



# Summary of Findings

**Worcester County Liquor Control Board  
Investigation**



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## Worcester County Liquor Control Board – Investigation Findings

### Background

In April of 2010, the Field Enforcement Division (FED) received information regarding allegations of Article 2B violations and trade practice violations being committed by the Worcester County Liquor Control Board, hereinafter referred to as the LCB. Generally speaking, violations of Article 2B are violations of the law while trade practice violations are concerns with regulatory issues as prescribed in the Code of Maryland Regulations (COMAR).

After receiving this information, FED began to conduct what became a very detailed and lengthy investigation. The investigation began with allegations that the LCB was selling a distilled spirit, Stoli Ohranj Vodka, at a cost of \$5 per bottle and selling Oak Vineyards wine and Fox Hollow wine at a cost of \$1 to \$2 per bottle specifying that these sales were in violation of the “selling below cost” prohibition. The complaint alleged that these bottles of vodka and wine were being sold at a price lower than what the LCB paid for it. It was also alleged that only certain retailers were included in this promotion, which would be a violation of the state’s legal prohibition against price discrimination.

During the course of the investigation over 50 in-person interviews were conducted from a range of people including retail business owners, former and current employees of the LCB, members of the Worcester County Liquor Control Board, and any other individuals who may have had information that pertained to the investigation. Furthermore, the investigator attended meetings or hearings that were pertinent to the investigation.

The LCB was created by statute and is the lawful dispensary for distilled spirits and wine to Worcester County alcohol retailers. The LCB exists both as a wholesaler and a retailer, with several retail outlets in operation throughout the county. The LCB retail stores operate and compete among privately owned and operated retail store. Each year, 50 percent of the net profits in excess of the reserve fund are paid to the County Commissioners of Worcester County. The remaining 50 percent is paid to the mayors and city councils of Berlin, Ocean City, Pocomoke City, and Snow Hill in proportion to the net profits that are generated by the dispensaries in each of these cities. The total disbursement in 2010 was \$111,705 and in 2009 it was \$410,615.

As news of the FED investigation spread, the investigator began to receive numerous allegations of improper trade practices by the LCB. The investigator made every reasonable effort to follow up on the allegations to determine whether there was sufficient or insufficient evidence to support the allegations, or if the allegations were simply unfounded. The balance of this summary will address the allegations of both statutory and regulatory violations that were found to be supported by evidence obtained through the course of the investigation.

## Statutory Violations

### *Stoli Ohranj Vodka*

The FED investigation determined that one-litre bottles of Stoli Ohranj Vodka were sold for \$5 per bottle. According to a receipt from the supplier, William Grant and Sons, Inc., the cost to the LCB was \$16.26 per bottle.

Interviews of retailers generated allegations that the discount promotion of \$5 per bottle was hastily developed during a trade show conducted in Ocean City during the second week of March of 2010. As a result, the promotion was not included in the monthly newsletter put out by the LCB. An e-mail was sent out by the executive director of the LCB to liquor retailers in Worcester County; however, there was no evidence to conclude that all liquor retailers in Worcester County were on the distribution list used to send the email.

The LCB claimed that the discount promotion was displayed on the LCB website from March 17, 2010 through March 31, 2010. The investigator could not verify that the promotion was on the website, but, operated under the assumption that it was displayed. However, the investigator did determine that no attempt was made to assure that all liquor retailers in Worcester County were notified of the promotion. By comparison, a very large Maryland wholesaler notifies its retail accounts of promotions by publishing them in the *Maryland Beverage Journal* when time allows, and notifying each member of their sales staff with further instructions to contact each of their retail accounts with information on the promotion.

As the investigator met with various retailers and asked about the cost of Stoli Ohranj Vodka, he received copies of two invoices dated for the same day, April 16, 2010. Both of these invoices contained orders for Stoli Ohranj Vodka with a different cost on each invoice. The cost per bottle for one retailer was \$14.99 further reduced to \$8.74 after a credit was applied. The cost per bottle for the other retailer was \$22.99 with no additional discounting. These different costs for product on the same day violate the Article 2B Section 12-102(a) provision prohibiting discrimination in price between one retailer and another.

The LCB stated that in order to sell the Stoli at \$5 per bottle, they received a credit of over \$52,000, allegedly given to the LCB by William Grant and Sons, Inc., the supplier of Stoli Ohranj Vodka, and applied it to an invoice due to William Grant. According to a representative of William Grant, a credit of only \$3,000 had actually been provided by the company. Thus, at \$5 per bottle, the LCB sold the Stoli Ohranj Vodka below their cost in violation of Article 2B Section 6-201(y)(7). Article 2B Section 6-201(y)(7) requires that the LCB sell all products to retailers at no less than 10 percent above its cost. During an interview, an LCB official was asked specifically how the cost was determined. The official admitted the figures used to reduce the cost of the Stoli Ohranj Vodka had been manipulated in order to bring the cost down to \$5 per bottle.

### *Oak Vineyards and Fox Hollow Wine*

The FED investigation revealed that wine which was purchased at costs per bottle ranging from \$2.33 to \$4.33 was sold for \$1 to \$2 per bottle. An LCB official said that the reduced price was

to get rid of existing stock in order to make room in the warehouse for new stock. According to the official, the wineries they deal with require 1,000 case minimum orders. Again, this violates provisions of Article 2B Section 6-201(y)(7) which requires that the LCB sell all products to retailers at no less than 10 percent above its cost.

Also, statements reportedly made by the LCB regarding the number of bottles sold for \$1 per bottle were understated. According to a report by the *Maryland Coast Dispatch*, the LCB stated that only 55 cases of wine were sold for \$1 per bottle. However, according to documents retrieved from the LCB and liquor retailers that purchased the wine, over 1,163 cases were sold at \$1 per bottle; each case contained 12 bottles of wine.

### ***Captain Morgan's Spiced Rum***

During the investigation, an invoice for 200 cases of Captain Morgan's Spiced Rum was found in the LCB files. The invoice showed that in June 2007, the LCB purchased the rum from a Washington, D.C. liquor retailer. A matching purchase order from the LCB for payment to the Washington, D.C. retailer was also found in the files. This action is a violation of Article 2B Section 15-205(b) which requires that the LCB purchase from a licensed wholesaler, a manufacturer, or a nonresident or resident producer or dealer.

### **COMAR Regulatory (Trade Practice) Violations**

There were several incidents where the LCB gave functional equipment to liquor retailers at no cost to the retailer. COMAR 03.02.05.11 forbids a wholesaler from providing an item of utilitarian value which would relieve a licensed retailer of an ordinary business expense.

Specifically, the LCB gave out 14 commercial juicers with an estimated value of \$129 to \$245 each. Additionally, the LCB furnished one liquor retailer with a commercial chilling machine which has an estimated value of \$200. The chilling machine was used for dispensing a flavored whiskey drink. Also, the LCB paid for the printing of several menus for some liquor retailers in Ocean City, again relieving them of this ordinary business expense.

### **Conclusion**

As a result of this investigation of the business and trade practices of the LCB, the FED has identified substantial evidence of violations of Article 2(B) of the Annotated Code of Maryland, and of the Code of Maryland Regulations. The FED takes these findings seriously, and will continue to review any new information that is made available to this agency. Within the next several days, we will notify the LCB of our intention to move forward with due process by initiating the formal hearing procedure.

Since the LCB was established by an act of the Maryland General Assembly and is subject to state laws and regulations, a copy of this report will be submitted to state legislative leaders in addition to the Worcester County Commissioners.