



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA ELECTRONIC AND FIRST CLASS MAIL

Caleb P. Burns, Esq.
Jan Witold Baran, Esq.
Andrew G. Woodson, Esq.
Wiley Rein LLP
1776 K Street NW
Washington, D.C. 20006

SEP 07 2018

RE: MUR 7410

Dear Messrs. Burns, Baran, and Woodson:

On September 6, 2018, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of your clients, Wine and Spirits Wholesalers of America, Inc. and the Wine and Spirits Wholesalers of America, Inc. Political Action Committee, in settlement of a violation of 52 U.S.C. § 3118(b)(4)(A)(i), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Q. Lockett".

Roy Q. Lockett
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 7410
Wine and Spirits Wholesalers of America, Inc.)	
Wine and Spirits Wholesalers of America, Inc.)	
Political Action Committee and Lisa Lisker)	
in her official capacity as treasurer)	

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OFFICE OF
GENERAL COUNSEL

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission made to the Federal Election Commission ("Commission") by the Wine and Spirits Wholesalers of America, Inc. ("WSWA") and Wine and Spirits Wholesalers of America, Inc. Political Action Committee ("WSWA PAC") (collectively "Respondents"). The Commission found reason to believe that Respondents violated 52 U.S.C. § 30118(b)(4)(A)(i).

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered under 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. WSWA is an incorporated trade association that represents wholesalers of wine and spirits, with approximately 100 member companies, which are located in all 50 states and the District of Columbia.

2. WSWA PAC is the separate segregated fund ("SSF") of WSWA, registered with the Commission as a multi-candidate political committee. The current treasurer of WSWA PAC, Lisa Lisker, was appointed on February 24, 2016.

3. The Federal Election Campaign Act of 1971, as amended (the "Act"), permits corporations to establish SSFs. *See* 52 U.S.C. §§ 30118(b)(2)(C), 30101(4)(B). The Act, however, prohibits a corporation or its SSF from soliciting contributions to the SSF from persons outside the corporation's restricted class. 52 U.S.C. § 30118(b)(4)(A)(i); 11 C.F.R. § 114.5(g)(1). A corporation's restricted class includes its executive and administrative personnel and families of such personnel. 11 C.F.R. § 114.1(j).

4. A trade association and its SSF may solicit the stockholders and the executive and administrative personnel of a member corporation, provided that the member corporation separately and specifically approves the solicitation, and the member corporation does not approve a solicitation by any other trade association during the calendar year. 52 U.S.C. § 30118(b)(4)(D); 11 C.F.R. § 114.8(c), (d). *See also* 11 C.F.R. § 114.8 (defining trade association).

5. Excluded from solicitable executive and administrative personnel, however, are professionals who are represented by a labor organization; therefore, these people are not part of a corporation's restricted class who may be solicited for contributions to a trade association's SSF. 11 C.F.R. § 114.1(c)(2)(i).

6. WSWA solicited certain unionized employees at five member companies, who contributed a total of \$246,142.69 to WSWA PAC during the period from 2007 through 2016. Of this total, \$145,306.88 of the contributions remain within the applicable statute of limitations. Upon discovery of this activity in January 2017, Respondents identified which solicited

personnel of the five companies were union members, ceased soliciting them for contributions to WSWA PAC, and refunded all of their contributions made during the period from 2007 through 2016.

7. WSWA PAC's 2017 May Monthly Report disclosed the refunds of the contributions at issue. *See* WSWA PAC 2017 May Monthly Report at 211-322 (May 19, 2017).

8. Respondents contend that the solicitations of unionized employees were inadvertent and, upon learning of the issue, took prompt remedial action by issuing the aforementioned refunds, instituting procedures to prevent future solicitations of unionized employees, and notifying the Commission through a *sua sponte* submission.

V. Respondents' improper solicitations violated 52 U.S.C. § 30118(b)(4)(A)(i).

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty in the amount of Seven Thousand Dollars (\$7,000) to the Federal Election Commission pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondents will cease and desist from violating 52 U.S.C. § 30118(b)(4)(A)(i).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

BY: Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel
for Enforcement

9/6/18
Date

FOR THE RESPONDENTS:

[Signature]
(Name) **DAWSON R. HOBBS**
(Position) **CO-ACTING PRESIDENT AND CEO**

8/2/18
Date