neb. Rev. Stat. § 77-2615 (Reissue 2009), it is illegal to sell, deliver or accept cigarettes upon which the Nebraska cigarette tax has not been paid with the intent to evade the provisions of the Nebraska Cigarette Tax Act. Where a person is found to possess more than 10 packages of unstamped cigarettes, unless the person is a Nebraska licensed wholesale dealer, it is prima facie evidence of an attempt to evade the provisions of said Act.

6. Pursuant to Neb. Rev. Stat. § 77-2620 (Reissue 2009) all cigarettes subject to the Nebraska Cigarette Tax Act, which are unstamped (except those in the possession of a Nebraska licensed wholesale dealer and intended for sale in another state within 30 days, under Neb. Rev. Stat. § 77-2607) and which are found in Nebraska, are contraband and subject to seizure by law enforcement or agents of the Tax Commissioner.

7. Pursuant to NDR regulations, Title 316 § 57.019, a true and accurate copy of which is attached hereto as Attachment 5 and which can also found at [http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Revenue Dept of/Title-316/Chapter-57.pdf](http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Revenue_Dept_of/Title-316/Chapter-57.pdf) , an exemption to payment of the cigarette tax is created for Native American consumers purchasing cigarettes within the Native American reservation. The retailer located on the reservation making the exempt sale to a Native American may receive a credit for the cigarette tax by providing information to the Nebraska licensed cigarette wholesale dealer on a Form 68 distinguishing the exempt sale to a Native American from other nonexempt sales. The Nebraska licensed wholesale dealer may then receive a credit for the cigarette tax paid by submitting the Form 68 to the NDR.

8. HCI Distribution Inc. (HCI) is a division of Ho-Chunk Inc. which is owned by the Winnebago Tribe of Nebraska. HCI is not a Nebraska licensed cigarette wholesale dealer. It is not on the list of Nebraska licensed cigarette wholesale dealers maintained by the NDR at the internet address set forth in paragraph 2 above. No other business entity owned by the Winnebago Tribe is a Nebraska licensed cigarette wholesale dealer.

9. Attached hereto as Attachment 6 is an accurate copy of two pages printed from the internet on March 7, 2012 at [www.allnativesmokeshop.com](http://www.allnativesmokeshop.com). The website states that All Native Smokeshop is a Division of Ho-Chunk, Inc., owned by the Winnebago Tribe of Nebraska; its Smokeshop is located in Ho-Chunk Village on the north edge of Winnebago, Nebraska. A map is provided showing driving routes from


multiple Nebraska locations, including Lincoln, NE and Omaha, NE. One of the cigarette brands listed on the website as a "Best Seller" is Signal brand cigarettes.

10. Pursuant to Neb. Rev. Stat. § 77-2621 (Reissue 2009), a common carrier may obtain a permit from the NDR to carry unstamped cigarettes from a bonded warehouse to a licensed cigarette wholesale dealer. D and T Transport, Inc. does not have such a permit.

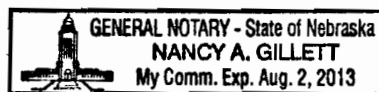
11. If the cigarette shipment described in the Verified Petition filed in the above captioned case would have proceeded into Nebraska, in affiant's legal opinion, it would have been contraband and subject to seizure, outside the boundaries of the Winnebago reservation, under the provisions of the Nebraska Cigarette Tax Act.

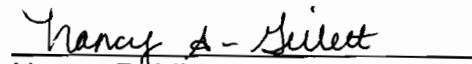
FURTHER AFFIANT SAYETH NOT.

Dated the 2<sup>nd</sup> day of April, 2012 at Lincoln, Nebraska.

  
Lynne R. Fritz

SUBSCRIBED and SWORN to before me this 2<sup>nd</sup> day of April, 2012.



  
Notary Public

December 6, 2010

Lynne R. Fritz  
Assistant Attorney General  
State of Nebraska  
2115 State Capital Building  
Lincoln NE 68509



RE: Ohserase Manufacturing, LLC

Dear Lynne:

The purpose of this letter is to notify you of a change in the corporate structure of our company and to seek a determination on its affect on our recently approval by your office of our company and its brand, Signal Cigarettes, to the Nevada Directory of Certified Tobacco Product Manufacturers and Brands. On November 24, 2010, in response to our application, the U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) issued a new TTB Permit (TP-NY-15042) to us, based upon a change in our corporate structure—we have formed a Limited Liability Company under the St Regis Mohawk Tribal LLC Code. Our new permit will be for “Ohserase Manufacturing, LLC” instead of “Justin Tarbell dba Ohserase Manufacturing”. A copy of the new TTB permit is also attached hereto. Please note that this is not a change in our tobacco product, Signal Cigarettes. We will continue to manufacture exactly the same product as was manufactured under our old permit.

