

**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-97942
)
Grape Passion LLC)
2219 W. Broadway Street)
Fort Worth, Texas 76102)
Basic Permit TX-P-15203)

INITIAL DECISION

On November 12, 2019, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to Grape Passion LLC an Order to Show Cause why its authority to operate under basic permit number TX-P-15203 should not be suspended because of willful violations of the conditions of such 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 such permit.

Grape Passion LLC and TTB have entered into a Suspension Agreement to resolve the immediate matter. As part of the Agreement, Grape Passion LLC acknowledged the violations set forth in the Order to Show Cause and agreed to waive 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 November 12, 2019.
2. A Suspension Agreement executed by Grape Passion LLC, agreeing to the imposition of a one-day suspension.

FINDINGS OF FACT AND CONCLUSIONS

1. Grape Passion has agreed to waive its right to a hearing on the Order to Show Cause issued to it on November 12, 2019, and served upon it on December 3, 2019.

2. Grape Passion LLC acknowledged the allegations contained in the Order to Show Cause, without admitting willfulness, and agreed to a one-day suspension in resolution of the matter.
3. Grape Passion LLC's authority to operate under basic permit number TX-P-15203 may and should be suspended for a period of one day.

DECISION AND ORDER

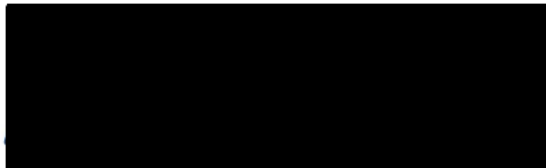
1. In pertinent part, basic permits issued pursuant to the Federal Alcohol Administration ("FAA") Act are conditioned upon compliance with the requirements of 27 U.S.C. §§ 205 and 206 "and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto." 27 U.S.C. § 204(d).
2. Grape Passion LLC violated the conditions of its basic permit in the following manner and instances:
 - a. Grape Passion LLC is a TTB-regulated industry member, operating as a wholesaler of wine in Texas (and a "trade buyer" within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. § 11.11).
 - b. [REDACTED] is a TTB-permitted wine supplier located in California (and in "industry member" within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. § 11.11).
 - c. During the relevant period of limitations, Grape Passion LLC purchased, on consignment, wine from [REDACTED] and other industry members located outside of Texas. Specifically, Grape Passion LLC purchased wine from such industry members under arrangements whereby Grape Passion LLC was not obligated to pay for the wine until after it sold such wine to retailers.
 - d. Grape Passion LLC acted willfully, or with plain indifference to the requirements of the FAA Act, in entering into the consignment sale arrangements with [REDACTED] and other industry members.
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), or for any such trade buyer to purchase, offer to purchase, or contract to purchase, distilled spirits, wine, or malt beverages on consignment.
4. Consignment sales are arrangements wherein the trade buyer is not obligated to pay for distilled spirits, wine, or malt beverages until after such products are sold by the trade buyer. 27 C.F.R. § 11.22.

5. An FAA Act basic permit is conditioned, in part, 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 such permit. 27 U.S.C. § 204(e)(1).

Grape Passion LLC has acknowledged the violations alleged in the Order to Show Cause and agreed to a suspension in resolution of the allegations. Grape Passion LLC and TTB have agreed that Grape Passion LLC's authority to operate under basic permit number TX-P-15203 shall be suspended for a period of one day. It is, therefore, decided that the period of suspension will and shall be on Tuesday, December 31, 2019.

TTB will exercise its enforcement discretion and will not treat this suspension as a first violation unless it discovers that Grape Passion LLC engaged in conduct similar to the violations alleged in this Decision and Order on or after the date on which the parties entered into the Suspension Agreement to which it relates.

12/19/19
Dated



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

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Basic Permit TX-P-15203)

SUSPENSION AGREEMENT

1. Grape Passion LLC (“GP”) waives its right to file an Answer to the Order to Show Cause, and its right to a hearing before an administrative law judge.
2. GP acknowledges the violations alleged in the Order to Show Cause, but disputes that it “willfully” violated the conditions of its basic permit.
3. The Deputy Assistant Administrator (Field Operations), Alcohol and Tobacco Tax and Trade Bureau, and GP agree that GP’s authority to operate under basic permit TX-P-15203 will be suspended for a period of one day.
4. GP’s ability to operate under basic permit TX-P-15203 will be suspended by order of the Deputy Assistant Administrator (Field Operations). GP will serve its suspension on Tuesday, December 31, 2019.
5. During the period of suspension, GP 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. Contracting to purchase wine for resale at wholesale;
 - b. Filling wine orders for customers;
 - c. Placing orders of wine for customers;
 - d. Contracting to sell or offering to sell wine products;
 - e. Shipping wine in interstate or foreign commerce; and/or
 - f. Advertising or disseminating, or causing to be advertised or disseminated, in interstate or foreign commerce, any advertisements of wines.

6. During the period of suspension, GP may conduct activities that would allow maintenance of its current stock or inventory. Such activities include, but are not limited to:
 - a. Taking inventory of warehoused goods;
 - b. Performing administrative activities such as bookkeeping;
 - c. Rearranging warehouse stock; or
 - d. Altering, changing, or creating, but not placing in interstate or foreign commerce, advertisements of your wine products.
7. The parties agree that the information in the Alcohol and Tobacco Tax and Trade Bureau's suspension decision is not return information under 26 U.S.C. § 6103 and is not subject to any other confidentiality provisions. As such, GP understands that the Alcohol and Tobacco Tax and Trade Bureau will publish information from the suspension decision on its public website and in its newsletter.
8. GP agrees that this suspension agreement is valid regardless of the date the Deputy Assistant Administrator (Field Operations) signs such agreement, the Order to Show Cause, the Initial Decision, and/or the Order Suspending permit, and expressly waives any objections if the Deputy Assistant Administrator (Field Operations) signs any or all of those documents before GP signs this agreement.
9. 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 that GP engaged in conduct similar to the violations alleged in the Order to Show Cause on or after the date of this agreement. In other words, TTB will not take action to revoke (but reserves the right to suspend) GP's permit if it discovers, for example, recordkeeping, tax or labeling-related violations that are separate and distinct from the conduct alleged in the attached Order to Show Cause. In contrast, TTB reserves the right to revoke GP's permit if it finds GP engaged in conduct similar to that alleged in such Order.
10. This Agreement may be executed in counterparts. Facsimile or photocopied signatures shall be considered as valid signatures as of the date affixed, although the original signature pages shall thereafter be appended.

Date: 12/19/19



Grape Passion LLC

Date: December 23, 2019



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