

MEMORANDUM

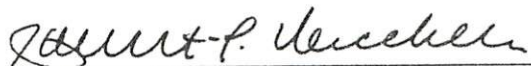
TO: Gerald C. Langlais
Director, Division of Liquor Control
165 Capitol Avenue
State Office Building
Hartford, CT 06106

FROM: Robert F. Vacchelli
Assistant Attorney General
110 Sherman Street
Hartford, CT 06105

RE: Tokaj Aszu Wines

DATE: October 27, 1995

As per your request, enclosed is another original printout of the Declaratory Ruling on the above referenced topic for signatures.



Robert F. Vacchelli
Assistant Attorney General

RFV/kl

Enc.

DECLARATORY RULING : STATE OF CONNECTICUT
VARIANCE FOR : DEPARTMENT OF CONSUMER
: PROTECTION, DIVISION OF
: LIQUOR CONTROL
TOKAJ ASZU WINES : OCTOBER , 1995

DECLARATORY RULING

On October 5, 1995, the Commissioner of Consumer Protection and Liquor Control Commission conducted a Declaratory Ruling hearing to consider the request of the Ambassador of Hungary for a variance from bottle size standards to permit the sale of Tokaj Aszu wines in 500 ml. bottles in Connecticut. For the following reasons, the variance is granted.

The bottle size standards are set forth in Sec. 30-6-A40 of the Regulations of the Liquor Control Commission. These standards do not allow the use of 500 ml. wine bottles in Connecticut; however, Sec. A40(b) provides:

Where, for any reason, certain sizes and quantities of a particular brand do not meet the above prescribed standards, the department, upon written application and for good cause shown, may grant permission for a variance from these standards.

The reasons for variance were set forth in the Ambassador's letter dated July 3, 1995. In addition, the agency heard the testimony of Jozsef Popp, First Secretary from the Hungarian Embassy and Ervin Szerdai, First Commercial Secretary for the Hungarian Embassy. Mr. Popp testified that Tokaj Aszu wines have been sold in 500 ml. bottles in Hungary for over 100 years and its customers recognize the product by this distinctive characteristic. He also testified that it is sold in this configuration in Missouri, Virginia, Pennsylvania, California,

Oregon, New York and Washington. Mr. Szerdai also emphasized the long tradition of marketing this product in this configuration in Hungary, and that Tokaj wines have been granted preferential status by the United States Trade Representative to stimulate its importation. Two letter exhibits were admitted into evidence by these witnesses in further support of their testimony. Attorney Richard Zeisler, representing the Ambassador, also noted that the 500 ml. size was allowed by the federal standards of fill under 27 C.F.R. 4.73 and, with permission after hearing, he submitted proof that the 500 ml. bottle is a trademark of the wines. He advocated that Connecticut has a large Hungarian population, that Bridgeport is a center for Hungarian events, and that Hungarians would easily recognize the product by its 500 ml. configuration, but not other sizes.

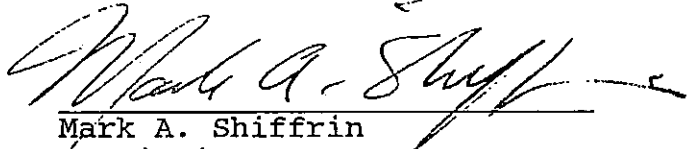
We also heard from George Montano, President and Director of the Connecticut Wine and Spirits Association. Mr. Montano stated that his association had no objection to the request provided that it was limited to Tokaj wines. Otherwise, he argued, introduction of 500 ml. bottles would deceive consumers and burden the industry with handling another unnecessary set of bottles. Thomas Tyler, of the Connecticut Package Store Association, concurred in Mr. Montano's remarks.

