

GURBIR S. GREWAL  
Attorney General of New Jersey  
Attorney for the New Jersey Division of Alcoholic Beverage Control  
140 East Front Street  
Post Office Box 087  
Trenton, New Jersey 08625-0087

By: Kevin Marc Schatz  
Senior Deputy Attorney General  
(609) 984-1975

STATE OF NEW JERSEY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
INVESTIGATION NO. H-DIVISION

IN THE MATTER OF ) CERTIFICATION OF  
TRADE PRACTICES INVESTIGATION ) NANCY E. FOZ

I, Nancy E. Foz, of full age, upon my oath certify and say:

1. I am employed by the State of New Jersey, Department of Law and Public Safety, as an Investigator in the Division of Alcoholic Beverage Control's Investigations Bureau. I have been so employed for approximately 4 years. Previously, I was employed by the Division of Gaming Enforcement for 13 years and Division of Criminal Justice for 13 years, when I retired at the rank of Lieutenant.

2. I make this certification in support of the Enforcement Bureau's Motion for Order to Show Cause why a Special Ruling should not be entered temporarily suspending the rebate known as Retail Incentive Program ("RIPs") until the Bureau completes its on-going trade practices investigation. I make this certification based upon my personal knowledge.

3. On April 16, 2019, I and Investigator Allen Riley conducted an inspection of a licensed retailer known as Leiham Corp., t/a World of Liquor, holder of License No. 2004-32-133-004. This licensee is more commonly referred to as “Bayway.”

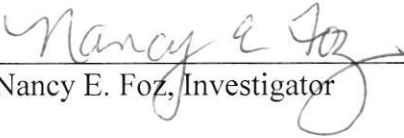
4. During the inspection, I inquired about two RIP rebate checks Bayway had received from Allied Beverage Group (“Allied”), which is one, if not the largest, wine and spirits wholesalers in the State. Specifically, I inquired about RIP Check 851756 in the amount of \$200,000, dated January 31, 2017, and RIP Check 896753, in the amount of \$99,999, dated August 3, 2017. Prior to the inspection, I been advised that these checks had been previously identified to ABC by Allied as RIP payments for two separate invoices, both of which were numbered “999999.” Rather than identifying the “specific alcoholic beverage or combination of beverages” upon which these RIP Checks had been paid, as required by N.J.A.C. 13:2-24.1, I was advised that Allied had disclosed to ABC that these were “Adjustment Checks.”

5. I issued a Notice to Produce Records to the licensee requesting all documentation relating to the aforementioned RIP Checks and other documentation. I provided the Notice to Produce Records to General Manager Joseph Yosevitz.

6. The following day, I received a voicemail on my office phone from Fred Leighton, the owner of Bayway. I returned his call and Mr. Leighton explained that his staff was gathering the requested documentation.

7. I asked Mr. Leighton if he had an explanation for the two RIP Checks issued in 2017 in the amounts of \$200,000 and \$99,999. Mr. Leighton told me that he had “a cash flow problem” twice during 2017 and that he requested Allied to issue his RIP Checks early so he “did not have to go on COD.”

I certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements are wilfully false I am subject to punishment.

  
\_\_\_\_\_  
Nancy E. Foz, Investigator

Dated: *April 24, 2019*