

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

In re:)	
)	
Order to Show Cause why Anheuser- Busch, LLC Basic Permits CO-P-21009 and CO-I-21006 should not be suspended)	Docket No. AF-98023
)	
and)	
)	
Order to Show Cause why Anheuser- Busch, LLC Basic Permits CO-P-21141 and CO-I-21067 should not be suspended.)	
)	
Respondent:)	
<u>Anheuser-Busch, LLC</u>)	

STIPULATED SUSPENSION AGREEMENT

1. Introduction. This Stipulated Suspension Agreement (“Agreement”) is entered into by and between the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (“TTB”) and Anheuser-Busch, LLC (“A-B”) (collectively, the “Parties”).
2. Parties. TTB is an agency of the United States Government responsible for, among other things, administering and enforcing certain laws and regulations governing alcoholic beverages. A-B holds wholesaler and importer basic permits, CO-P-21009 and CO-I-21006 for its premises at 1455 E 62nd Avenue, Denver, Colorado and CO-P-21141 and CO-I-21067 for its premises at 11100 Bradford Road, Littleton, Colorado. Such permits authorize A-B to engage in the businesses specified in Title 27, United States Code (U.S.C.) section 203(a) and (c), as applicable.

3. Orders to Show Cause. Concurrently with the Parties' execution of this Agreement, TTB issued two (2) Orders to Show Cause to A-B (collectively, "Orders"). Such Orders are hereby incorporated into this Agreement by reference.
4. Stipulations. The Orders allege that A-B willfully violated the conditions of its wholesaler and importer basic permits and has not complied with the Federal Alcohol Administration Act and the regulations issued thereunder. After reviewing the Orders, A-B has decided to avoid the hazards of litigation and to stipulate to a suspension of its wholesaler and basic permits associated with its operations in Denver and Littleton, Colorado.
5. Support. The alleged violations of the trade practice laws set forth in the Orders to Show Cause, which are incorporated herein by reference.
6. Suspension. A-B agrees to serve a two-day suspension of both basic permits (CO-P-21141 and CO-I-21067) covering its premises at 11100 Bradford Road, Littleton, Colorado, and a four-day suspension of both basic permits (CO-P-21009 and CO-I-21006) covering its premises at 1455 E 62nd Avenue, Denver, Colorado. During the suspension period, A-B understands and agrees that it may not conduct any of the operations for which a permit is required pursuant to 27 U.S.C. § 203(a) and (c), either directly or indirectly, through its members, managers, officers, directors, shareholders, owners, employees, agents, independent contractors, or through any surrogate acting with or on behalf of such individuals or entities. A-B understands and agrees that any such operations conducted by such individuals or entities during the suspension period will subject its permits to further action, including possible revocation. A-B further understands that engaging in business as an importer or wholesaler of distilled

spirits, wine, and/or malt beverages without a permit is a misdemeanor criminal offense. See 27 U.S.C. § 207.

7. Suspension Period.

a. For permits CO-P-21009 and CO-I-21006, the suspension period will commence at 12:00 a.m. on May 31, 2020 and end at 11:59 p.m., prevailing local time, on June 1, 2020. The suspension period will commence again at 12:00 a.m. on June 7, 2020 and end at 11:59 p.m., prevailing local time, on June 8, 2020.

b. For permits CO-P-21141 and CO-I-21067, the suspension period will commence at 12:00 a.m. on May 31, 2020, and end at 11:59 p.m., prevailing local time, on June 1, 2020.

8. Waiver of Right to Hearing. By signing the Agreement, A-B hereby voluntarily waives its right to a hearing on the merits of TTB's allegations and whether such allegations legally support suspension of its permits. A-B is fully aware it is under no obligation to do so, but has freely and voluntarily elected to do so.

9. Waiver of Right to Appeal. By signing the Agreement, A-B hereby voluntarily waives any right to appeal the suspension. A-B is fully aware it is under no obligation to do so, but has freely and voluntarily elected to do so.

10. No Effect on Applicable Law. A-B understands and agrees that this Agreement in no way restricts or affects the applicability of any and all federal law, whether criminal or civil, or regulation governing wholesalers and importers of distilled spirits, wine, and/or malt beverages.

11. Entire Agreement. The terms of this Agreement and the Global Settlement Agreement (the "Global Agreement") embody the entire agreement and understanding between

[REDACTED]

TTB and A-B relating to the above-captioned proceeding. The Global Agreement is hereby incorporated into this Agreement by reference.

12. Order of Signatures. A-B agrees that this suspension is valid regardless of the date the Deputy Assistant Administrator signs this agreement, the Decision, and Order suspending permits, and expressly waives any objections if the Deputy Assistant Administrator signs any or all of those documents before A-B signs this agreement.