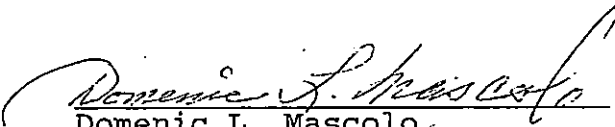
Based on this information, we find that Tokaj Aszu wines have been marketed for over 100 years in 500 ml. bottles; that its bottle shape, size and color are claimed trademarks; and that consumers of the product are accustomed to finding it in that configuration. We further find that the wines are allowed in

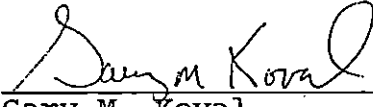
this bottle configuration by the federal government, and that it is permitted to be sold in this configuration in other states. Therefore, we find that there is good cause to allow the sale of Tokaj Aszu wines in 500 ml. bottles in Connecticut as a variance from the standards in Reg. Sec. 30-6-A40. The requested variance is granted.

Nothing in this decision should be construed as authorizing the sale of any other wines in 500 ml. bottles.

Dated at Hartford, Connecticut this day of October,
1995.


Mark A. Shiffrin
Commissioner of Consumer
Protection and Chairman,
Liquor Control Commission


Domenic L. Mascolo
Commissioner, Liquor Control
Commission


Gary M. Koval
Commissioner, Liquor Control
Commission

cc: The Ambassador of Hungary
Out-of-State Shipper Involved
Wholesalers Involved
The Wine Institute
George Montano, Conn. Wine and Spirits Ass'n
Thomas Tyler, Conn. Package Store Ass'n
Attorney Richard Zeisler
Any other person who requested automatic notice

MEMORANDUM

TO: Mark A. Shiffrin
Commissioner
Consumer Protection
165 Capitol Avenue
Hartford, CT 06106

FROM: Robert F. Vacchelli
Assistant Attorney General
MacKenzie Hall
110 Sherman Street
Hartford, CT 06105
Tel. (860) 566-7570

RE: Variance for Tokaj Aszu Wines

DATE: October 23, 1995

Enclosed please find a draft decision in the above referenced matter as per your request.

Please let me know what changes need to be made.



Robert F. Vacchelli
Assistant Attorney General

RFV/td
enc.

cc: Gerald Langlais
Director, Division of Liquor Control

DECLARATORY RULING : STATE OF CONNECTICUT
VARIANCE FOR : DEPARTMENT OF CONSUMER
: PROTECTION, DIVISION OF
: LIQUOR CONTROL
TOKAJ ASZU WINES : OCTOBER , 1995

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The reasons for variance were set forth in the Ambassador's letter dated July 3, 1995. In addition, the agency heard the testimony of Jozsef Popp, First Secretary from the Hungarian Embassy and Ervin Szerdai, First Commercial Secretary for the Hungarian Embassy. Mr. Popp testified that Tokaj Aszu wines have been sold in 500 ml. bottles in Hungary for over 100 years and its customers recognize the product by this distinctive characteristic. He also testified that it is sold in this configuration in Missouri, Virginia, Pennsylvania, California,

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Based on this information, we find that Tokaj Aszu wines have been marketed for over 100 years in 500 ml. bottles; that its bottle shape, size and color are claimed trademarks; and that consumers of the product are accustomed to finding it in that configuration. We further find that the wines are allowed in

this bottle configuration by the federal government, and that it is permitted to be sold in this configuration in other states. Therefore, we find that there is good cause to allow the sale of Tokaj Aszu wines in 500 ml. bottles in Connecticut as a variance from the standards in Reg. Sec. 30-6-A40. The requested variance is granted.

Nothing in this decision should be construed as authorizing the sale of any other wines in 500 ml. bottles.

Dated at Hartford, Connecticut this day of October,
1995.

Mark A. Shiffrin
Commissioner of Consumer
Protection and Chairman,
Liquor Control Commission

Domenic L. Mascolo
Commissioner, Liquor Control
Commission

Gary M. Koval
Commissioner, Liquor Control
Commission

cc: The Ambassador of Hungary
Out-of-State Shipper Involved
Wholesalers Involved
The Wine Institute
George Montano, Conn. Wine and Spirits Ass'n
Thomas Tyler, Conn. Package Store Ass'n
Attorney Richard Zeisler
Any other person who requested automatic notice

George Montano
Wine & Spirits Wholesalers
PO Box 3952 Amity Station
New Haven CT 06525

