

**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-97756
Abiouness Wines, LLC)
2610 Pinot Way)
Saint Helena, CA 94574)
Basic Permit CA-P-8982)
)

INITIAL DECISION

On February 27, 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-8982, held by Abiouness Wines, LLC (Abiouness), due to alleged violations of the conditions of such permit as set forth in the OTSC. Abiouness received the OTSC on March 9, 2019. The OTSC was accompanied by a letter informing Abiouness that it had 15 days from the date of service to request a hearing or file a written answer and, that if it did not respond within 15 days, TTB would issue an order suspending Abiouness's permit. Abiouness has not responded to the OTSC and the period for Abiouness to request a hearing or file a written answer has expired. 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 Abiouness's permit was issued, provides in pertinent part that a wholesaler's basic permit shall, after due notice and opportunity for a hearing to the permittee, 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 thereof. 27 U.S.C. § 204(e)(1).

EVIDENCE PRESENTED BY THE GOVERNMENT

1. The Order to Show Cause, dated February 27, 2019.
2. TTB's February 27, 2019, cover letter that accompanied the OTSC.
3. The February 27, 2019, Registered Mail Receipt for the OTSC.
4. The USPS Tracking and Delivery Confirmation for the OTSC.

FINDINGS OF FACT AND CONCLUSIONS

1. Abiouness is a wine wholesaler operating in California (and an “industry member” within the meaning of 27 C.F.R. §§ 11.11, 11.21).
2. [REDACTED] is a TTB-permitted distilled spirits and wine wholesaler located in [REDACTED] (and a “trade buyer” within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. §§ 11.11, 11.21).
3. [REDACTED] is a TTB-permitted distilled spirits and wine wholesaler located in [REDACTED] (and a “trade buyer” within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. §§ 11.11, 11.21).
4. An FAA Act basic permit is conditioned upon compliance with the requirements of 27 U.S.C. § 205 and all other federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto. 27 U.S.C. § 204(d).
5. Section 205(d), makes it unlawful for an industry member to sell, offer for sale, or contract to sell to any trade buyer on consignment.
6. Federal regulations define “consignment sales” as arrangements wherein the trade buyer is under no obligation to pay for distilled spirits, wine, or malt beverages until they are sold by the trade buyer. 27 C.F.R. § 11.22.
7. In or around March 2016, and continuing through approximately September 2017, Abiouness sold wine to [REDACTED] on consignment. Specifically, Abiouness provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay for the wine until after it sold such wine to retailers.
8. In or around February 2016, and continuing through approximately July 2016, Abiouness sold wine to [REDACTED] on consignment. Specifically, Abiouness provided wine to [REDACTED] pursuant to an arrangement whereby [REDACTED] was not obligated to pay for the wine until after it sold such wine to retailers.
9. Abiouness voluntarily entered into these sales arrangements with [REDACTED] and [REDACTED].
10. The trade buyers took possession of Abiouness’s wines, after arranging for the wines to be transported in interstate commerce to their storage facilities outside of California.
11. Purchase orders generated by [REDACTED] and [REDACTED] reflected a \$0 amount as the cost per order.

12. Nicole Abiouness, Manager of Abiouness, admitted to TTB investigators that [REDACTED] and [REDACTED] paid Abiouness for the wine after selling the wine to retailers.
13. Abiouness acted willfully, or with plain indifference to the requirements of the FAA Act, in entering into the consignment sale arrangements with [REDACTED] and [REDACTED].
14. Abiouness, by willfully engaging in unlawful consignment sales, violated the conditions of its permit and subjected its permit to suspension.
15. Abiouness received service of TTB's OTSC on March 9, 2019.
16. Abiouness was afforded due notice and opportunity for hearing.
17. Abiouness failed to file an answer or request a hearing within 15 days of the service of the OTSC and has waived its right to a hearing and its right to contest the grounds for the action.
18. The findings in the foregoing paragraphs of this section provide a sufficient basis upon which to suspend Abiouness's permit.
19. Abiouness'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, Abiouness's authority to operate as a wholesaler of wine is hereby suspended for one day. Abiouness shall serve its suspension on Friday, May 24, 2019.

4/18/19
Dated

[REDACTED]

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