

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

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In the Matter of the Proposed	)	
Suspension of the Basic Permit Issued to:	)	
	)	
The Red Hook Winery, LLC	)	
204 Van Dyke Street 325A	)	TTB Nos. AF-98,148; AF-97,470
Brooklyn, NY 11231	)	
Basic Permit No.: NY-W-20140	)	

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**INITIAL DECISION**

On December 23, 2019, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued to The Red Hook Winery, LLC (hereinafter “Red Hook Winery”) an Order to Show Cause why its authority to operate under basic permit number NY-W-20140 should not be suspended due to willful violations of the conditions of the permit, as set forth in the Order to Show Cause. On June 25, 2020, TTB issued a subsequent Order to Show Cause why its authority to operate under basic permit number NY-W-20140 should not be suspended due to (separate and unrelated to the December 23, 2019 Order) willful violations of the conditions of the permit, as set forth in that 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, 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.

Red Hook Winery and TTB have now entered into a Settlement Agreement to resolve the immediate matters, one of which is currently before an Administrative Law Judge (ALJ). As part of the agreement, Red Hook Winery acknowledged the alleged violations set forth in the Orders to Show Cause and has agreed to withdraw its 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 on December 23, 2019.
2. The Order to Show Cause issued on June 25, 2020.
3. A Global Settlement Agreement executed by an authorized representative of Red Hook Winery, acknowledging the violations alleged in the Order to Show Cause and agreeing to the imposition of a fifteen (15) day suspension.

## **FINDINGS OF FACT AND CONCLUSIONS**

1. Red Hook Winery has agreed to withdraw its hearing request, which it filed in response to TTB's Order to Show Cause of December 23, 2019, and to waive its right to a hearing on the Order to Show Cause issued June 25, 2020.
2. Red Hook Winery acknowledged the allegations contained in the Orders to Show Cause, without admitting fault, and agreed to a fifteen (15) day suspension in resolution of the matters.
3. Red Hook Winery's authority to operate under basic permit number NY-W-20140 may and should be suspended for a period of fifteen (15) days.

## **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. Red Hook Winery violated the conditions of its basic permit in the following manner and instances:
  - a. Red Hook Winery is a TTB-regulated industry member, operating as a winery located in Brooklyn, New York (and an "industry member" within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. § 11.11).
  - b. Angels' Share Wine Imports, LLC (and Angels' Share North, hereinafter "Angels' Share") is a TTB-permitted wholesaler located in New York, with storage facilities in New Jersey (and a "trade buyer" within the meaning of 27 U.S.C. § 205(d) and 27 C.F.R. § 11.11.)
  - c. During the relevant periods of limitations (see 27 U.S.C. § 204(i)), Red Hook Winery sold wine to Angels' Share on consignment. Specifically, Red Hook Winery provided wine to Angels' Share pursuant to an arrangement whereby Angels' Share was not obligated to pay for the wine until after Angels' Share sold the wine to retailers.
  - d. Red Hook Winery acted willfully or with plain indifference to the requirements of the FAA Act in entering into the consignment sale arrangements with Angels' Share.
  - e. Red Hook Winery engaged in the business of distilling distilled spirits without first obtaining an FAA Act basic permit, in violation of 27 U.S.C. § 203(b)(1) and 27 C.F.R. §§ 1.21(a), 19.71.

f. Red Hook Winery engaged in the sale and contracted to sell distilled spirits produced without the benefit of an FAA Act basic permit, in violation of 27 U.S.C. § 203(b)(2) and 27 C.F.R. § 1.21(b).

g. [REDACTED]

h. [REDACTED]

i. [REDACTED]

j. [REDACTED]

k. [REDACTED]

l. [REDACTED]

m. [REDACTED]

n. [REDACTED]

o. [REDACTED]

p. [REDACTED]

q. [Redacted]

r. [Redacted]

s. [Redacted]

t. [Redacted]

u. [Redacted]

v. [Redacted]

w. [Redacted]

x. [Redacted]

y. [Redacted]

z. [Redacted]

aa. [Redacted]

[REDACTED]

bb. [REDACTED]

cc. [REDACTED]

dd. Red Hook Winery failed to ensure that 78 cases and 2,418 keg containers met the Health Warning Statement Requirements for Alcoholic Beverages. Containers were found without the required Health Warning Statements (Government Warning Label) for the time period 08/01/15 - 12/31/17, in violation of 27 U.S.C. § 215 and 27 C.F.R. § 16.21.

