

**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-97767  
Five Vintners Wines, LLC )  
1985 Vineyard Avenue )  
Saint Helena, California )  
Basic Permit CA-P-8813 )

**SUSPENSION AGREEMENT**

1. Five Vintners Wines, LLC agrees to withdraw its hearing request in the above-reference matter.
2. Five Vintners Wines, LLC continues to deny the allegations. Five Vintners Wines, LLC asserts that it did not knowingly violate any laws and is withdrawing its hearing request due to the mounting cost of defending the case, which it is unable to afford.
3. The Deputy Assistant Administrator (Field Operations), Alcohol and Tobacco Tax and Trade Bureau (TTB), and Five Vintners Wines, LLC agree that its authority to operate under basic permit CA-P-8813 will be suspended for a period of one day.
4. Five Vintners Wines, LLC's ability to operate under basic permit CA-P-8813 will be suspended by order of the Deputy Assistant Administrator (Field Operations). Five Vintners Wines, LLC will serve its suspension on November 29, 2019.
5. During the suspension period, Five Vintners Wines, 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. Purchasing or receiving, or contracting to purchase or receive, wine for resale;

- b. Selling wine at wholesale;
  - c. Filling wine orders for customers;
  - d. Placing orders of wine for customers;
  - e. Contracting to sell or offering to sell your wine products;
  - f. Shipping wine in interstate or foreign commerce;
  - g. Advertising or disseminating, or causing to be advertised or disseminated, in interstate or foreign commerce, any advertisements of distilled spirits, wine or malt beverages.
6. During the suspension period, Five Vintners Wines, LLC 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 received;
  - b. Receiving wine during the time of the suspension that was shipped or was already in transit before the suspension commenced;
  - 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.
7. 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 Five Vintners Wines, LLC engaged in conduct similar to the violations alleged in the Order to Show Cause on or after the date ordered to serve your suspension.
8. 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, Five Vintners Wines, LLC understands that TTB will publish information from the suspension decision on its public website and in its newsletter.

9. Five Vintners Wines, LLC agrees that this suspension agreement is valid regardless of the date the Deputy Assistant Administrator signs this agreement, 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 Five Vintners Wines, LLC signs this agreement.

Date: 9/3/19

[Redacted Signature]

Five Vintners Wines, LLC

Date: \_\_\_\_\_

[Redacted Signature]

[Redacted Signature]

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

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**INITIAL DECISION**

On December 13, 2018, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to Five Vintners Wines, LLC an Order to Show Cause why its authority to operate under basic permit number CA-P-8813 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.

Five Vintners Wines, LLC and TTB have entered into a Settlement Agreement to resolve the immediate matter, which is currently before an Administrative Law Judge (ALJ). As part of the agreement, Five Vintners Wines, LLC acknowledges the violations set forth in the Order to Show Cause and has agreed to withdraw its request for 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 December 13, 2018.
2. A Settlement Agreement executed by Five Vintners Wines, LLC, acknowledging 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. Five Vintners Wines, LLC has agreed to withdraw its hearing request, which it filed in response to TTB's Order to Show Cause of December 13, 2018.

2. Five Vintners Wines, LLC acknowledged the allegations contained in the Order to Show Cause, without admitting fault, and agreed to a one day suspension in resolution of the matter.
3. Five Vintners Wines, LLC's authority to operate under basic permit number CA-P-8813 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. Five Vintners Wines, LLC violated the conditions of its basic permit in the following manner and instances:
  - a. Five Vintners Wines, LLC is a TTB-regulated industry member, operating as a wholesaler of wine in California.
  - b. [REDACTED] is a TTB permitted wholesaler located in [REDACTED].
  - c. [REDACTED] is a TTB-permitted wholesaler located in [REDACTED].
  - d. Beginning in 2015 and continuing through approximately January 2018, Five Vintners Wines, LLC, sold wine to [REDACTED] and [REDACTED] on consignment. Specifically, Five Vintners Wines, LLC provided wine to [REDACTED] and [REDACTED] pursuant to arrangements whereby the wholesalers were not obligated to pay for the wine until after the wholesalers sold the wine to retailers.
  - e. Five Vintners Wines, LLC, acted willfully, or with plain indifference to the requirements of the FAA Act, in entering into the consignment sale arrangements with [REDACTED] and [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).

Five Vintners Wines, LLC has acknowledged the violations alleged in the Order to Show Cause and agreed to a suspension in resolution of the allegations. Five Vintners Wines, LLC and TTB have agreed that Five Vintners Wines, LLC's authority to operate under basic permit number CA-P-8813 is to be suspended for a period of one 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 unless it discovers that Five Vintners Wines, LLC engaged in conduct similar to the violations alleged in this Order on or after the date of the suspension.

9/9/19

Dated

[REDACTED]

[REDACTED]

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