

**STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF THE )  
APPLICATION TO PERMIT THE )  
RELAXATION OF N.J.A.C. 13:2-33.2(a) )  
TO PERMIT REFUND OF BRAND )  
REGISTRATION FEES )  
)  
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SR 2022-11  
SPECIAL RULING GRANTING  
RELAXATION OF N.J.A.C. 13:2-33.2(a)

USA WINE IMPORTS, INC.

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Bob Hanwalt, Compliance Specialist, USA Wine Imports, Inc.

BY THE DIRECTOR:

All alcoholic beverages sold or offered for sale in New Jersey by manufacturers or wholesalers to retailers must first be brand registered with the Division of Alcoholic Beverage Control (the "Division"). See N.J.S.A. 33:1-2(c). A brand owner or registrant who files a brand registration schedule and amendment must pay a filing fee of \$23.00 per filing for each initial brand registration and annual renewal and \$10.00 for each amendment. See N.J.S.A. 33:1-2(d); N.J.A.C. 13:2-33.2(a)

On or about June 1, 2022, Petitioner, USA Wine Imports, Inc.<sup>1</sup> filed a petition requesting relaxation of N.J.A.C. 13:2-33.2(a). This regulation provides, among other things, that brand registration fees are non-refundable. Petitioner filed the brand registrations on behalf of its client, Williams Corner Wine,<sup>2</sup> as Petitioner is the authorized agent and exclusive wholesaler of these products.

N.J.A.C. 13:2-9.1 allows the Director to relax a regulation upon a showing by a Petitioner of undue hardship, economic or otherwise on a licensee, that the waiver of the rule would not unduly burden any affected parties, and that the waiver is consistent with the underlying purpose of Title 33 and the implementing regulations. A Petitioner seeking this relief must submit its request in writing and must include all documentation which supports its request for the waiver.

The Division has reviewed the submission from the Petitioner and has considered all the facts and circumstances relating to this matter. The Petitioner requests a refund for payment of

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<sup>1</sup> USA Wine Imports, Inc. holds a New Jersey Plenary Wholesale License No., 3404-23-943-001.

<sup>2</sup> Williams Corner Wine holds a New Jersey Wine Wholesale License No., 3404-26-375-001.

brand registration fees in the amount of \$1,909.00.<sup>3</sup> Petitioner explains that it was unaware that its client decided to no longer continue its sales activity in New Jersey and this was not communicated to Petitioner's Compliance Department until after the brand registrations were already filed. Petitioner states that due to the client's small size and modest revenues and the fact that it will not be conducting any sales activity in the State, such an expenditure for brand registration fees with no prospect of sales revenue to offset it will represent a significant financial hardship to the company. Petitioner states that the client has already made payment to Petitioner for the brand registration fees and that is why the refund is being requested by Petitioner so that it can be refunded back to the client.

Based on the Division's review, the Division finds that the Petitioner has met the requirements of N.J.A.C. 13:2-9.1 to warrant the relaxation of provisions of N.J.A.C. 13:2-33.2(a). Petitioner was unaware that its client decided to no longer continue its sales activity in the State of New Jersey when it filed the brand registrations. The Division believes that Petitioner and client will likely be economically harmed if it is not provided a refund for its error. The Division also believes that granting the requested waiver in this instance will not unduly burden any affected parties or undermine the purposes of Title 33 because Petitioner's client has not sold any product in New Jersey and has not entered into any agreements with any New Jersey retailers for the sale of wine products. Further, New Jersey will suffer no loss of revenue in the form of excise taxes from such sales since no sales have been or will be made. Therefore, for the reasons set forth herein, Petitioner's request for a refund of \$1,909.00 is granted.

The Division is granting this one-time relief as an equitable remedy for Williams Corner Wine, however, the Petitioner (wholesaler) should have been more careful in filing the brand registrations for its client's products, especially because brand registration fees are non-refundable. No further relief shall be granted as to these June 1, 2022 brand registrations.

Please note that the approval granted herein is conditional and based upon the representations set forth in Petitioner's petition and the unique circumstances presented. If the Division becomes aware of different facts, it reserves the right to withdraw this Special Ruling and initiate appropriate proceedings, if required.

  
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ALYSSA P. WOLFE  
ACTING DIRECTOR

DATED: August 2, 2022

APW/JM

<sup>3</sup> The brand registration filed on June 1, 2022 included eighty-three (83) different wines. The Division's June 1, 2022 Brand Registration Letter is attached for reference.