Briefly, here are the only changes in our company due to the restructuring:

- (1) Our name will change from “Justin Tarbell dba Ohserase Manufacturing” to “Ohserase Manufacturing, LLC”.
- (2) We are now a Limited Liability Company formed under laws of the St. Regis Mohawk Tribe instead of a sole proprietorship.
- (3) The LLC has four (4) owners (members): Justin Tarbell, Eli Tarbell, Christy Laguador and Ryanne Araujo.
- (4) There is a name change in our address—from “Hogansburg” NY to “Akwesasne”, but that is a change in name only—the plant is still at the same physical address.

Obviously, we would prefer that your office treat this as a request to “Supplement” or “Amend” our current Certificate. The changes to our company are limited to the three changes mentioned above. Our tobacco product remains the same. Most, if not all of the information submitted in our application for Justin Tarbell dba Ohserase Manufacturing is applicable to the LLC that has been established. Obviously, we can, and will provide all the information you need if you have questions about the additional members of the company. If, however, you decide to treat this as an entirely new application, we would request that you use the information that we have

Ohserase Manufacturing  
Akwesasne Mohawk Territory  
Vice 295 Frogtown Road  
Post Office Box 1221  
Hogansburg, NY 13655

submitted for Justin Tarbell dba Ohserase Manufacturing and we would ask if our application could be expedited. In that regard, we have attached to this letter is a new Application that contains these changes and information about the additional LLC members.

Thank you for your consideration of our request and if you have any questions please let me know. My phone is (518) 358-4229 ex. 126; and email is [dwhite@ohserase.com](mailto:dwhite@ohserase.com). Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dale White', with a long horizontal flourish extending to the right.

Dale White  
General Counsel  
Ohserase Manufacturing, LLC



# Nebraska Certificate of Tobacco Master Settlement Agreement, Form 55B

## PART 1: TOBACCO PRODUCT MANUFACTURER IDENTIFICATION

For Official Use Only

12-8-10

**A. Complete company information below (please type or print):**

Company Name Ohserase Manufacturing, LLC	
Physical Address 393 Frogtown Road, Akwesasne, NY 13655	
Mailing Address PO Box 1221	
City/State/Country/Zip Code Akwesasne, NY 13655	County Franklin
Telephone Number, including Area Code (518) 358-9309	
Fax Number (518) 358-9841	
E-Mail Address dwhite@ohserase.com	
Name/Title of Person Completing Report Dale White, General Counsel	
Address of Manufacturing Plant(s) 393 Frogtown Road, Akwesasne, NY 13655	
Name of Factory Manager(s) Scott Sellers	
Telephone Number of Factory Manager(s) (518) 358-9309	
Fax Number of Factory Manager(s) (518) 358-9841	
If located in the U.S. Manufacturer's Federal Taxpayer Identification Number: 27-3566967	
If located in the U.S. TTB Tobacco Manufacturer's Permit Number TP-NY-15042	Expires N/A

**B. The tobacco product manufacturer identified above is, as of the date of this certification (check one below):**

- A participating manufacturer (complete Parts 1, 2A, and 7).
- A nonparticipating manufacturer (complete entire form, except Part 2A).

**This form is (check one below):**

- Initial Certification – Manufacturer is not currently listed on the Nebraska Directory of Certified Tobacco Product.
- Annual Certification – Due April 30 of each year.
- Supplemental Certification – Change in brands or registered agent.

**All manufacturers must update this certification thirty calendar days prior to any addition to or modification of the brand families sold in Nebraska.**

**PART 2: BRAND FAMILY IDENTIFICATION**

**A. Participating Manufacturers:**

The participating manufacturer identified in Part 1 has the following brand families, each of which the manufacturer affirms are to be deemed its cigarettes for purposes of calculating its payments under the Master Settlement Agreement, in the volume and shares determined pursuant to the Master Settlement Agreement.

