

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

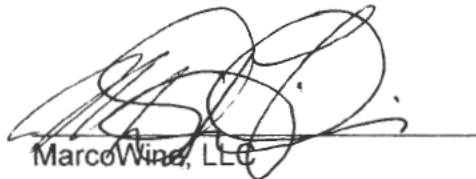
In the Matter of the Proposed)	
Suspension of the Basic Permit Issued)	
to:)	
)	
)	No. AF-97505
MarcoWine, LLC)	
1245 Fairview Drive)	
Calistoga, California 94515)	
Basic Permit CA-P-9485)	

SUSPENSION AGREEMENT

1. MarcoWine, LLC waives its right to file an answer and its 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 MarcoWine, LLC agree that MarcoWine, LLC's authority to operate under basic permit CA-P-9485 will be suspended for a period of one day.
3. MarcoWine, LLC's ability to operate under basic permit CA-P-9485 will be suspended by order of the Deputy Assistant Administrator (Field Operations). MarcoWine, LLC will serve its suspension on October 26, 2018.
4. During the period of suspension, MarcoWine, LLC cannot conduct those normal 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, MarcoWine, LLC may conduct activities that would allow maintenance of its current stock or inventory. Such activities include, but are not limited to:
 - a. Taking inventory of warehouse goods;
 - b. Performing administrative activities such as bookkeeping;
 - c. Rearranging warehouse stock; or
 - d. 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, MarcoWine, LLC understands that TTB will publish information from the suspension decision on its public website and in its newsletter.
7. MarcoWine, LLC agrees that this suspension agreement is valid regardless of the date the Deputy Assistant Administrator signs this agreement, the Order to Show Cause, the Decision, and the Order Suspending permit and expressly waives any objections if the Deputy Assistant Administrator signs any or all of those documents before MarcoWine, LLC signs this agreement.

Date: 10/22/18


MarcoWine, LLC

Date: 10/18/18



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

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Basic Permit CA-P-9485)

DECISION

Concurrent with this decision, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to MarcoWine, LLC (MarcoWine) an Order to Show Cause why MarcoWine's authority to operate under basic permit number CA-P-9485 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.

MarcoWine and TTB have entered into a voluntary suspension agreement, incorporated into and made part of this Decision. As part of the agreement, MarcoWine admits and acknowledges the violations set forth in the Order to Show Cause and waives its right to a hearing. Therefore, under the authority of 27 C.F.R. § 71.79(b), TTB, 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 MarcoWine 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. MarcoWine waived its right to request a hearing on this matter and agreed to accept concurrent service of the Order to Show Cause and this decision.

2. MarcoWine has admitted the allegations contained in the Order to Show Cause.
3. MarcoWine's authority to operate under basic permit number CA-P-9485 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. MarcoWine violated the conditions of its basic permit in the following manner and instances:
 - a. MarcoWine is a wine wholesaler located in California.
 - b. [REDACTED] is a TTB permitted wholesaler located in [REDACTED].
 - c. Beginning in approximately 2008 and continuing through approximately March 2018, MarcoWine sold wine to [REDACTED] on consignment. Specifically, MarcoWine provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay for the wine until after [REDACTED] sold the wine to retailers.
 - d. MarcoWine, through Marco Diagiulio, acted willfully, or with plain indifference to the requirements of the FAA Act, in entering into the consignment sale arrangements with [REDACTED].
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. An FAA Act basic permit is conditioned upon compliance with the requirements of section 205 of the FAA Act. 27 U.S.C. § 204(d).
6. 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).

MarcoWine has admitted the violations alleged in the Order to Show Cause. MarcoWine and TTB have agreed that MarcoWine's authority to operate under basic permit number CA-P-9485 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 26, 2018.

10/18/18
Date



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