

**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-97759  
)  
Owen D. Albini, dba Albini Family )  
Vineyards )  
886 Jensen Lane )  
Windsor, California 95492 )  
Basic Permit CA-W-16089 )

**SUSPENSION AGREEMENT**

1. Owen Albini, dba Albini Family Vineyards, agrees to withdraw his hearing request in the above-referenced matter.
2. Owen Albini continues to deny the allegations. Owen Albini asserts that he did not knowingly violate any laws and is withdrawing his hearing request due to the mounting cost of defending the case, which he is unable to afford.
3. The Deputy Assistant Administrator (Field Operations), Alcohol and Tobacco Tax and Trade Bureau (TTB), and Mr. Albini agree that his authority to operate under basic permit CA-W-16089 will be suspended for a period of one day.
4. Owen Albini's ability to operate under basic permit CA-W-16089 will be suspended by order of the Deputy Assistant Administrator (Field Operations). Mr. Albini will serve his suspension on September 3, 2019.
5. During the suspension period, Owen Albini cannot conduct those normal business activities that he otherwise would legally conduct through his 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 wine orders for customers;
  - c. Contracting to sell or offering to sell 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 wine.

6. During the suspension period, Mr. Albini may conduct activities that would allow maintenance of his 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.
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 Owen Albini 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, Owen Albini understands that TTB will publish information from the suspension decision on its public website and in its newsletter.
9. Owen Albini 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 Owen Albini signs this agreement. Owen Albini also agrees this suspension agreement is valid regardless of whether the Decision and Order are served after the agreed suspension date.

Date: 8-30-19

  
Owen D. Albini

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

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

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In the Matter of the Proposed Suspension of the )  
Basic Permit Issued to: )  
)  
)  
) No. AF-97759  
Owen D. Albini, dba Albini Family Vineyards )  
)  
Respondent )

**INITIAL DECISION**

On February 13, 2019, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to Owen D. Albini, dba Albini Family Vineyards an Order to Show Cause why Mr. Albini's authority to operate under basic permit number CA-W-16089 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.

Owen Albini 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, Mr. Albini acknowledges the violations set forth in the Order to Show Cause and has agreed to withdraw his 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 February 13, 2019.
2. A Settlement Agreement executed by Owen Albini, 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. Owen Albini has agreed to withdraw his hearing request, which he filed in response to TTB's Order to Show Cause of February 13, 2019.

2. Owen Albini 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. Owen Albini's authority to operate under basic permit number CA-W-16089 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. Owen Albini violated the conditions of its basic permit in the following manner and instances:
  - a. Owen Albini is a wine producer and blender in California.
  - b. [REDACTED] is a TTB permitted wholesaler located [REDACTED].
  - c. Beginning in 2015 and continuing through approximately December 2017, Owen Albini, dba Albini Family Vineyards sold wine to [REDACTED] on consignment. Specifically, Owen Albini 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.
  - d. Owen Albini, 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).

Owen Albini has acknowledged the violations alleged in the Order to Show Cause and agreed to a suspension in resolution of the allegations. Owen Albini and TTB have agreed that Owen Albini's authority to operate under basic permit number CA-W-16089 is to be suspended for a period of one day. It is, therefore, decided that the period of suspension will and shall be on September 3, 2019.

TTB will exercise its enforcement discretion and will not treat this suspension as a first violation unless it discovers that Owen Albini engaged in conduct similar to the violations alleged in this Order on or after the date of the suspension.

September 9, 2019  
Dated





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