Indicate with an asterisk (\*) those brands not being sold in current year (attach additional sheets if necessary).

Brand Family Name	Cigarettes or Roll-Your-Own		Brand Family Name	Cigarettes or Roll-Your-Own	
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO

1. For the above cigarette brand families, provide a copy of the **current** Federal Trade Commission (FTC) approval letter for health-warning rotation plan.
2. Provide a copy of the **current** Center for Disease Control (CDC) ingredient listing compliance letter(s) pertaining to the above brands of cigarettes and a statement as to which brand's ingredients were submitted for each approval letter.

**B. Nonparticipating Manufacturers:**

The nonparticipating manufacturer identified in Part 1 has the following brand families, each of which the manufacturer affirms are to be deemed its cigarettes for purposes of Neb. Rev. Stat. § 69-2703(2).

List all brand families sold in the preceding calendar year and at any time in the current calendar year. Indicate by an asterisk (\*) any brand no longer being sold in Nebraska as of the date of this certification. .09 oz. of RYO constitutes one unit (attach additional sheet if necessary).

Brand Family Name	Cigarettes or Roll-Your-Own		Units Sold		Name and address of all previous manufacturers of brand family
			in 2009	in 2010	
	x Cigarettes	RYO	0	0	
	Cigarettes	RYO			
	Cigarettes	RYO			
	Cigarettes	RYO			

1. Provide a sample of the packaging of **each** brand family only with the certificate filed with the Nebraska Attorney General's Office.  
 Check here if previously supplied packaging samples have not changed.  
**NOTE: If the manufacturer has previously supplied packaging samples to the Nebraska Attorney General's Office and if such packaging has not changed, it is not necessary to provide samples this year.**
2. If located in the United States, provide a copy of the latest TTB Tobacco Manufacturer Permit.
3. For each of the above cigarette brand families, provide a copy of the **current** Federal Trade Commission (FTC) approval letter for health-warning rotation plan.
4. Provide a copy of the **current** Center for Disease Control (CDC) ingredient listing compliance letter(s) pertaining to the above brands of cigarettes and a statement as to which brand's ingredients were submitted for each approval letter.

**PART 3: NONPARTICIPATING MANUFACTURER STAMPING AGENT**

Provide the following information for all distributors, wholesalers, and/or retailers to which the nonparticipating manufacturer identified in Part 1 sold cigarettes and/or RYO tobacco for distribution in Nebraska in the current or preceding year (attach additional sheet(s) if necessary).

Name	Address and Phone Number	Identify as a Distributor, Wholesaler, or Retailer	Brand
SEE ATTACHED			

**PART 4: NONPARTICIPATING MANUFACTURER REGISTERED AGENT**

**A. Registered Agent for Service of Process:**

Please certify as follows:

- The nonparticipating manufacturer identified in Part 1 is domiciled in the State of Nebraska.
- The nonparticipating manufacturer identified in Part 1 is a non-resident or foreign nonparticipating manufacturer that has registered to do business in the State of Nebraska as a foreign corporation or business entity.
- The nonparticipating manufacturer identified in Part 1 has appointed and continues to engage the following agent located in the United States for service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of Neb. Rev. Stat. § 69-2703, may be served in any manner authorized by law:

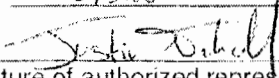
Agent Name		
Company Corporation Service Company		
Address 1900 First Bank Building, 233 South 13th Street, Lincoln NE 68508		
Telephone Number 1-800-927-9800	FAX Number (302) 636-5454	E-mail Address sop@cscinfo.com

Attach a current letter from the registered agent accepting the appointment.

**PART 5: NONPARTICIPATING MANUFACTURER'S CONSENT TO SUIT**

The undersigned Ohserase Manufacturing, LLC (name of Nonparticipating Manufacturer), for the purpose of complying with the laws of the State of Nebraska relating to tobacco product manufacturer escrow and certification (Neb. Rev. Stat. §§ 69-2703 through 69-2710), does hereby consent that any action or proceeding against it arising from enforcement of the provisions of Neb. Rev. Stat. §§ 69-2703 through 69-2710, and any rules promulgated pursuant to these statutes, or the bringing of a released claim as defined in Neb. Rev. Stat. § 69-2702, may be commenced in any district court of competent jurisdiction within Nebraska.