[REDACTED]

IN WITNESS WHEREOF, the parties hereby execute the Agreement.

Date: 5/30/2020

[REDACTED]

Anheuser-Busch, LLC

Date: 5/28/2020

[REDACTED]

Anheuser-Busch, LLC

Date: _____

[REDACTED]

Alcohol and Tobacco Tax and Trade Bureau

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

In re:)	
)	
Order to Show Cause why Anheuser-)	Docket No. AF-98023
Busch, LLC's Basic Permits CO-P-21009)	
and CO-I-21006 Should not be)	
Suspended)	
)	
Respondent:)	
Anheuser-Busch, LLC)	
1455 E 62nd Avenue)	
Denver, CO 80216)	
)	

INITIAL DECISION

The Alcohol and Tobacco Tax and Trade Bureau issued an Order to Show Cause why Anheuser-Busch, LLC's authority to operate under its wholesaler and importer basic permits, CO-P-21009 and CO-I-21006, should not be suspended because of alleged willful violations of the conditions of such permits, as set forth in the Order to Show Cause ("Order"). After reviewing the Order, Anheuser-Busch, LLC ("A-B") decided to avoid the hazards of litigation and stipulate to a suspension of its wholesaler and basic permits associated with its operations in Denver, Colorado for a period of four days.

Section 204(e)(1) of the Federal Alcohol Administration ("FAA") Act, provides in pertinent part that a basic permit shall by order of the Secretary of the Treasury, after due notice and opportunity for a hearing, be revoked or 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. A-B, having decided to avoid the hazards of litigation, and TTB entered into a Stipulated Suspension Agreement to resolve the immediate matter.

The Stipulated Suspension Agreement is hereby incorporated into and made part of this Initial Decision. In accordance with such Agreement, and under the authority of 27 C.F.R. § 71.79(b), the undersigned TTB officer makes the following findings and decision.

EVIDENCE

1. Order to Show Cause.
2. Stipulated Suspension Agreement (attached).

ALLEGATIONS

1. The [REDACTED] operate a [REDACTED] franchise that plays at [REDACTED] stadium in Denver, Colorado.
2. Exclusive Outlet
 - a. A-B entered an exclusive marketing agreement with [REDACTED] in 2016. Under the marketing agreement, A-B paid [REDACTED] per year for [REDACTED] years. Such agreement explicitly represented that A-B's purchase of advertising rights was in no way conditioned upon or intended to induce any retail licensee's purchase of any alcohol beverage produced, sold, or offered for sale by A-B.
 - b. However, A-B's employees allegedly enforced an unwritten expectation that [REDACTED] retail concessionaire ("Retailer") purchase and provide "favorable placement" of A-B's malt beverages in support of the agreement.
 - c. A-B allegedly required Retailer to sell A-B's malt beverage products to support the sponsorship agreement and allegedly instructed Retailer where to sell such products to the exclusion of A-B's competitors' products, which are sold or offered for sale in interstate or foreign commerce.
 - d. The alleged requirement to purchase A-B's malt beverages, resulting from A-B's sponsorship agreement with [REDACTED], was made in the course of interstate commerce.
 - e. A-B allegedly voluntarily, intentionally, and with deliberate disregard and/or plain indifference to the requirements of the law required Retailer to purchase A-B's products, and allegedly instructed Retailer regarding placement of A-B's products.
 - f. A-B's alleged requirement that Retailer purchase A-B's malt beverages and alleged instruction regarding where products were to be sold resulted in Retailer purchasing fewer of A-B's competitors' products than it otherwise would have.
 - g. In light of the foregoing facts, A-B allegedly willfully engaged in one or more prohibited exclusive outlet transactions in violation of 27 U.S.C. § 205(a).
3. Tied-House
 - a. A-B allegedly furnished Retailer with equipment and fixtures worth hundreds of thousands of dollars at significantly less than the fair market value of such items. In return, A-B allegedly received 75 percent of malt beverage placement.

- b. A-B allegedly induced Retailer to purchase A-B's malt beverages to the exclusion of A-B's competitors' products, which are sold or offered for sale in interstate commerce.
- c. The alleged inducements were made in the course of interstate commerce.
- d. A-B allegedly acted willfully, voluntarily, intentionally, and with deliberate disregard and/or plain indifference to the requirements of the law, allegedly furnished Retailer with equipment and fixtures, and allegedly instructed Retailer regarding placement of A-B's products.
- e. A-B's payments to [REDACTED], alleged provision of free equipment to Retailer, and its alleged expectation that Retailer place products in accordance with A-B's instructions resulted in Retailer purchasing fewer of A-B's competitors' products than it otherwise would have.
- f. In light of the foregoing facts, A-B allegedly willfully engaged in one or more prohibited tied house transactions in violation of 27 U.S.C. § 205(b).