Julius Rosenberg
Hartley & Parker Limited
100 Browning Street
Stratford CT 06497

Tendy Carson
Monsieur Touton Selection
19 Wilson Avenue
Norwalk, CT 06854

Jeffrey Kasiewicz
Connecticut Distributors
333 Lordship Boulevard
Stratford CT 06497

Leonard Levine
Levine Distributors
5 Stott Avenue
Norwich CT 06360

William Sweetman
Dwan & Company
Industrial Lane
Torrington, CT 06790

Samuel Amedeo III
Connecticut Beverage
40 West Thames Street
Norwich, CT 06360

John McCarthy
J & M Sales Co., Inc.
P.O. Box 1048
Torrington, CT 06790

William Gaetano
Nichello Distributors
5 Marsh Hill Road
Orange, CT 06477

Christine Gingras
G & G Beverage Distributors
207 Church Street
Wallingford, CT 06492

Janneke Witkewicz
Consolidated Direct Imports
5 Whiting Street
Plainville CT 06062

Anthony Gallo
Star Distributors
10 Eder Road
West Haven, CT 06516

Patricia Schuass
Schuass, Inc.
7 South Main Street
Newtown, CT 06782

Andrew Eder
Eder Bros., Inc.
11 Eder Road
West Haven, CT 06516

Austin Stack
Franklin Distributors
40 Nutmeg Road
South Windsor, CT 06074

George Slocum
Slocum & Sons
25 Industry Road
West Haven, CT 06516

Mervyn Lentz
Prescome Distributors
15 South satellite Road
South Windsor, CT 06074

Gene Schaeffer
Luneau U.S.A. Inc.
25 Sylvan Road
Westport CT 06880

Joseph Morelli
Evaton
1100 High Ridge Road
Stamford, CT 06903

Ralph Pears
DISCUS
RFD 1, Box 147
Auburn, ME 04210

George Montano
Wine & Spirits Wholesalers
P O Box 3952 Amity Station
New Haven CT 06525

Wendy Carson
Monsieur Touton Selection
219 Wilson Avenue
Norwalk, CT 06854

Leonard Levine
Levine Distributors
15 Stott Avenue
Norwich CT 06360

Humphrey Amedeo III
Connecticut Beverage
340 West Thames Street
Norwich, CT 06360

Lillian Gaetano
Dichello Distributors
55 Marsh Hill Road
Orange, CT 06477

Anneke Witkewicz
Consolidated Direct Imports
95 Whiting Street
Plainville CT 06062

Patricia Schuass
Schauss, Inc.
27 South Main Street
Plymouth, CT 06782

Austin Stack
Franklin Distributors
140 Nutmeg Road
South Windsor, CT 06074

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85 South satellite Road
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1100 High Ridge Road
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25 Sylvan Road
Westport CT 06880

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DISCOS
RFD 1, Box 147
Auburn, ME 04210



STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

SIGN IN SHEET FOR DECLARATORY RULING HEARING FOR TOKAJ ASZU WINES, 500 ML. BOTTLE. HEARING SCHEDULED FOR OCTOBER 5, 1995 AT 12 NOON IN ROOM 565 BEFORE THE LIQUOR CONTROL COMMISSION.

NAME	ORGANIZATION NAME & ADDRESS	DO YOU WISH TO TESTIFY?	
		YES	NO
Richard Zeister Esq	Zeister+Zeister 558 Clinton Av. Bpt	X	
Jozsef Popp	Embassy Hungary 3910 Sheppard St. N.W. Wash. D.C. 20008	X	
ERVIN SZERDAI	HUNGARIAN EMBASSY COMMERCIAL COUNSELLOR'S OFFICE 150 E 58TH ST., NEW YORK NY 10023	X	
GEORGE J. MONTANO	WINE+SPIRITS WHOLESALERS OF CT PO Box 3952 WOODBRIDGE, CT 06525	X	
THOMAS J. TYLER	CT PACKAGE STORES ASSN 1175 SO. MAIN ST. CHESTER, CT 06410	X	

1/6/95
sent ruling to
above list