Date: 12/3/10

  
Signature of authorized representative of Nonparticipating Manufacturer

The following must be attached:

1. Proof of authority to consent to suit on behalf of the Nonparticipating Manufacturer, such as a resolution by the Nonparticipating Manufacturer specifically agreeing to the consent to suit provision and any required approval by an applicable governmental agency.
2. Proof of authority given to the signator to execute the consent to suit provision.

## PART 6: NONPARTICIPATING MANUFACTURER QUALIFIED ESCROW ACCOUNT

### A. Qualified Escrow Fund Information:

The nonparticipating manufacturer identified in Part 1 has established and continues to maintain the following qualified escrow fund under Neb. Rev. Stat. § 69-2702.

Name of Financial Institution <b>Bank of Oklahoma</b>			
Address <b>One Williams Center, Tulsa, OK 74103</b>			
Representative Name and Title <b>Cyndi Wilkinson, VP</b>			Telephone Number <b>(918) 588-6043</b>
Escrow Account Number <b>600024642</b>		Nebraska Sub-Account Number <b>75-97NE-02-9</b>	
Has the Escrow Agreement been approved by the Attorney General? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			Approval Date <b>7/1/2010</b>

If the escrow agreement has not been approved by the Attorney General, please attach a copy. If the escrow agreement has been approved by the Attorney General, the tobacco product manufacturer identified in Part 1 hereby swears said agreement is still in full force and effect without amendment or modification, or alternatively, a copy of any amendments to said agreement made subsequent to Attorney General approval must be attached.

A nonparticipating manufacturer must also file a current Certificate of Compliance by Nonparticipating Manufacturer Regarding Escrow Payment for the state of Nebraska with the Attorney General's Office pursuant to Neb. Rev. Stat. § 69-2703(2)(c) setting forth the escrow calculation and deposit for the prior year's sales, for eligibility to be listed on the Directory. A copy of the certificate may be obtained at [www.ago.state.ne.us](http://www.ago.state.ne.us).

### B. Escrow Deposit/Withdrawal History for Nebraska (attach additional sheets if necessary):

Date	Deposit	Withdrawal*	Balance
			0
	Total:	Total:	Total:

Please attach copies of records of the financial institution confirming the foregoing.

\* Withdrawals must comply with Neb. Rev. Stat. § 69-2703. Verification of compliance must be provided.

**PART 7: AFFIDAVIT OF TOBACCO PRODUCT MANUFACTURER**

An authorized officer of the tobacco manufacturer **MUST** sign this form and check one box below. This form **MUST** be notarized.

**PARTICIPATING MANUFACTURER:** Under penalty of perjury, I state that the tobacco product manufacturer named in Part 1A, as of the date of this certification, is a participating manufacturer in full compliance with all applicable provisions of Neb. Rev. Stat. §§ 69-2702 through 69-2711.

I am the authorized designee for the participating manufacturer, as established in the MSA or MSA Amendment by which the participating manufacturer joined the MSA, and I am signing as such.

I understand that the Nebraska Attorney General's Office or the Tax Commissioner may require additional information and/or documentation to determine if applicant qualifies for listing on the Nebraska Directory.

I have examined this certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

**NONPARTICIPATING MANUFACTURER:** Under penalty of perjury, I state that the tobacco product manufacturer named in Part 1A, as of the date of this certification, is a nonparticipating manufacturer in full compliance with all provisions of Neb. Rev. Stat. §§ 69-2702 through 69-2711.

This certification must be signed by a qualified company officer authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.

I understand that the Nebraska Attorney General's Office or the Tax Commissioner may require additional information and/or documentation to determine if applicant qualifies for listing on the Nebraska Directory.

I have examined this certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

By signing this affidavit on behalf of the applicant company, I understand that the company is required to comply with all state and federal laws concerning the sale of tobacco products.

