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From: Scott Bailey [sbailey@mikeshardlemonade.com]

Sent: Wednesday, October 22, 2003 5:54 PM

To: nprm@ttb.gov

Cc: Aaron Benjamin; Tom Caito; Jim Herron; Belinda Van Domelen

Subject: FW: FW: URGENT RE: TTB RULING - Scott Bailey

80 West Hubbard

Columbus, OH

October 21, 2003

Mr. William Foster

Chief Regulations and Procedures Division

Alcohol and Tobacco Tax and Trade Bureau

P.O. Box 50221

Washington, DC 20091-0221

Re: TTB Notice No. 4

Dear Mr. Foster:

I would like to take this opportunity to urge you to adopt a majority standard that would allow less than 50 % of the alcohol in flavored malt beverages to come from flavoring materials instead of the proposal to limit the alcohol contribution from flavoring materials in these beverage products to 0.5% alcohol by volume. As an employee of Mark Anthony Brands, which is a leading producer of flavored malt beverages, I feel the new proposal would be devastating to our product line and consequently to my employment. Flavored malt beverages have been on the market for years and the bureau has allowed brewers to produce and sell FMB's that derive a majority of their alcohol from flavoring materials. I have been told that Notice No. 4 has been designed to prevent consumer confusion. It has been my experience that consumers select their FMB's based on taste and cost. They could not care less about the source of alcohol in their FMB's and I have never heard a single complaint from any of my many wholesalers or retailers.

I agree with the section of Notice No. 4 that has the TTB establishing a national uniform standard that would establish regulatory limits on the addition of alcohol to malt beverages from flavors. I can also see the merit in this part of the proposal for both state regulators and my industry, but I cannot see why the 0.5% standard is your only option. FMB's are a relatively new product and they are experiencing a strong growth in sales but this new standard would put companies like ours at an unfair advantage. This can be eliminated by adopting a rule that all companies can meet and that would be a majority standard that caps the alcohol

As I stated before, the adoption of the 0.5% standard for FMB's would in all probability lead to the loss of jobs of many hardworking Americans as well as taking popular products off the market, not because the products had low sales, but because our own government made it impossible for these products to be produced. God Bless America!

Sincerely, Scott Bailey