

**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-97777  
)  
Retro Cellars LLC )  
1955 Summit Lake Drive )  
Angwin, CA 94508-9785 )  
Basic Permit CA-P-16172 )  
)

**INITIAL DECISION**

On February 1, 2019, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued an Order to Show Cause (OTSC) why TTB should not suspend wholesaler basic permit number CA-P-16172, held by Retro Cellars, LLC (Retro), due to the alleged violations of the conditions of such permit set forth in the OTSC. Retro received the OTSC on February 11, 2019. The OTSC was accompanied by a letter informing Retro that it had 15 days from the date of service to request a hearing and/or file a written Answer, and that if it did not respond within that period, TTB would issue an Order suspending Retro's permit for one day. Although Retro had until February 26, 2019 to request a hearing and/or file a written Answer in this matter, it waived that right by email dated February 19, 2019. Accordingly, under the authority of 27 C.F.R. § 71.79(b), TTB's Deputy Assistant Administrator (Field Operations) hereby issues this Initial Decision.

The Federal Alcohol Administration (FAA) Act, under which Retro's permit was issued and is regulated, provides in pertinent part that a wholesaler's basic permit shall, after due notice and opportunity for a hearing to the permittee, be revoked or 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 thereof. 27 U.S.C. § 204(e)(1). A permittee's first violation subjects its permit to suspension only. *Id.*

**EVIDENCE PRESENTED BY THE GOVERNMENT**

1. The Order to Show Cause, dated February 1, 2019.
2. TTB's February 1, 2019, cover letter that accompanied the OTSC.
3. Retro's email dated February 19, 2019, acknowledging receipt of the OTSC on February 11, 2019, and waiving its right to request a hearing.

## FINDINGS OF FACT AND CONCLUSIONS

1. Retro is a TTB-permitted wine wholesaler located in California (and an “industry member” within the meaning of 27 C.F.R. § 11.11).
2. [REDACTED] is a TTB-permitted wine wholesaler located in [REDACTED] (and a “trade buyer” within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. § 11.21).
3. [REDACTED] is a wine wholesaler located in [REDACTED] (and a “trade buyer” within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. § 11.21).
4. In or around March 2015 and continuing through approximately February 2018, Retro sold wine to [REDACTED] on consignment. Specifically, Retro provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay for the wine until after it was sold to retailers.
5. In or around March 2017, Retro sold wine to [REDACTED] on consignment. Specifically, Retro provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay for the wine until after it was sold to retailers.
6. Retro voluntarily entered into these sales arrangement with [REDACTED] and [REDACTED].
7. One of Retro’s owners, Karen Dunn, admitted that until approximately January 2018, neither [REDACTED] nor [REDACTED] were obligated to pay for Retro’s wine until it was sold by [REDACTED] or [REDACTED], respectively.
8. Several invoices for the sale of wine from Retro to [REDACTED] and [REDACTED] explicitly list, as payment terms, “remit as sold.”
9. Retro acted willfully, or with plain indifference to the requirements of the FAA Act, in entering into the consignment sale arrangement with [REDACTED] and [REDACTED].
10. An FAA Act basic permit is conditioned in part upon compliance with the requirements of 27 U.S.C. § 205 (relating to unfair competition and unlawful practices). Section 205, in pertinent part, prohibits industry members such as Retro from engaging in consignment sales.
11. Retro, by willfully engaging in unlawful consignment sales, violated the conditions of its permit and subjected its permit to suspension.
12. Retro received service of TTB’s February 1, 2019 OTSC on February 11, 2019.

13. Retro was afforded due notice and opportunity for hearing.
14. Retro waived its right to request a hearing.
15. The findings in the foregoing Paragraphs 1-14 of this section provide sufficient grounds upon which to suspend Retro's permit.
16. Retro's authority to operate as an FAA Act wholesaler basic permittee may and should be suspended for a period of one day.

**DECISION AND ORDER**

For the foregoing reasons, Retro's authority to operate as a wholesaler of wine is hereby suspended for one day. Retro shall serve its suspension on Monday, February 25, 2019.

**February 20, 2019**  
Dated

[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] 15:06:48 -05'00'

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