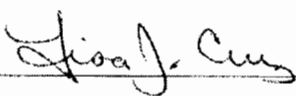
sign here

Justin Tarbell  
Name of Officer of Tobacco Product Manufacturer (Print Name)

Managing Director  
Title

  
Signature of Officer

12/3/10  
Date

Subscribed and sworn to this date: 12/3/10 City or County of Franklin  
Signature of Notary Public:  Notary Commission expires: 6/23/12

LISA J. CRUZ  
Notary Public, State of New York  
No. 01CR6189045  
Commission Expires June 23, 20 12

Mail the completed certificate of compliance to:  
Attention: Lynne R. Fritz, Assistant Attorney General  
Nebraska Attorney General's Office  
P. O. Box 98920  
Lincoln, NE 68509-8920

Attention: Cliff Thomas, Tax Law Conferee  
Nebraska Department of Revenue  
P. O. Box 94818  
Lincoln, NE 68509-4818

**NOTE: Incomplete and/or illegible Certificate of Compliance forms and any attachments will be returned.**



December 23, 2010

Nancy A. Gillette  
Tobacco Enforcement Specialist  
State of Nebraska  
Attorney General's Office  
2115 State Capital Building  
Lincoln NE 68509

RE: Ohserase Manufacturing, LLC

Dear Nancy:

I am enclosing the information you requested in your letter of December 14, 2010 regarding our Nebraska Certificate of Tobacco Master Settlement Agreement (Form 55B). Enclosed please find answers to your questions and attached revised Application with supporting exhibits.

I hope these materials respond to your request and if you have any questions please let me know. My phone is (518) 358-4229 ex. 126; and email is [dwhite@ohserase.com](mailto:dwhite@ohserase.com). Thank you.

Sincerely,

Dale White  
General Counsel  
Ohserase Manufacturing, LLC

DEPARTMENT OF JUSTICE  
DEC 27 2010  
STATE OF NEBRASKA

Ohserase Manufacturing  
Akwesasne Mohawk Territory  
via 3051 Frogtown Road  
Post Office Box 1221  
Hogansburg, NY 13655

✓ A. Please complete the table below by listing all of the current officers and company owners associated with Ohserase Manufacturing, LLC ("Ohserase"). Attach additional sheets as needed to provide a complete response.

A. Title	Managing Director	Member	Member	Member
B. Full Name	Justin Eli Tarbell	Eli Lazore Tarbell	Christy Michelle Laguador	Ryanne C. Araujo
C. Street Address	405 Church St. Hogansburg, NY	600 State Route 37 Hogansburg NY	600 State Route 37 Hogansburg NY	600 State Route 37 Hogansburg NY
D. Telephone and Fax numbers	518-651-6672	518-358-2911	518-358-6295	443-465-5412
E. Percentage of Equity Interest	27%	49%	22%	2%
F. E-Mail Address	<a href="mailto:jtartbell@ohserase.com">jtartbell@ohserase.com</a>	<a href="mailto:etartbell@ohserase.com">etartbell@ohserase.com</a>	<a href="mailto:claguador@ohserase.com">claguador@ohserase.com</a>	<a href="mailto:raraujo@ohserase.com">raraujo@ohserase.com</a>

✓ B. Part 2 B. of the Certificate requires an NPM to provide "Units Sold" for the corresponding year in which sales occurred. Please revise the Form 55B to reflect the number of units sold in Nebraska in 2009. In the previous Form 55B, it was acceptable to make a notation that 7,600 sticks sold in 2009 were manufactured by a previous manufacturer. If sales were made by Justin Tarbell d/b/a Ohserase Manufacturing in 2010 in Nebraska, please provide the number of sticks sold to date.

RESPONSE: See attached revised application at Tab 1.

✓ C. Part 2B (3) & (4). Please provide current approval Federal Trade Commission (FTC) and Center for Disease Control (CDC) letters for Ohserase Manufacturing, LLC, or in the alternative, letters or statements from these centers that such revised FTC and CDC letters for Ohserase Manufacturing, LLC are not required.

RESPONSE: Copies of updated FTC and CDC letters are attached to this response at Tab 2.

✓ D. Part 3: (Stamping Agent). In the current Form 55B that was provided, it says "see attached". Nothing was attached to this application relating to the stamping agent. In the previous filing submitted by Justin Tarbell d/b/a Ohserase Manufacturing Platinum Distribution was designated as the stamping agent. Please confirm if Ohserase Manufacturing, LLC will be designating the same stamping agent.

RESPONSE: Platinum Distribution is designated as our state licensed Distributor—see revised application.

✓ 5. Part 4: Please provide a current letter from the registered agent accepting the appointment for Ohserase Manufacturing, LLC.

RESPONSE: See letter attached at Tab 3.

✓ 6. Part 5 (1) & (2). Please provide this office with a resolution signed by an officer of Ohserase Manufacturing, LLC specifically agreeing to the consent to suit provision and proof of authority given to the signator to execute the consent to suit provision.

