

**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-97507
Modus Operandi Cellars, LLC)
3125 St. Helena Highway North)
St Helena, California 94574)
Basic Permit CA-W-15827)

DECISION

Concurrent with this decision, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to Modus Operandi Cellars, LLC (Modus Operandi) an Order to Show Cause why Modus Operandi's authority to operate under basic permit number CA-W-15827 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.

Modus Operandi and TTB have entered into a voluntary suspension agreement, incorporated into and made part of this Decision. As part of the agreement, Modus Operandi 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 Modus Operandi, 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. Modus Operandi 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. Modus Operandi has admitted the allegations contained in the Order to Show Cause.
3. Modus Operandi's authority to operate under basic permit number CA-W-15827 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. Modus Operandi violated the conditions of its basic permit in the following manner and instances:
 - a. Modus Operandi Cellars, LLC, is a bonded winery located 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 2014 and continuing through approximately May 2016, Modus Operandi Cellars, LLC, sold wine to [REDACTED] on consignment. Specifically, Modus Operandi Cellars, 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. Beginning in 2014 and continuing through approximately January 2016, Modus Operandi Cellars, LLC, sold wine to [REDACTED] on consignment. Specifically, Modus Operandi Cellars, 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. Modus Operandi, through James Moore, 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).

Modus Operandi has admitted the violations alleged in the Order to Show Cause. Modus Operandi and TTB have agreed that Modus Operandi's authority to operate under basic permit number CA-W-15827 is to be suspended for a period of one day. It is, therefore, decided that the period of suspension will and shall be on August 21, 2018.

8/13/18
Dated



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

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

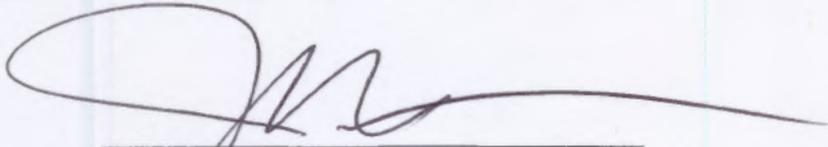
In the Matter of the Proposed)
Suspension of the Basic Permit Issued)
to:)
)
) No. AF-97507
)
Modus Operandi Cellars, LLC)
3125 St. Helena Highway North)
St Helena, California 94574)
Basic Permit CA-W-15827)

SUSPENSION AGREEMENT

1. Modus Operandi Cellars, 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 Modus Operandi Cellars, LLC agree that Modus Operandi Cellars, LLC's authority to operate under basic permit CA-W-15827 will be suspended for a period of one day.
3. Modus Operandi Cellars, LLC's ability to operate under basic permit CA-W-15827 will be suspended by order of the Deputy Assistant Administrator (Field Operations). Modus Operandi Cellars, LLC will serve its suspension on August 21, 2018.
4. During the period of suspension, Modus Operandi Cellars, 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. Producing, rectifying or blending wine;
 - e. Shipping wine in interstate or foreign commerce;

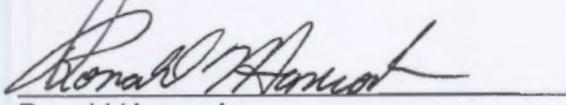
- f. Advertising or disseminating, or causing to be advertised or disseminated, in interstate or foreign commerce, any advertisements of distilled spirits, wine or malt beverages.
5. During the period of suspension, Modus Operandi Cellars, LLC may conduct activities that would allow maintenance of its 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 produced or fermented;
 - b. Receiving wine production materials during the time of the suspension that had been shipped or had already been in transit prior to the commencement of the suspension;
 - 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
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, Modus Operandi Cellars, LLC understands that TTB will publish information from the suspension decision on its public website and in its newsletter.
7. Modus Operandi Cellars, 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 Modus Operandi Cellars, LLC signs this agreement.

Date: 8-14-18



Modus Operandi Cellars, LLC

Date: 8/13/18



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