ee. Red Hook Winery failed to obtain 56 Certificate of Label Approvals (COLAs) for 4,820 cases and 2,418 kegs of wine that were removed for consumption for the time period 08/01/15 - 12/31/17, in violation of 27 U.S.C. § 205(e) and 27 C.F.R. § 4.50(a).

ff. Red Hook Winery failed to ensure that 2,418 keg containers listed the mandatory label information - “bottled by” or “packed by” followed by the name of the bottler or packer and the address of the place where the wine was bottled or packed for the time period 08/01/15 - 12/31/17, in violation of 27 C.F.R. § 4.35.

gg. Red Hook Winery failed to ensure that 2,418 keg containers listed the mandatory label information for Alcohol Content, Net Contents, and Declaration of Sulfites for the time period 08/01/15 - 12/31/17, in violation of 27 C.F.R. § 4.32(a)(3), (b)(2), (e).

hh. [REDACTED]

ii. [REDACTED]

jj. [REDACTED]

kk. [REDACTED]

ll. [REDACTED]

mm. [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) 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 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, as well as with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto. 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).

Red Hook Winery has acknowledged the violations alleged in the Orders to Show Cause and agreed to a suspension in resolution of the allegations. Red Hook Winery and TTB have agreed that Red Hook Winery's authority to operate under basic permit number NY-W-20140 is to be suspended for a period of fifteen (15) days. It is therefore decided that the period of suspension will and shall be on August 3-6, 2020; August 10-13, 2020; August 17-20, 2020; and August 24-26, 2020.

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July 31, 2020  
Dated



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

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

In the Matter of the Proposed	)	
Suspension of the Basic Permits Issued to:	)	
	)	
Angels Share Wine Imports, LLC	)	
106 Ferris Street	)	TTB Nos. AF-97469; AF-98148;
Brooklyn, NY 11231	)	AF-97470
Basic Permit No.: NY-P-4023	)	
	)	
The Red Hook Winery, LLC	)	
204 Van Dyke Street 325A	)	
Brooklyn, NY 11231	)	
Basic Permit No.: NY-W-20140	)	

**GLOBAL SUSPENSION AGREEMENT**

A. Angels' Share Wine Imports, LLC

1. Angels' Share Wine Imports, LLC (hereinafter "Angels' Share") agrees to withdraw its hearing request and waives its right to file an answer in the above-referenced matter.
2. Angels' Share acknowledges the violations alleged in the Order to Show Cause but disputes that it "willfully" violated the conditions of the basic permit.
2. The Deputy Assistant Administrator (Field Operations), Alcohol and Tobacco Tax and Trade Bureau (TTB), and Angels' Share agree that Angels' Share authority to operate under basic permit NY-P-4023 will be suspended for a period of five (5) days.
3. Angels' Share ability to operate under basic permit NY-P-4023 will be suspended by order of the Deputy Assistant Administrator (Field Operations), TTB. Angels' Share will serve its suspension on August 6-8, 2020 and August 10-11, 2020.
4. During the period of suspension, Angels' Share 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. Except as provided in paragraph 5(b) below, purchasing or receiving, or contracting to purchase or receive, wine for resale;

- b. Selling wine at wholesale;
  - c. Filling wine orders for customers;
  - d. Placing wine orders for customers;
  - e. Contracting to sell or offering to sell its wine products;
  - f. Shipping or receiving wine in interstate or foreign commerce
    - i. Limitations of shipping or receiving wine in interstate or foreign commerce include fulfillment of orders by any and all third-party shippers, product managers, and/or storage providers.
  - g. 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, Angels' Share 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 received;
  - b. Receiving wine during the time of the suspension that was shipped or was already in transit before the suspension commenced;
  - 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 its wine products.
6. 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 Angels' Share engaged in conduct similar to the violations alleged in such Order on or after the date ordered to serve the suspension.