RESPONSE: See Resolution attached and consent to suit at Tab 4.

✓ 7. Part 6 B. of the Certificate shows a balance of \$0.00 which is not accurate. The amount of \$202.43 has been deposited into the Bank of Oklahoma and should be reflected on the Form 55B.

RESPONSE: See revised application and correspondence from Bank of Oklahoma at Tab 5.

8. Please provide an amended escrow agreement executed by Ohserase Manufacturing, LLC. The escrow account information provided in the Form 55B (75-97NE02-9) and escrow account number (75-97NE-01-1) is for Justin Tarbell d/b/a Ohserase Manufacturing. Please provide a statement indicating that the money in the escrow account already established will remain in that escrow account.

RESPONSE: Copy is attached at Tab 6. The money in the account will remain in that Escrow account.

✓ 9. Does Ohserase Manufacturing, LLC currently own or operate any internet businesses through which cigarettes are sold over the internet into Nebraska? If so, identify names and web addresses.

RESPONSE: No.

✓ 10. Please explain whether profits from Ohserase Manufacturing, LLC are shared with the St. Regis Mohawk Tribe.

RESPONSE: No profits of Ohserase Manufacturing, LLC are shared with the St. Regis Mohawk Tribe.

✓ 11. Please confirm and affirmatively state that Ohserase Manufacturing, LLC does not claim that it is entitled to assert sovereign immunity from suit in the State of Nebraska.

RESPONSE: Ohserase Manufacturing, LLC does not claim that it is entitled to assert sovereign immunity.



✓12. Other than Signal brand, has Ohserase Manufacturing, LLC ever been involved with the manufacturing, importation or distribution of cigarettes manufactured by entities other than Ohserase Manufacturing? If so, identify the brand families and entities with which he has been involved and explain the nature and dates of his involvement.

RESPONSE: No.

✓13. Other than Justin Tarbell d/b/a Ohserase Manufacturing, is Ohserase Manufacturing, LLC affiliated with any entity that currently or previously engaged in the manufacturing, importing or distribution of cigarettes? If so, identify each affiliate by name, address, telephone and facsimile number. ("Affiliate" means any entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another entity.)

RESPONSE: Ohserase Manufacturing, LLC has a manufacturing contract with Alternate Brands, Inc. for the manufacture of Signal non-filter cigarettes. (Copy is attached) at Tab 7.)

✓13. Provide a copy of the exclusive manufacturing agreement, if any, between Ohserase Manufacturing, LLC and the trademark owner of Signal cigarette brand.

RESPONSE: Copy is attached at Tab 8.

## CONSENT TO SUIT

The undersigned Justin E. Tarbell, Managing Director of Ohserase Manufacturing, LLC, pursuant to the Resolution of Ohserase Manufacturing, LLC Board, for the purpose of complying with the laws of the State of Nebraska relating to tobacco product manufacturer escrow and certification does hereby consent to any action or proceeding against Ohserase Manufacturing, LLC arising from enforcement of the provisions of said State of Nebraska law and consents that any such action may be brought in any court of competent jurisdiction in the State of Nebraska.

Dated:

By: 

Justin E. Tarbell

Managing Director

Ohserase Manufacturing, LLC

**ACTION BY UNANIMOUS WRITTEN CONSENT OF  
THE MEMBERS OF  
OHSERASE MANUFACTURING, LLC**

The undersigned, Ohserase Manufacturing, LLC by and through its Members, do hereby consent in writing to the adoption of the following resolutions, taking said action in lieu of a meeting, as permitted by Section 607.0821 of the Florida Statutes.

RESOLVED AS FOLLOWS:

1. That the following corporate officials and employees shall be designated on the TTB Form TTB-F5100.1) Signing Authority for Corporate Officials to sign or to appoint persons authorized to sign documents submitted on the corporation's behalf to the Alcohol and Tobacco Tax and Trade Bureau:

A. Justin Eli Tarbell

2. That the Signing Authority is hereby adopted, ratified, and approved for this limited liability corporation.

3. That the Member/Manager of the limited liability corporation shall execute a Power of Attorney (TTB Form 5000.8) authorizing Barry M. Boren, Esq. to act on behalf of the limited liability corporation in matters relating to the Alcohol and Tobacco Tax and Trade Bureau.

