

I. PROCEDURAL HISTORY AND APPLICABLE LAW

1. On April 12, 2012 the Department sent four separate letters, via certified and regular mail, alleging that that based on an advertisement that had been received by Rhode Island residents the Respondent Douglas and Respondent W&S Consultants were found to be in violation of R.I. Gen. Laws § 3-4-1(b). The letters requested that these Respondents cease and desist from any further violation of R.I. Gen. Laws § 3-4-1(b).
2. R.I. Gen. Laws § 3-4-1(b) states:

All sellers, dealers, merchants, wholesalers and retailers of beverages who advertise in the state of Rhode Island, or whose advertisements are reasonably anticipated to circulate in this state shall prominently and conspicuously include within the advertisement a notice printed using a font size equal to but not larger than the font size of the largest price designation featured in the advertisement stating that the importation of beverages into the state, after purchase outside of the state, are subject to Rhode Island sales tax, and the failure to pay such tax may result in the seizure of such beverages upon entry into the state.
3. R.I. Gen. Laws § 3-4-1(c) states:

Any entity accepting commercial advertisements from any seller, dealer, merchant, wholesaler or retailer of beverages shall not publish such advertisement for the sale of such beverages unless the advertisement includes the notice set forth in this section.
4. On April 12, 2012, the Department also sent a letter to RedPlum (a wholly owned company of Respondent Valassis) notifying it that it was in violation of R.I. Gen. Laws § 3-4-1(c) because it was printing the advertisement without the limitation in R.I. Gen. Laws § 3-4-1(b).
5. On or about May 17, 2012, the Department received a Complaint from a Rhode Island resident indicating that another flyer advertising Respondents' products

(marketed by Respondent W&S Consultants and distributed by Respondent Valassis) had been mailed to that resident's home address in Rhode Island and the advertisement did not use the proper font size for the notice required by R.I. Gen. Laws § 3-4-1(b).

6. Upon further investigation, the Department has discovered that the advertisements at issue in this matter all contain the notice that they are "Marketed by Wine & Spirits Inc. wsretailers.com."
7. Respondent W&S Consultants is a Rhode Island Corporation with its principal office located at 1405 Douglas Avenue in North Providence, Rhode Island.
8. Upon information and belief, the paper advertisements related to Respondents' liquor products mailed to Rhode Island residents did not contain the advertisement restrictions in R.I. Gen. Laws §3-4-1(b) and are distributed and printed by RedPlum, which is a wholly owned company of Respondent Valassis in violation of R.I. Gen. Laws §3-4-1(c).
9. R.I. Gen. Laws § 3-2-2 states that the Department "has general supervision of the conduct of the business of manufacturing, exporting, transporting, keeping for sale, and selling beverages."
10. R.I. Gen. Laws § 3-11-5 states that any person violating any provision of Title 3 of the Rhode Island General Laws shall be subject to a fine not in excess of one thousand dollars (\$1,000).
11. On or about May 31, 2012 the Director issued an Order To Show Cause, Notice of Hearing and Appointment Of Hearing Officer (See Exhibit 1).

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II. RECITALS

1. Respondent Douglas acknowledges that the Director and the Department alleged certain facts, as well as statutory and regulatory violations, including a violation of R.I. Gen. Laws § 3-4-1(b).
2. In particular, the Director and the Department allege that Respondent Douglas violated R.I. Gen. Laws § 3-4-1(b) and after being notified to cease and desist by the Department, failed to prominently and conspicuously include within the advertisement at issue in this matter (which were circulated in the State of Rhode Island) a notice printed using a font size of the largest price designation featured in the advertisement stating that the importation of beverages into the state, after purchase outside of the state, are subject to Rhode Island sales tax, and the failure to pay such tax may result in the seizure of such beverages upon entry into the state.
3. The Respondent Douglas maintains that if this matter had proceeded to hearing they would have raised defenses to the Director and the Department's allegations, including jurisdictional defenses.
4. However the Respondents acknowledge that the Director and the Department may have been able to establish a factual basis to support a violation of R.I. Gen. Laws § 3-4-1(b)
5. Respondent W&S Consultants acknowledges that the Director and the Department alleged certain facts, as well as statutory and regulatory violations, including a violation of R.I. Gen. Laws § 3-4-1(c).

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6. In particular, the Director and the Department allege that Respondent W&S Consultants violated R.I. Gen. Laws § 3-4-1(c) by accepting commercial advertisements from any seller, dealer, merchant, wholesaler or retailer of beverages and publishing such advertisement without the requisite notice required in R.I. Gen. Laws 3-4-1(c).
7. The Respondent W&S Consultants maintains that if this matter had proceeded to hearing it would have raised defenses to the Director and the Department's allegations, including jurisdictional defenses.
8. However, Respondent W&S Consultants acknowledges that the Director and the Department may have been able to establish a factual basis to support a violation of R.I. Gen. Laws § 3-4-1(c).
9. Respondent Valassis acknowledges that the Director and the Department alleged certain facts, as well as statutory and regulatory violations, including a violation of R.I. Gen. Laws § 3-4-1(c).
10. In particular, the Director and the Department allege that Respondent Valassis violated R.I. Gen. Laws § 3-4-1(c) by accepting commercial advertisements from any seller, dealer, merchant, wholesaler or retailer of beverages and publishing such advertisement without the requisite notice required in R.I. Gen. Laws 3-4-1(c).
11. The Respondent Valassis maintains that if this matter had proceeded to hearing it would have raised defenses to the Director and the Department's allegations, including jurisdictional defenses and defenses that Respondent Douglas and

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Respondent W&S Consultants were responsible for warranting and ensuring that their advertising material complies with all applicable laws.