B. The Red Hook Winery, LLC

1. The Red Hook Winery, LLC (hereinafter "Red Hook Winery") agrees to withdraw its hearing request and waives its right to file an answer in the above-referenced matters.
2. The Deputy Assistant Administrator (Field Operations), Alcohol and Tobacco Tax and Trade Bureau (TTB), and Red Hook Winery agree that Red Hook Winery's authority to operate under basic permit NY-W-20140 will be suspended for a period of fifteen (15) days.
3. Red Hook Winery's ability to operate under basic permit NY-W-20140 will be suspended by order of the Deputy Assistant Administrator (Field Operations), TTB. Red Hook Winery will serve its suspension on August 3-6, 2020; August 10-13, 2020; August 17-20, 2020; and August 24-26, 2020
4. During the period of suspension, Red Hook Winery 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 its wine products;
  - d. Producing, rectifying, blending, or bottling wine;
  - e. Shipping or receiving wine in interstate or foreign commerce
    - i. Limitations of shipping or receiving wine in interstate or foreign commerce include fulfillment of orders by any and all third-party shippers, product managers, and/or storage providers.
  - 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, Red Hook Winery 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, fermented, and/or received;
  - b. Taking inventory of warehouse goods;

- c. Performing administrative activities such as bookkeeping;
- d. Rearranging warehouse stock; or
- e. Altering, changing, or creating, but not placing in interstate or foreign commerce, advertisements of its wine products.

6. TTB and Red Hook Winery agree that this suspension, with respect to the non-Trade Practice violations resolved thereby, will stand as a "first violation" under 27 U.S.C. § 204(e)(1).

[REDACTED]

[REDACTED]

- a. [REDACTED]

- b. [REDACTED]

- a. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

■ [REDACTED]

D. Angels' Share South, LLC

1. Angels' Share South, LLC (hereinafter "AS South"), FAA Act Importer basic permit FL-I-21653 and FAA Act wholesaler basic permit FL-P-21760, underwent unreported changes to its business organization following the dissolution of purported 50% owner [REDACTED]. Following same, Angels' Share Wine Imports, LLC acquired all of the interest in AS South previously owned by [REDACTED]. Within thirty day from the date of this Agreement, AS South will report those changes to TTB in accordance with applicable statutes and regulations. TTB agrees to receive and process any inquiries regarding said changes within such thirty day period, including but not limited to what forms AS South should file in order to register its change of ownership, but will not provide business advice to the entity nor make any guarantees as to processing of any and all subsequent reporting requirements, with the exception of the following:
  - a. TTB agrees not to hold the violations against Angels' Share Wine Imports, LLC, nor the Red Hook Winery, LLC, as recorded in the Orders to Show Cause of December 23, 2020 (Angels' Share Wine Imports, LLC), December 23, 2020 (The Red Hook Winery, LLC), and June 25, 2020 (The Red Hook Winery, LLC), nor any issues related to

the prior registration of ownership of the entity against AS South for purposes of any application, if necessary to file following AS South's anticipated re-organization.

- b. During said 30 day period as well as the pendency of AS South's application, as is determined as necessary, AS South will be permitted to operate.
- c. The Fields Operation Division of the TTB is not aware of any facts or circumstances at the present time that would cause the rejection of any application relating to or arising from the change in ownership of AS South.

#### E. Generally Applicable Closing Terms

1. Right to Appeal. By signing this agreement, both Angels' Share and Red Hook Winery voluntarily waive any right to appeal of the agreed-upon suspensions. Angels' Share and Red Hook Winery are fully aware that they are under no obligation to do so, but have freely and voluntarily elected to enter into this agreement, including stipulated suspension terms.
2. The parties agree that the information contained within TTB's suspension decision, other than Red Hook Winery's section 7 and 8, and Red Hook Winery's [REDACTED] directly above, is not return information under 26 U.S.C. § 6103 and is not subject to any other confidentiality provisions. As such, Angels' Share and Red Hook Winery understand that TTB will publish information from the suspension decision on its public website and in its newsletter, with the sections identified immediately above redacted for publication purposes.
3. Angels' Share and Red Hook Winery agree that this suspension agreement is valid regardless of the date the Deputy Assistant Administrator signs 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 Angels' Share and Red Hook Winery sign this agreement. Angels' Share and Red Hook Winery also agree this suspension agreement is valid regardless of whether the Decision and Order are served after the agreed date of suspension.

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Date: July 31, 2020

[REDACTED]  
Angels Share Wine Imports, LLC and The Red Hook  
Winery, LLC

Date: July 31, 2020

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