

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-97723  
Monticelli Brothers, LLC )  
310 Ashlar Drive )  
Napa, California 94558 )  
Basic Permit CA-P-8669 )

**SUSPENSION AGREEMENT**


1. Monticelli Brothers, 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, and Monticelli Brothers, LLC agree that Monticelli Brothers, LLC's authority to operate under basic permit CA-P-8669 will be suspended for a period of one day.
3. Monticelli Brothers, LLC's ability to operate under basic permit CA-P-8669 will be suspended by order of the Deputy Assistant Administrator (Field Operations). Monticelli Brothers, LLC will serve its suspension on **Friday, December 21, 2018.**
4. During the period of suspension, Monticelli Brothers, 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. Contracting to purchase wine for resale at wholesale;
  - b. Filling wine orders for customers;
  - c. Placing orders of wine for customers;
  - d. Contracting to sell or offering to sell wine products;
  - e. Shipping wine in interstate or foreign commerce;

- f. Advertising or disseminating, or causing to be advertised or disseminated, in interstate or foreign commerce, any advertisements of wines.
- 5. During the period of suspension, Monticelli Brothers, 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 warehoused 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 the Alcohol Tobacco Tax and Trade Bureau's suspension decision is not return information under 26 U.S.C. § 6103 and is not subject to any other confidentiality provisions. As such, Monticelli Brothers, LLC understands that the Alcohol Tobacco Tax and Trade Bureau will publish information from the suspension decision on its public website and in its newsletter.
- 7. Monticelli Brothers, 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 Monticelli Brothers, LLC signs this agreement.

Date: 12/6/18

  
\_\_\_\_\_  
Monticelli Brothers, LLC

Date: December 4 2018

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

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**DECISION**

Concurrent with this decision, the Alcohol and Tobacco Tax and Trade Bureau issued to Monticelli Brothers, LLC an Order to Show Cause why its authority to operate under basic permit number CA-P-8669 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.

Monticelli Brothers, LLC and the Alcohol Tobacco Tax and Trade Bureau have entered into a voluntary suspension agreement, incorporated into and made part of this Decision. As part of the agreement, Monticelli Brothers, LLC 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), the Alcohol Tobacco Tax and Trade Bureau 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 Monticelli Brothers, LLC 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. Monticelli Brothers, LLC 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. Monticelli Brothers, LLC has admitted the allegations contained in the Order to Show Cause.
3. Monticelli Brothers, LLC's authority to operate under basic permit number CA-P-8669 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. Monticelli Brothers, LLC violated the conditions of its basic permit in the following manner and instances:
  - a. Monticelli Brothers, LLC is a wholesaler of wine located in California.
  - b. [REDACTED] is a TTB permitted wholesaler located in [REDACTED].
  - c. [REDACTED] is a TTB permitted wholesaler located in [REDACTED].
  - d. In March, 2016, Monticelli Brothers, LLC, sold wine to [REDACTED] on consignment. Specifically, Monticelli Brothers, LLC 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.
  - e. In May, 2017, Monticelli Brothers, LLC, sold wine to [REDACTED] on consignment. Specifically, Monticelli Brothers, LLC, 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.
  - f. Massimo Monticelli, a managing member of Monticelli Brothers, LLC, admitted to TTB investigators that he voluntarily entered into the sales arrangements with [REDACTED] and that he did so with at least one other wholesaler.

g. Monticelli Brothers, LLC, through Massimo Monticelli, 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).

Monticelli Brothers, LLC has admitted the violations alleged in the Order to Show Cause. Monticelli Brothers, LLC and the Alcohol Tobacco Tax and Trade Bureau have agreed that Monticelli Brothers, LLC's authority to operate under basic permit number CA-P-8669 is to be suspended for a period of one day. It is, therefore, decided that the period of suspension will and shall be on **FRIDAY, DECEMBER 21, 2018**.

December 4 2018

Dated

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