12. However, Respondent Valassis acknowledges that the Director and the Department may have been able to establish a factual basis to support a violation of R.I. Gen. Laws § 3-4-1(c).

III. AGREEMENT

1. Respondent Douglas and Respondent W&S Consultants shall immediately cease and desist from any further violations of R.I. Gen. Laws §§ 3-4-1.
2. Respondent Douglas and Respondent W&S Consultants shall pay the sum of one thousand dollars (\$1,000) for the violation of R.I. Gen. Laws § 3-4-1(b) and (c) for a total payment of five thousand dollars (\$5,000).
3. Respondent Valassis shall pay the sum of one thousand dollars (\$1,000) for the repeated violation of R.I. Gen. Laws § 3-4-1(c).
4. Respondent Douglas and Respondent W&S Consultants shall refrain from mailing any direct mail advertisements to any residents of the State of Rhode Island for a period of thirty (30) days.
5. Respondent Douglas and Respondent W&S Consultants agree to comply with all statutory and regulatory requirements in any advertising that is circulated in Rhode Island and/or may be reasonably construed to affect Rhode Island residents.
6. To the extent that an employee of Respondent Valassis has actual knowledge of a violation of R.I. Gen. Laws § 3-4-1, Respondent Valassis shall undertake good

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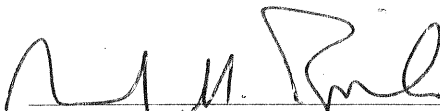
faith efforts to notify the Department, and the person/entity responsible for the advertisement, of the violation.

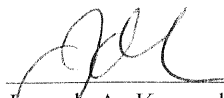
7. If Respondent Douglas, Respondent W&S, and/or Respondent Valassis fail to abide by any of the requirements of this Consent Order the Director may initiate further administrative proceedings and impose penalties against Respondents including such additional administrative penalties as deemed appropriate by the Director. Respondents shall be provided with notice and opportunity of hearing should the Director deem to take such further action
8. By entering into this Consent Order, the Respondent Douglas, Respondent W&S Consultants, and Respondent Valassis do not waive any defenses, including any and all jurisdictional defenses, in any future administrative proceedings that may be initiated by the Director or the Department.

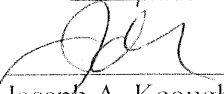
IV. RECOMMENDATION AND ORDER

CONSENTED TO AS TO FORM AND SUBSTANCE BY:

Respondents by:


Raymond M. Ripple as Legal Counsel for
VALASSIS COMMUNICATIONS, INC.
Date: 10/30/12


Joseph A. Keough, Jr. as Legal Counsel for
DOUGLAS WINE AND SPIRITS
Date: 10/25/12


Joseph A. Keough, Jr. Legal Counsel for
WINE AND SPIRITS RETAIL CONSULTANTS, INC.
Date: 10/25/12

Department by:



Neena Sinha Savage, Esq.
Chief of Legal Services

Date: 11/2/12



Maria D'Alessandro, Esq.
Deputy Director, Securities

Date: 11/2/12

RECOMMENDED by:

Date: 11/2/12

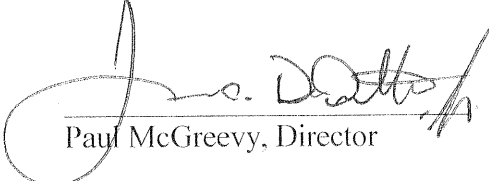


Ellen R. Balasco, Esq.
Hearing Officer

ORDER

I hereby approve _____ reject the Consent Order as agreed to by and between the parties in the above entitled matter.

Order Number: 12-060

 for
Paul McGreevy, Director

Date: 11-2-2012

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, RESPONDENT'S LICENSE SHALL BE SUBJECT TO SUSPENSION OR REVOCATION.

CERTIFICATION

I hereby certify that on this 2nd day of November, 2012 a copy of this Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer was sent by first class mail postage prepaid and certified mail to:

Joseph A. Keough Jr., Esquire
Keough & Sweeney, Ltd.
41 Mendon Avenue
Pawtucket, Rhode Island 02861

Raymond M. Ripple, Esquire
Edwards Wildman Palmer LLP
2800 Financial Plaza
Providence, RI 02903

Douglas Wine & Spirits
One Peoples Way
Fair Haven, MA 02719

Douglas Wine & Spirits
340 Rhode Island Avenue
Fall River, MA 02721

Douglas Wine & Spirits
446 Dartmouth Street
New Bedford, MA 02746

Douglas Wine & Spirits
Fieldstone Market Place
500 Kings Highway
New Bedford, MA 02746

Valassis
World Headquarters
19975 Victor Parkway
Livonia, MI 48152

Wine & Spirits Retail Consultants, Inc.
1405 Douglas Avenue
North Providence, RI 02904

and by email to: Maria D'Alessandro, Deputy Director, John Mancone, Chief, Public Protection Inspector, Department of Business Regulation, 1511 Pontiac Ave, Cranston, Rhode Island 02920.

