

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

IN RE: **Wattle Creek Winery
25510 River Road
Cloverdale, California**

DECISION AND ORDER

ISSUE PRESENTED:

1. Whether Wattle Creek Winery violated 7 V.S.A. §66(e)(4)(A)-(C). If so, what sanction is appropriate?

EXHIBITS:

1. State's Exhibit 1: Notice Of Hearing sent to Wattle Creek Winery dated April 8, 2013.
2. State's Exhibit 2: Return Receipt showing date of mailing and Wattle Creek Winery's receipt of Notice of Hearing.

INTRODUCTION:

The Liquor Control Board ("LCB") held proceedings in Montpelier, Vermont, on May 8, 2013 to consider the suspension or revocation of the Direct Shipper's License granted to Wattle Creek Winery, 25510 River Road, Cloverdale, California ("Licensee"). The Licensee failed to appear. The Department of Liquor Control ("DLC") was present and represented by Assistant Attorney General Jacob A. Humbert.

A Notice of Hearing dated April 8, 2013 was sent to the Licensee confirming that on May 8, 2013, 9:30 a.m. at the Department of Liquor Control, Montpelier, Vermont a hearing would be held for the LCB to determine whether Licensee violated 7 V.S.A. §66(e)(4)(A)-(C). The Notice of Hearing alleged that the Licensee failed to comply with 7 V.S.A. §66(e)(4)(A)-(C) by failing to submit the required reporting, for the period of July 1, 2012 through December 31, 2012, to the DLC on or before January 15, 2013.

FINDINGS OF FACT

1. Licensee is the holder of a Direct Shipper's License by which it is permitted to ship vinous beverages according to law and regulation directly to a consumer. 7 V.S.A. §66(e) states that:

A holder of any shipping license granted pursuant to this section shall: [...]

(4) Report at least twice a year to the department of liquor control in a manner and form required by the department all the following information:

(A) The total amount of vinous beverages shipped into or within the state for the preceding six months.

(B) The names and addresses of the purchasers to whom the vinous beverages were shipped.

(C) The date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each.

2. Licensee was required to submit such a report on January 15, 2013 for the period of July 1, 2012 through and including December 31, 2012.
3. Licensee failed to submit the required report.
4. Lori Pecor is the DLC Office Manager responsible for overseeing Direct Shipper's Licenses including, but not limited to, Licensee.
5. Ms. Pecor identified State's Exhibit 1 as a copy of the Notice of Hearing dated April 8, 2013, which were sent to the Licensee by United States Postal Service Certified Mail on April 9, 2013. The LCB admitted State's Exhibit 1.
6. Ms. Pecor identified State's Exhibit 2 as a copy of a United States Postal Service Certified Mail Return Receipt bearing her initials and the date of mailing, "4-9-13" and confirming the Licensee's April 15, 2013 receipt of the Notice of Hearing admitted as State's 1. The LCB admitted State's Exhibit 2.
7. The Licensee received sufficient notice of the May 8, 2013 Hearing to determine its alleged violation of 7 V.S.A. §66(e)(4)(A)-(C).
8. The Licensee has not contacted Ms. Pecor or, to her knowledge, anyone in the DLC that it intended to appear at the hearing held on May 8, 2013.

CONCLUSIONS OF LAW

1. Licensee, Wattle Creek Winery, is the holder of a Direct Shipper's License by which it is permitted to ship vinous beverages according to law and regulations directly to a Vermont consumer and is subject to the requirements of 7 V.S.A. §66(e)(4)(A)-(C).
2. Licensee failed to submit a timely report as required by 7 V.S.A. §66(e)(4)(A)-(C) and has, therefore, violated that statute.
3. Licensee received notice of the hearing on May 8, 2013 at Montpelier, Vermont at which its alleged violation of 7 V.S.A. §66(e)(4)(A)-(C) would be adjudicated, but failed to appear.
4. Under 7 V.S.A. §66(j), the LCB has broad discretion to suspend or revoke a Licensee's license for such a violation, "among all other remedies available to the board."

DECISION

Based on the foregoing, the Liquor Control Board hereby **REVOKES** Wattle Creek Winery's Direct Shipper's License. Revocation shall be effective as of the date of this Decision which shall be served upon the Licensee, Wattle Creek Winery, by and through United States Postal Service Certified Mail with a Return Receipt Requested.


In the event that Wattle Creek Winery, and/or any successor entity, be it an individual, partnership or corporation, hereafter seeks a Direct Shipper's License from the State of Vermont, it shall in addition to the submission of an application and associated documents, if any, be required to appear in person before the Vermont Liquor Control Board to give assurances that if the applicant is once again granted a Direct Shipper's License, the necessary reports required under 7 V.S.A. §66(e)(4)(A)-(C) will be timely and accurately filed.

A "successor entity" for this purpose, is an entity that consists in whole or in part, some or all, of the same stockholders, directors, officers, partners and/or individuals.

DATED at Montpelier, Vermont, on this 20th day of May, 2013.

VERMONT LIQUOR CONTROL BOARD

By:


Stephanie M. O'Brien, Chair