



DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Office of the Assistant Administrator, Field Operations
1310 G Street, N.W.
Washington, D.C. 20220

September 12, 2019

AF-97802

4273672 Canada Inc. dba Cava Spiliadis
142 West 57th, Floor 9
New York, New York 10019-3300

Re: Suspension Paperwork for Basic Permit Number NY-I-15364

Dear 4273672 Canada Inc. dba Cava Spiliadis:

This confirms the suspension of your basic permit, NY-I-15364, for violations of the Federal Alcohol Administration Act, 27 U.S.C § 201 *et. seq.* As you are aware, the Alcohol and Tobacco Tax and Trade Bureau conducted an investigation at 4273672 Canada Inc. dba Cava Spiliadis (hereinafter "Cava Spiliadis") and contends that Cava Spiliadis violated certain provisions of the Federal Alcohol Administration Act.

You have agreed to serve a one (1) day suspension of your basic permit to resolve the noted violations. As part of this agreement, you agreed to withdraw your request for a hearing regarding the suspension of your basic permit.

Enclosed with this letter are the following documents:

1. Suspension Agreement. This document was executed by you and the Alcohol and Tobacco Tax and Trade Bureau and states that you acknowledge the violations in the Order to Show Cause, withdraw your request for a hearing, and agree that your basic permit will be suspended for a period of one (1) day.
2. Initial Decision and Final Order. This document advises you of the Alcohol and Tobacco Tax and Trade Bureau's findings and notifies you of the date of suspension.
3. Order Instituting Suspension. This document suspends basic permit NY-1-15364 for one (1) day, on November 29, 2019.

As you know, the Federal Alcohol Administration Act ("FAA Act") states that a basic permit is necessary in order to engage in the business of importing and selling, offering to deliver for sale, contracting to sell, or shipping, in interstate or foreign commerce wine, either directly or through an affiliate. 27 U.S.C. § 203(a). Finally, a basic permit is also required to publish, disseminate or cause to disseminate any advertisement of wine imported, if the advertisement is in or is calculated to induce sales in interstate or foreign commerce. 27 U.S.C. § 205(f).

While serving the voluntary suspension, you cannot conduct those normal daily business activities that you otherwise would legally conduct through your basic permit. Activities that cannot be performed during the one-day suspension include but are not limited to:

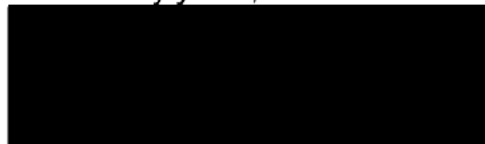
1. Filling wine orders for customers;
2. Placing orders of wine for customers;
3. Contracting to sell or offering to sell wine which you import;
4. Shipping or receiving wine in interstate or foreign commerce;
5. Advertising or disseminating, or causing to be advertised or disseminated, in interstate or foreign commerce, any advertisements of distilled spirits, wine or malt beverages.

You may conduct certain activities that would permit maintenance of your current stock or inventory. Such activities include:

1. Activity that would only relate to maintaining or preserving wine which has already been imported;
2. Taking inventory of warehouse goods;
3. Performing administrative activities such as bookkeeping;
4. Rearranging warehouse stock; or
5. Altering, changing, or creating, but not placing in interstate or foreign commerce, advertisements of wine which you import.

TTB will exercise its enforcement discretion and will not treat this suspension as a "first violation" under 27 U.S.C. § 204(e)(1), unless it discovers that Cava Spiliadis engaged in conduct similar to the violations alleged in such Order to Show Cause on or after the date Cava Spiliadis is ordered to serve its suspension. In other words, TTB will not take action to revoke (but reserves the right to suspend) Cava Spiliadis' permit if it discovers, for example, record keeping, tax, or labeling-related violations that are separate and distinct from the conduct alleged in the issued Order to Show Cause. In contrast, TTB reserves the right to revoke your permit if it finds that Cava Spiliadis engaged in conduct similar to that alleged in the issued Order to Show Cause.

Sincerely yours,



Deputy Assistant Administrator
Field Operations

Enclosures

**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:)	
)	
4273672 Canada Inc. dba Cava Spiliadis)	
142 West 57th, Floor 9)	No. AF-97802
New York, New York 10019-3300)	
Basic Permit NY-I-15364)	
)	

INITIAL DECISION

On April 25, 2019, the Alcohol and Tobacco Tax and Trade Bureau (hereinafter "TTB") issued to 4273672 Canada Inc. dba Cava Spiliadis (hereinafter "Cava Spiliadis") an Order to Show Cause why its authority to operate under basic permit number NY-I-15364 should not be suspended due to 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.

