

**UNITED STATES OF AMERICA
DEPARTMENT OF TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

In the Matter of the Proposed)
Suspension of the Basic Permit Issued)
to:)
)
) No. AF-97570
)
James Johnson, dba James Johnson)
Vineyards)
164 Luke Drive)
Napa, CA 94574)
Basic Permit CA-P-8623)

INITIAL DECISION

Concurrent with this decision, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to James Johnson (Johnson) an Order to Show Cause why Johnson's authority to operate under basic permit number CA-P-8623 should not be suspended because of willful violations of the conditions of the permit, as set forth in the Order to Show Cause.

Title 27, United States Code, Section 204(e), provides in pertinent part that, by order of the Secretary of the Treasury, and after due notice and opportunity for a hearing to the permittee, a basic permit shall be suspended for such period as the Secretary of the Treasury deems appropriate if the Secretary finds that the permittee has willfully violated any of the conditions of the permit.

Johnson and TTB have entered into a voluntary Suspension Agreement, incorporated into and made part of this Initial Decision. As part of the Agreement, Johnson admits and acknowledges the violations set forth in the Order to Show Cause and waives his right to a hearing. Therefore, under the authority of 27 C.F.R. § 71.79(b), the undersigned TTB representative hereby makes the following Findings and Decision.

EVIDENCE PRESENTED BY THE GOVERNMENT

1. The Order to Show Cause issued concurrently with this decision.
2. A stipulated Suspension Agreement executed by an authorized representative of Johnson, admitting the violations alleged in the Order to Show Cause and agreeing to the imposition of a one-day suspension.

FINDINGS OF FACT AND CONCLUSIONS

1. Johnson waived his right to request a hearing on this matter and agreed to accept concurrent service of the Order to Show Cause and this Decision.

2. Johnson has admitted the allegations contained in the Order to Show Cause.
3. Johnson's authority to operate under basic permit number CA-P-8623 may and should be suspended for a period of one day.

DECISION AND ORDER

1. In pertinent part, basic permits issued pursuant to the Federal Alcohol Administration Act are conditioned upon compliance with the requirements of 27 U.S.C. §§ 205 and 206 "and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto." 27 U.S.C. § 204(d).
2. James Johnson violated the conditions of his basic permit in the following manner and instances:
 - a. Johnson is a TTB-permitted wine wholesaler located in California.
 - b. [REDACTED] is a TTB-permitted wine wholesaler located in [REDACTED] (and a "trade buyer" within the meaning of 27 U.S.C. § 205(d)).
 - c. In or around October 2016 and continuing through approximately February 2018, Johnson sold wine to [REDACTED] on consignment. Specifically, Johnson provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay for the wine until after it sold the wine to retailers.
 - d. In 2012, Johnson changed his premises address without applying for an amended basic permit, even though he notified TTB of prior address changes in both 2003 and 2005.
 - e. Johnson acted willfully, or with plain indifference to the requirements of the FAA Act, in entering into the consignment sale arrangement with [REDACTED] and in failing or refusing to update his premises address.
3. The FAA Act, 27 U.S.C. § 205(d), makes it unlawful for an industry member to sell, offer for sale, or contract to sell to any trade buyer (a wholesaler or retailer) on consignment.
4. Consignment sales are arrangements where the trade buyer is not obligated to pay for distilled spirits, wine, or malt beverages until after the trade buyer sells the distilled spirits, wine, or malt beverages. 27 C.F.R. § 11.22.
5. TTB may suspend a basic permit issued under the FAA Act if its holder willfully violates any of the conditions of the permit. 27 U.S.C. § 204(e)(1).

Johnson has admitted the violations alleged in the Order to Show Cause. Accordingly, Johnson and TTB have agreed that Johnson's authority to operate under basic permit number CA-P-8623 is to be suspended for a period of one day. It is, therefore, decided that the period of suspension will and shall be on October 19, 2018.

October 5, 2018

Dated

Ronald N. Digitally signed by
Ronald N. Hancock
Hancock Date: 2018.10.05
11:32:53 -04'00'

Ronald Hancock
Deputy Assistant Administrator, Field Operations
Alcohol and Tobacco Tax and Trade Bureau

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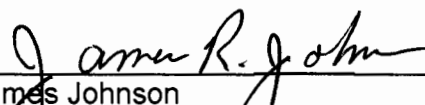
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SUSPENSION AGREEMENT

1. James Johnson waives his right to file an Answer and his right to a hearing before an administrative law judge, agrees to accept concurrent service of the Order to Show Cause and the suspension decision, and admits the violations set forth in the Order to Show Cause and the Initial Decision.
2. The Deputy Assistant Administrator (Field Operations), Alcohol and Tobacco Tax and Trade Bureau (TTB), and James Johnson agree that James Johnson's authority to operate under basic permit CA-P-8623 will be suspended for a period of one day.
3. James Johnson's ability to operate under basic permit CA-P-8623 will be suspended by order of the Deputy Assistant Administrator (Field Operations). [REDACTED] will serve its suspension on Friday, October 19, 2018.
4. During the period of suspension, James Johnson cannot conduct certain business activities that it otherwise would legally conduct through its basic permit. Activities that shall not be performed during the suspension include, but are not limited to:
 - a. Filling wine orders for customers;
 - b. Placing orders of wine for customers;
 - c. Contracting to sell or offering to sell your wine products;
 - d. Shipping wine in interstate or foreign commerce;

- e. Advertising or disseminating, or causing to be advertised or disseminated, in interstate or foreign commerce, any advertisements of distilled spirits, wine or malt beverages.
5. During the period of suspension, James Johnson may conduct activities that would allow maintenance of its current stock or inventory. Such activities include, but are not limited to:
 - a. Activity that would only relate to maintaining or preserving wine which has already been produced or fermented;
 - b. Receiving wine production materials during the time of the suspension that had been shipped or had already been in transit prior to the commencement of the suspension;
 - c. Taking inventory of warehouse goods;
 - d. Performing administrative activities such as bookkeeping;
 - e. Rearranging warehouse stock; or
 - f. Altering, changing, or creating, but not placing in interstate or foreign commerce, advertisements of your wine products
 6. The parties agree that the information in TTB's suspension decision is not return information under 26 U.S.C. § 6103 and is not subject to any other confidentiality provisions. As such, James Johnson understands that TTB will publish information from the suspension decision on its public website and in its newsletter.
 7. James Johnson agrees that this suspension agreement is valid regardless of the date the Deputy Assistant Administrator signs this agreement, the Order to Show Cause, the Initial Decision, and the Order Suspending permit and expressly waives any objections if the Deputy Assistant Administrator signs any or all of those documents before James Johnson signs this agreement.

Date: 10-11-18



 James Johnson

Date: October 5, 2018

Ronald N.
 Hancock

 Digitally signed by Ronald N.
 Hancock
 Date: 2018.10.05 11:29:25 -04'00'

Ronald Hancock
 Deputy Assistant Administrator, Field Operations
 Alcohol and Tobacco Tax and Trade Bureau