4. That said resolution is hereby adopted, ratified, and approved for this limited liability corporation.

5. That the Member/Manager of the limited liability corporation is hereby authorized to execute any and all documents to obtain any Federal and State licensing necessary to operate this business.

6. That said resolution is hereby adopted, ratified, and approved for this limited liability corporation.

7. That since the limited liability corporation does not, at this time, have a corporate seal, the Member/Manager of the limited liability corporation, Justin Eli Tarbell, is hereby authorized to sign any and all documents on behalf of the limited liability corporation without the corporate seal being affixed to the document.

8. That said resolution is hereby adopted, ratified, and approved for this limited liability corporation.

OHSERASE MANUFACTURING, LLC

DATED 8/27/10

By: Justin Eli Tarbell  
Justin Eli Tarbell, Member/Manager

DATED 8/27/10

By: Eli Tarbell  
Eli Tarbell, Member

DATED 8/27/10

By: Christy Michelle Laguador  
Christy Michelle Laguador, Member

DATED 8-27-10

By: Ryann Araujo  
Ryann Araujo, Member

**REG-57-019 EXEMPTION FOR NATIVE AMERICAN INDIANS**

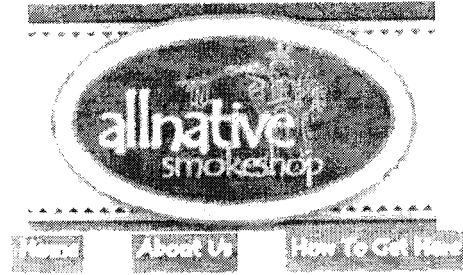
019.01 Any sale of cigarettes to a Native American Indian where title and possession are taken within the boundaries of an Indian Reservation in Nebraska is exempt from tax.

019.02 Retailers making exempt cigarette sales may receive a credit for the cigarette tax. To support the credit the retailer must distinguish on his or her cigarette sales records the exempt sales to Native American Indians from the nonexempt sales.

019.03 A claim for credit of cigarette tax must be made to the licensed wholesale distributor on the Nebraska Credit Computation for Cigarettes and Tobacco Products Sold to Native American Reservation Indians, Form 68.

019.04 Licensed wholesale distributors receive credit for the cigarette tax paid by submitting the completed Form 68 with a subsequent Nebraska Cigarette Purchase Order for Stamps and Impressions.

*(Sections 59-1514 and 59-1518, R.R.S. 1943. May 14, 1994.)*



**Tobacco Products**

- Native Brands
- Major Brands
- Cigars & Tobacco
- Non-Tobacco Products

**NEW ITEM!** BULLDOG E CIGARETTE Altria Brands  
 SENECA, SIGNAL AND RENARDS CIGARS Altria Brands

*Welcome to All Native Smokeshop!*

Federal law prohibits us from selling traditional cigarettes online. However, we do invite you to purchase the hottest new product on the market – the E-Cigarette! And we also offer you a quality line of cigars and little cigars. Both e-cigarettes and cigars can be purchased by calling us today and can be shipped right to your door!

For traditional cigarettes, if you're in driving distance, make the comfortable drive to Winnebago, Nebraska and get quality brands at the lowest prices in the state! We're a great tourist stop too! The All Native Smokeshop is located in the beautiful Ho-Chunk Village on the north edge of Winnebago. Ho-Chunk Village is a brand new community development featuring gift shops, discount store, an art center, Italian restaurant and a beautiful state garden. And right across the highway is a buffalo herd grazing in the pasture. All in all, there's a lot to see when you make the trip!

Check out our products pages and either order today or make plans to visit us soon! Please feel free to call us toll free for more information.

*Check out our popular Products Page and see prices online and then make plans to visit us soon!*

Please feel free to call us toll-free **1-800-296-4170** for directions or more information!  
 Or check out our **Way To Buy** page on this website.

