

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
1511 PONTIAC AVENUE  
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF :  
 :  
**WINES AND MORE OF RI, INC.** :  
 :  
RESPONDENT :

**CONSENT AGREEMENT**

It is hereby agreed between the Commercial Licensing & Racing & Athletics Division (“Division”) of the Department of Business Regulation (“Department”) and Wines and More of RI, Inc. (“Respondent”) as follows:

1. Respondent holds a Class A license for the retail sale of alcoholic beverages pursuant to R.I. Gen. Laws § 3-7-3 at its location at 125 Sockanosset Cross Road in Cranston, Rhode Island 02920.
2. R.I. Gen Laws § 3-5-21 provides that every license is subject to revocation or suspension and a license is subject to fine by the Department, on its own motion, for breach by the holder of the license of the conditions on which it was issued or for violation by the holder of the license of any statute, rule or regulation applicable.
3. R.I. Gen. Laws § 6-13-1 (a) (3) provides:

A markup to cover in part the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be six percent (6%) of the total cost at the retail outlet.

4. R.I. Gen. Laws § 6-13-4 states that:

**Below cost sales as evidence of intent.** Evidence of any advertisement, offer to sell, or sale of any item of merchandise by any retailer or wholesaler at less than cost to him or her, as defined in this chapter, shall be prima facie evidence of intent to injure competitors or destroy competition.

5. Prima facie evidence is that which appears to be sufficient proof respecting the matter in question until something appears to controvert it. Prima facie evidence may be contradicted, rebutted, or explained. *State v. Beswick*, 13 R.I. 211(R.I. 1881).
6. On January 7, 2011, an inspector of the Division found that the Respondent was advertising the sale of various cases of beer (Corona, Corona Light, Heineken, Heineken Light, and Amstel Light) from November 14, 2010 through November 24, 2010 below the state mandated markup of 6% in violation of R.I. Gen. Laws § 6-13-1 (a) (3).
7. Based on the foregoing and R.I. Gen. Laws § 6-13-4, the Division has reason to believe that Respondent violated R.I. Gen. Laws § 6-13-1 (a) (3).
8. The Department believes it has sufficient cause to request that the Rhode Island Attorney General's office file an enforcement action pursuant to R.I. Gen. Laws § 6-13-6 and impose an administrative penalty pursuant to R.I. Gen. Laws § 3-5-21.
9. The Respondent maintains that if this matter had proceeded to enforcement action pursuant to R.I. Gen. Laws § 6-13-6, or an administrative penalty action pursuant to R.I. Gen. Laws § 3-5-21, it would have raised defenses.

10. However the Respondent acknowledges that the Department may have been able to establish a factual basis to support a violation of R.I. Gen. Laws § 6-13-1 and/or an administrative penalty pursuant to R.I. Gen. Laws § 3-5-21.
11. In an effort to resolve the above-referenced violations, Respondent agrees to the following:
  - A. Respondent understands that the Department is charged with protecting the public by ensuring that its Licensees are competent and trustworthy and are reasonably familiar with the statutes and laws relating to retail alcohol sales.
  - B. Respondent shall comply with all terms and requirements for licensure under R.I. Gen. Laws § 6-13-1 (a) (3) and all other statutory and regulatory requirements.
  - C. Respondent agrees that a failure to comply with all terms and requirements for licensure as described therein may result further action by the Division.
  - D. Respondent shall pay a fine in the amount of \$1,000.00, by check or money order, payable to the Rhode Island General Treasurer.
  - E. Respondent voluntarily waives its rights to the hearing process, voluntarily waives its right to appeal to Superior Court, and agrees to take all necessary action as delineated in this Consent Agreement in order to maintain its license in good-standing.
  - F. By entering into this Consent Order, the Respondent does not waive any defenses in any future administrative proceedings that may be initiated by the Department.
12. If Respondent fails to comply with the terms of this Consent Agreement, the Department reserves its right to initiate further administrative proceedings pursuant to R.I. Gen. Laws § 3-5-21.

THE DEPARTMENT AND RESPONDENT HEREBY CONSENT AND AGREE  
TO THE FOREGOING AS TO FORM AND SUBSTANCE:

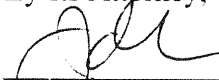
Department of Business Regulation.

  
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Maria D' Alessadro, Esq.  
Deputy Director of Securities,  
Commercial Licensing and  
Racing & Athletics

Date: 12/31/12

Respondent  
By Its Attorney,

  
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Joseph A. Keough, Jr.  
Keough & Sweeney, Ltd.  
41 Mendon Avenue  
Pawtucket, RI 02861

Date: 12/18/12