



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 13-09

of the

### SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

**WHEREAS**, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

**WHEREAS**, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

**WHEREAS**, the Squaxin Island Tribal Council is the controlling shareholder in Skookum Creek Tobacco Co., Inc., a corporation chartered under Squaxin Island Tribal Law; and

**WHEREAS**, Skookum Creek Tobacco Co., Inc. manufactures cigarettes, and qualified its cigarettes for sale throughout the United States; and

**WHEREAS**, several states indicated that in addition to a waiver of sovereign immunity by the corporation with respect to its assets, a limited waiver of sovereign immunity by the Tribe itself was a condition precedent to state certification of Skookum Creek brands; and

**WHEREAS**, an ad hoc working group of the National Association of Attorney General's ("NAAG"), including representatives from Oklahoma, Ohio, Pennsylvania, South Dakota, Nebraska, West Virginia, Tennessee, South Carolina, and Arizona prepared a waiver of sovereign immunity, and indicated its use would be acceptable for this purpose; and

**WHEREAS**, the draft waiver obligated the Tribe to accept shareholder liability for the actions of Skookum Creek with respect to Skookum Creek's liability to a state government under its state qualifying and complimentary legislation, which compel the payment of a per cigarette amount into escrow for Skookum cigarettes sold within the state, to the full extent shareholder liability is applicable to the Tribe under the "piercing the veil" doctrine; and

**WHEREAS**, the Tribe authorized such a Waiver under Tribal Council Resolution 11-38, and waivers were signed and granted in favor of Arizona, Nebraska, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, and West Virginia; and

**WHEREAS**, Skookum Creek Tobacco Co., Inc. has now determined to voluntarily withdraw from the markets of Nebraska, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, and West Virginia; and

**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council hereby revokes those waivers of sovereign immunity granted in favor of Nebraska, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, and West Virginia and any other waiver of sovereign immunity, consent to suit, or similar consent to jurisdiction, express or implied, previously granted in favor of such states.

#### CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 14<sup>th</sup> day of February, 2013, at which time a quorum was present and was passed by a vote of 16 for and 0 against, with 0 abstentions.

  
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David Lopeman, Chairman

Attested by:   
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Peter Kruger Sr., Secretary

  
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Arnold Cooper, Vice Chairman