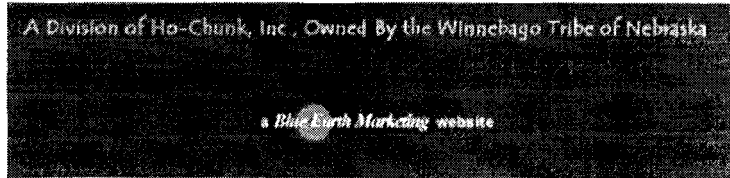
**BEST SELLERS**

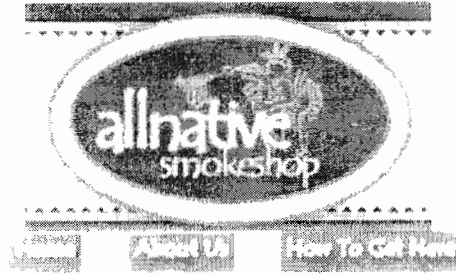
- 1) Signal
- 2) Seneca Brand Cigarettes
- 3) Smokin Joe Natural Brand
- 4) Marlboro
- 5) Smokin Joe Regular Brand
- 6) Roger Brand Cigarettes
- 7) Seneca Brand Cigarettes
- 8) Skydancer Brand Cigarettes
- 9) Liggett Brand Cigarettes
- 10) Basic Brand Cigarettes

Call toll-free today  
**1-800-296-4170**  
 Talk to a  
 live-friendly Customer  
 Service Representative.

Ask about  
 our products  
 And get directions to visit  
**AllNative  
 Smokeshop**  
 today!

All Native Smokeshop





**Tobacco Products**

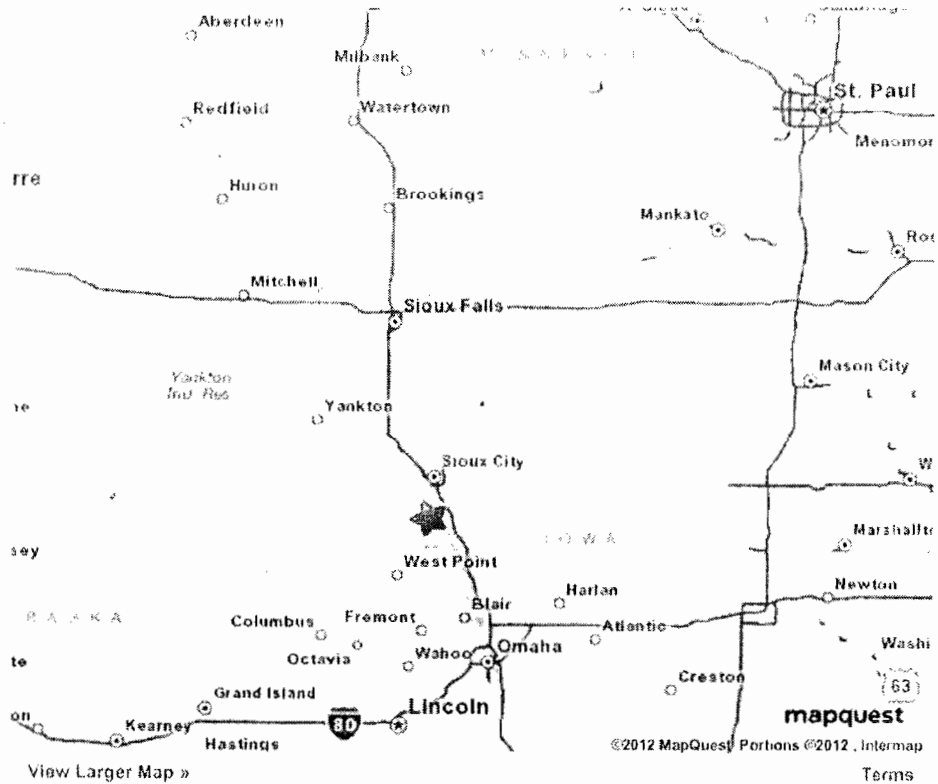
- Native Brands
- Major Brands
- Cigars & Tobacco
- Non-Tobacco Products

**How To Get Here**

All Native Smokeshop is located on a major state highway, Highway 77 in northeast Nebraska, just minutes from Sioux City, Iowa and a short distance from Omaha, Nebraska. Take the short drive and save! Or if you prefer, you can order your e-cigarettes and cigars by phone today!

When you visit us, you'll enjoy the sights and a unique shopping experience with the variety of quality merchandise from the Village Gift Shops and you can enjoy lunch or a snack at the Village Italian Restaurant.

See the map below for our location and driving directions from both Sioux City, Iowa and Omaha, Nebraska. We accept MasterCard, Visa, money order or personal check when you visit our store. Call toll free **1-800-296-4170** for more information. We look forward to your visit soon!



© AllNative Smokeshop