LEGAL STANDARDS

1. The FAA Act makes it unlawful for an industry member, directly or indirectly or through an affiliate, to require, by agreement or otherwise, that any retailer engaged in the sale of distilled spirits, wine, or malt beverages ("beverage alcohol"), purchase any such products from such industry member to the exclusion in whole or in part of beverage alcohol sold or offered for sale by other persons in interstate or foreign commerce. 27 U.S.C. § 205(a).
2. The FAA Act makes it unlawful for an industry member, directly or indirectly or through an affiliate, to induce, through any of seven specifically-enumerated means, a retailer of beverage alcohol to purchase such products from the industry member to the exclusion of beverage alcohol sold or offered for sale by other persons in interstate or foreign commerce. 27 U.S.C. § 205(b).
3. In the case of malt beverages, the provisions of 27 U.S.C. § 205(a) and (b), and 27 C.F.R. parts 6 and 8, apply to transactions between a retailer in one State and a wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes similar requirements with respect to similar transactions between a retailer in such State and a wholesaler of malt beverages in such State, as the case may be. 27 U.S.C. § 205 (penultimate paragraph); 27 C.F.R. §§ 6.4(b), 8.4(b).
4. Colorado imposes requirements similar to 27 U.S.C. 205(a) and (b). See Colo. Rev. Stat. § 12-47-308(5) (2016).
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).

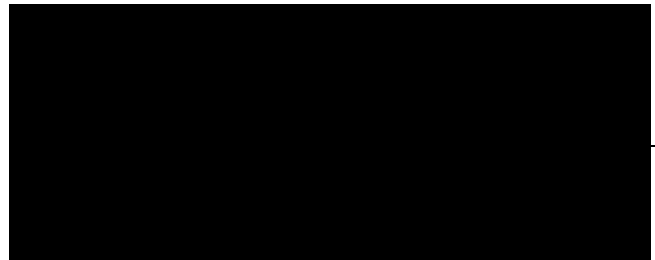
FINDINGS AND CONCLUSIONS

1. A-B has agreed to waive its right to a hearing on the Order to Show Cause why its authority to operate under its wholesaler and importer basic permits, CO-P-21009 and CO-I-21006, should not be suspended for willfully violating the conditions of such permits, as alleged in the Order to Show Cause.
2. Considering the allegations contained within the Order, A-B decided to avoid the hazards of litigation and stipulate to a suspension of its wholesaler and importer basic permits associated with its operations in Denver, Colorado for a period of four days.
3. TTB finds that the violations alleged in the Order are substantiated, and that A-B willfully violated the conditions of basic permits CO-P-21009 and CO-I-21006. A-B and TTB have agreed that A-B's authority to operate under basic permits CO-P-21009 and CO-I-21006 will be suspended for a period of four days.

DECISION AND ORDER

For the foregoing reasons and consistent with the Stipulated Suspension Agreement, A-B's authority to operate as a wholesaler and importer may and is being suspended for four days. It is, therefore, **ORDERED** that A-B's wholesaler and importer basic permits, CO-P-21009 and CO-I-21006, be suspended from May 31, 2020 through (and including) June 1, 2020 and again from June 7, 2020 through (and including) June 8, 2020.

Date: May 28, 2020



Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW
Washington, DC 20005

ALLEGATIONS

A-B is a Federally-permitted wholesaler and importer of malt beverages in Colorado and allegedly violated the conditions of its basic permits in the following manner:

1. [REDACTED] (“Retailer”) [REDACTED] owns beverage alcohol retail establishments in Colorado. Its premises include 27 retail accounts at two mountain resorts in Colorado: [REDACTED].
2. A-B distributed malt beverages to Retailer’s establishments at [REDACTED].
3. In 2015, A-B entered into a [REDACTED]-year sponsorship agreement with Retailer’s corporate affiliate (“Affiliate”), which did not hold any retail liquor licenses.
4. The terms of such sponsorship agreement included:
 - a. [REDACTED] payments of [REDACTED] (each) per year from A-B to Affiliate;
 - b. A written provision stating that the sponsorship agreement had no direct or implied relationship to beverages of any kind purchased, sold, distributed, or otherwise made available by Retailer, and further stating that the Retailer “may purchase, sell, dispense, distribute or otherwise make available any type or brand of beverages, including Malt Beverages, in their respective sole discretion”;
 - c. An alleged verbal agreement that A-B’s malt beverages were to be a certain minimum for the sponsorship agreement to continue; and
 - d. An alleged verbal agreement for Retailer to exclude specific A-B competitor brands from Retailer’s retail locations.
5. Tied-House
 - a. A-B made [REDACTED] payments of [REDACTED] (each) to Affiliate between May 1, 2016 and December 31, 2018.
 - b. The payments allegedly induced Retailer to purchase A-B’s malt beverages to the exclusion of products sold or offered for sale by other persons in interstate commerce.
 - c. The inducement payments were allegedly made in the course of interstate commerce.

