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Chairman

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Commissioner

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Commissioner

DECLARATORY RULING

Classification of Distilled Spirits as NYS Labeled Liquor

Agenda # 2019-01342

Introduction

William Grant & Sons, Inc. (“William Grant”) an importer and national distributor of several distilled spirits brands, holds a NYS wholesale license as well as a sizeable distillery operation in New Jersey. William Grant receives liquor in bulk from a New York farm distiller Tuthilltown Spirits, LLC (“Tuthilltown”) at its New Jersey distillery premises which it then filters and adds water to dilute the liquor to the preferred ABV, before bottling and labeling the liquor on behalf of Tuthilltown. William Grant then ships some of the liquor back to Tuthilltown for both on-premises and off-premises retail sales made to consumers at Tuthilltown’s New York farm distillery premises as a “New York labelled liquor,” while shipping the majority of said product to its wholesale distribution partners for sales nationwide.

William Grant requests approval of this multistate manufacture of New York labeled liquor on behalf of Tuthilltown as an ongoing method of operation.

Question Presented

Does the Authority consider liquor distilled in New York and then shipped in bulk to a New Jersey distillery where it is filtered, blended with water, bottled, and labelled before being shipped back to a New York farm distillery for consumer sales therefrom to meet the definition of “New York labelled liquor” as set forth in Alcoholic Beverage Control Law (“ABCL”) Section 3(20-c)?

Statutes Involved

Section 3(20-c) of the ABCL defines “New York State labelled liquor” as “liquors made from fruit, vegetables, grain and grain products, honey, maple sap or other agricultural products, at least seventy-five percent the volume of which were grown or produced in New York State.”

Section 17(4) of the ABCL provides that the Authority may regulate by rule the standards of manufacture and fermentation in order to insure the use of proper ingredients and methods in

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Page 2 of 2

the manufacture of alcoholic beverages to be sold or consumed in the state. To date, no such rules have been promulgated by the Authority.

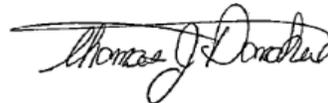
Determination of the Members

Tuthilltown is a growing New York farm distiller with increasing market demand for the quality New York labelled liquors it produces, and as a result, now lacks the bottling capacity to meet the nationwide distribution needs of William Grant's network of wholesale partners. The proposed interstate manufacture of New York brand labelled liquors is part of the effort by these two industry members to help Tuthilltown meet the increased demand for their products. However, as only liquor manufactured by a farm distillery licensee or any New York labelled liquor can be sold to consumers at a New York farm distillery premises, their distribution deal with William Grant thus imperiled Tuthilltown's continued on-premises sales of its New York labelled liquors manufactured via this multistate manufacture method of operation.

Based upon and limited by the foregoing, the Members find that the proposed multistate manufacturing process of New York labelled liquors does not violate the Alcoholic Beverage Control Law, and as a result Tuthilltown may continue to ship its New York labelled liquors in bulk to William Grant's New Jersey distillery premises for filtering, blending with water to achieve the desired ABV, bottling, and labelling as a New York labelled liquor before being shipped back to Tuthilltown's farm distillery premises for sales to consumers on the farm distillery premises. Tuthilltown must retain all records arising from this multistate manufacturing process of New York labelled liquors at its farm distiller premises, including the gallonage and weight of the liquor shipped to and subsequently returned from William Grant for sales at its farm distillery premises.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on July 17, 2019 before Chairman Vincent Bradley, Commissioner Lily Fan, and Commissioner Greely Ford. The above written ruling was approved by Chairman Bradley on behalf of the members of the Authority on August 23, 2019.

Dated: 8/26/19



Thomas J. Donohue
Secretary to the Authority