Cava Spiliadis and TTB have now entered into a Settlement Agreement to resolve the immediate matter, which is currently before an Administrative Law Judge (ALJ). As part of the agreement, without admitting guilt, Cava Spiliadis acknowledges the violations set forth in the Order to Show Cause and has agreed to withdraw its request for hearing. Cava Spiliadis is withdrawing its hearing request due to the cost of defending the immediate matter, which it claims it is unable to afford. 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 on April 25, 2019.
2. A Settlement Agreement executed by an authorized representative of Cava Spiliadis, acknowledging (without admitting guilt) 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. Cava Spiliadis has agreed to withdraw its May 13, 2019 hearing request, which it filed in response to TTB's Order to Show Cause.
2. Cava Spiliadis acknowledged the allegations contained in the Order to Show Cause, without admitting fault, and agreed to a one (1) day suspension in resolution of the matter.
3. Cava Spiliadis' authority to operate under basic permit number NY-I-15364 may and should be suspended for a period of one (1) day.

DECISION AND ORDER

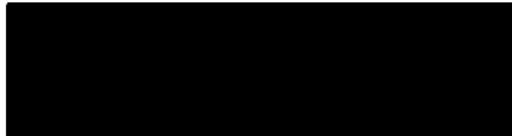
1. In pertinent part, basic permits issued pursuant to the Federal Alcohol Administration Act are conditioned upon compliance with the requirements of 27 U.S.C. §§ 205 and 206 "and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto." 27 U.S.C. § 204(d).
2. Cava Spiliadis violated the conditions of its basic permit in the following manner and instances:
 - a. Cava Spiliadis is a TTB permitted importer headquartered in Montreal, Canada, and which also has an office in New York, New York.
 - b. [REDACTED] is a TTB permitted wholesaler located in [REDACTED].
 - c. Beginning in September 2016 and continuing through April 2018, Cava Spiliadis sold imported wine to [REDACTED] on consignment. Specifically, Cava Spiliadis provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay Cava Spiliadis for the wine until after [REDACTED] sold the wine to retailers in [REDACTED].
 - d. Cava Spiliadis 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).

Cava Spiliadis has acknowledged the violations alleged in the Order to Show Cause and agreed to a suspension in resolution of the allegations. Cava Spiliadis and TTB have agreed that Cava Spiliadis' authority to operate under basic permit number NY-I-15364 is to be suspended for a period of one (1) day. It is therefore decided that the period of suspension will and shall be on November 29, 2019.

TTB will exercise its enforcement discretion and will not treat this suspension as a "first violation" under 27 U.S.C. § 204(e)(1), unless it discovers that Cava Spiliadis engaged in conduct similar to the violations alleged in such Order on or after November 29, 2019.

9/12/19
Dated



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

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
ORDER SUSPENDING, REVOKING, OR ANNULLING PERMIT

UNITED STATES OF AMERICA
 Judicial District of S.D.N.Y

Case No. AF-97802

In the matter of Permit Number(s) and Date(s) of issuance Listed Below:
 NY-I-15364, issued on 05/04/2011; amended on 06/28/2011; amended on
 02/19/2014; amended on 06/14/2019.

NAME AND ADDRESS OF PERMITTEE (Show Number Street, City, State, ZIP Code)

4273672 Canada Inc. dba Cava Spiliadis
 142 West 57th Street, Floor 9
 New York, New York 10019-3300

An order or citation having been served directing the above named permittee to show cause why the above permit(s) should not be suspended, revoked, or annulled, and providing an opportunity for hearing, and the Deputy Assistant Administrator, Field Operations or Administrative Law Judge having rendered and served a decision, which is incorporated herein by reference it is ORDERED that

PERMIT NUMBER(S) NY-I-15364	ISSUED TO 4273672 Canada Inc. dba Cava Spiliadis	IS (ARE) HEREBY <input checked="" type="checkbox"/> suspended for a period of <u>1</u> days, beginning <u>November 29, 2019</u> or, if affirmed on appeal 10 days after the affirmance. <input type="checkbox"/> revoked. <input type="checkbox"/> annulled
1. Date 09/12/2019	2. SIGNATURE: DEPUTY ASSISTANT ADMINISTRATOR, FIELD OPERATIONS, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU <div style="background-color: black; width: 100%; height: 20px;"></div>	

3. I hereby certify that on the date shown below I served the above order on the person identified below by

- delivering a copy of the order to him at the address shown below.
- registered mail to him at the address shown below.

4. DATE ORDER SERVED	5. NAME OF PERSON SERVED (If served on partner or officer of corporation, so state) <div style="background-color: black; width: 100%; height: 15px;"></div> President of Cava Spiliadis	
6. ADDRESS WHERE ORDER SERVED 142 West 57th St, Floor 9, New York, New York, 10019-3000		
7. DATE	8. SIGNATURE OF PERSON SERVING ORDER	9. TITLE