- d. A-B's sales representatives allegedly directed Retailer regarding what brands to purchase, and allegedly verified that specific competitor brands were not sold.
 - e. A-B allegedly voluntarily and intentionally induced the Retailer to purchase A-B's products.
 - f. In making the payments to Affiliate, A-B allegedly acted willfully, with deliberate disregard and/or plain indifference to the requirements of the law.
6. Exclusive Outlet
- a. A-B allegedly required Retailer to purchase A-B's malt beverages to the exclusion of products sold or offered for sale by other persons in interstate commerce.
 - b. The alleged requirement to purchase malt beverages was made in the course of interstate commerce.
 - c. A-B's sales representatives allegedly directed Retailer regarding what brands to purchase, and allegedly verified that a competitor's brands were not sold.
 - d. A-B allegedly intentionally required Retailer to purchase A-B's products.
 - e. In making the payments to Affiliate and allegedly requiring Retailer to purchase A-B's malt beverages, A-B allegedly acted willfully, with deliberate disregard and/or plain indifference to the requirements of the law.
 - f. A-B's allegedly requiring Retailer to purchase A-B's malt beverages and prohibiting Retailer from purchasing specific competitors' brands resulted in Retailer purchasing fewer of A-B's competitors' products than it otherwise would have.

LEGAL STANDARDS

1. The FAA Act makes it unlawful for an industry member, directly or indirectly or through an affiliate, to require, by agreement or otherwise, that any retailer engaged in the sale of distilled spirits, wine, or malt beverages ("beverage alcohol"), purchase any such products from such industry member to the exclusion in whole or in part of beverage alcohol sold or offered for sale by other persons in interstate or foreign commerce. 27 U.S.C. § 205(a).
2. The FAA Act makes it unlawful for an industry member, directly or indirectly or through an affiliate, to induce, through any of seven specifically-enumerated means, a retailer of beverage alcohol to purchase such products from the

industry member to the exclusion of beverage alcohol sold or offered for sale by other persons in interstate or foreign commerce. 27 U.S.C. § 205(b).

3. In the case of malt beverages, the provisions of 27 U.S.C. § 205(a) and (b), and 27 C.F.R. parts 6 and 8, apply to transactions between a retailer in one State and a wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes similar requirements with respect to similar transactions between a retailer in such State and a wholesaler of malt beverages in such State, as the case may be. 27 U.S.C. § 205 (penultimate paragraph); 27 C.F.R. §§ 6.4(b), 8.4(b).
4. Colorado imposes requirements similar to 27 U.S.C. 205(a) and (b). See Colo. Rev. Stat. § 12-47-308(5) (2016).
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).

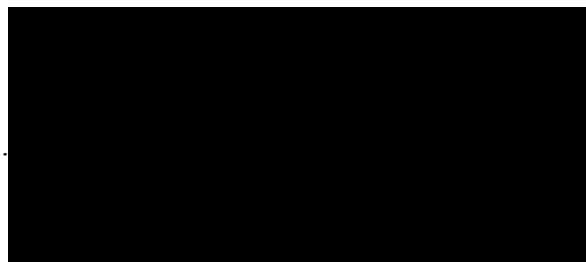
FINDINGS AND CONCLUSIONS

1. A-B has agreed to waive its right to a hearing on the Order to Show Cause why its authority to operate under its wholesaler and importer basic permits, CO-P-21141 and CO-I-21067, should not be suspended for willfully violating the conditions of such permits, as alleged in the Order to Show Cause.
2. Considering the allegations contained within the Order, A-B decided to avoid litigation and stipulate to a suspension of its wholesaler and basic permits associated with its operations in Littleton, Colorado for a period of two days.
3. TTB finds that the violations alleged in the Order are substantiated, and that A-B willfully violated the conditions of basic permits CO-P-21141 and CO-I-21067 in accordance with the Order. A-B and TTB have agreed that A-B's authority to operate under basic permits CO-P-21141 and CO-I-21067 will be suspended for a period of two days.

DECISION AND ORDER

For the foregoing reasons and consistent with the Stipulated Suspension Agreement, A-B's authority to operate as a wholesaler and importer may and is being suspended for two days. It is, therefore, **ORDERED** that A-B's wholesaler and importer basic permits, CO-P-21141 and CO-I-20067, be suspended from May 31, 2020 through (and including) June 1, 2020.

Date: May 28, 2020



Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW
Washington, DC 20005