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13 UNITED STATES BANKRUPTCY COURT FOR THE  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SANTA ROSA DIVISION

16 In re:  
17 HILL WINE COMPANY, LLC,  
18 Debtor.

Bk. No. 14-10680-AJ  
Chapter 11

**DECLARATION OF  
SPENCER P. SCHEER**

Hearing –  
Date : July 25, 2014  
Time: 10:00 a.m.  
Place: U.S. Bankruptcy Court  
99 South “E” Street  
Santa Rosa, CA

19 I, SPENCER P. SCHEER, declare and state:

20 1. As to the following facts, I know them to be true of my own personal  
21 knowledge, and if called upon to testify in this action, I could and would testify competently to  
22 the following facts personally known by me to be true.

- 23 1. I am an attorney at law duly licensed to practice in the State of California.  
24 2. In accordance with discussions I had with state court counsel for Hill Wine  
25 Company, LLC (“Debtor”), Vincent Spohn, he provided me with a copy of a letter (“Letter”)  
26 dated May 16, 2014, evidencing concerns that the Department of Alcohol, Tobacco Tax & Trade  
27 Bureau (“TTB”), had with Debtor. A copy of the Letter Mr. Spohn provided me is attached as  
28

1 Exhibit "A" and is incorporated by reference. One of the primary concerns I raised with Mr.  
2 Spohn in my discussions with him was that the Debtor's license (and the required bond) to sell  
3 wine was subject to termination in 120 days from April 23, 2014, as provided in the Letter. In  
4 our discussions, Mr. Spohn expressed the hope that with new management that the Debtor's  
5 ability to change things would improve, resulting in the ability of the Debtor to sell wine and to  
6 maintain the license with another entity or individual.

7 I declare under penalty of perjury under the laws of the United States of America  
8 that the foregoing is true and correct and that this Declaration was executed on June 21, 2014, at  
9 San Rafael, CA.

10 SCHEER LAW GROUP, LLP

11 /s/ Spencer P. Scheer  
12 #107750

LAW OFFICES OF  
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May 16, 2014

Gordon Munroe, CEO  
Hill Wine Company, LLC  
1001 Silverado Trail  
St. Helena, CA 94558

**Re: General Counsel for Hill Wine Company, LLC**

Dear Mr. Munroe:

You have requested me to draft a letter setting forth the substance of a meeting I attended on Wednesday April 23, 2014. In attendance were Jeff Hill ("JH"), agents from the Alcohol Tobacco Tax & Trade Bureau of the United States Federal Government ("TTB"), TTB Agents Erin Hogarty ("EH") and Aniko Ritchie ("AR") and myself. The meeting was unilaterally scheduled by the TTB. You asked me to attend as General Counsel of the Hill Wine Company, a California limited liability company ("HWC"), a retention my law firm most recently accepted. The meeting lasted over five hours with a break for lunch.

After some forced pleasantries, the TTB agents quickly got down to business. Agent RH placed a 15 inch stack of Manila folders on the table filled with documents she referred to as "evidence." Agent EH announced that based on months of investigation, multiple interviews, and several sworn affidavits, she was seeking to revoke permits held by JH, allowing him to operate wine making facilities at Carneros Vintners ("CV"), The Ranch, and the Hill Winery. They declared that if the permits were not surrendered, the TTB would immediately commence legal proceedings to revoke or annul the permits. They asked JH and me to review the evidence they had developed before taking a position on surrendering the permits.

The evidence centered on 19 issues, some of which had more documentation than others. Throughout the day they expressed frustration with not having access to all of the "5120s" – federal reports required to be kept and made available relating to grapes brought into and stored at a permitted site broken down by origin (American Viticultural Area "AVA"), varietal, and weight, among other things. They were aware that the reports are in the possession of a former

**EXHIBIT "A" - 1**

employee of HWC, who apparently had not been paid currently. They said, however, that they had been given most of them, and all that were available to you and your staff.

It should be noted that during the session, the Agents, especially EH, allowed me to (only) quickly look at her documentary evidence, but they would not surrender any copies of the evidence. On many of the 19 issues discussed below, she had a file in front of her, but did not show us the specific evidence; rather, she summarized the evidence. As the day wore on, this method of not taking me through the documentary evidence became typical as we approached the last half of the issues.

Before the evidence was reviewed, JH had agreed to transfer control of the HWC to you, Gordon Munroe, essentially removing himself from the day-to-day operations of the winery. The HWC had also retained Bankruptcy counsel for the filing of a Chapter 11. I reminded them that several employees of the Winery had families to support, and were assured that the new management and legal team were resolute in cooperating with investigations and committed to structural changes and the orderly payment of creditors.

In the end, we negotiated a surrender of the three permits: the permits for CV, and the Ranch would be surrendered immediately, but the permit for the Hill Winery will be surrendered in 120 days, on the condition that JH and his wife will transfer ownership of the HWC LLC to a third party, that a new individual would become the permit holder, and that JH would have no active role in the business, and absolutely no authority in the area of vineyard operations. We were asked to draft a transition proposal and submit it to them.

Here is a recap of the evidence the TTB had assembled in support of its demands:

**1. Prior Felony Concealment.** The agent showed JH a copy of 18 USC Section 1001, the statute in effect making it a felony to lie under oath. They alleged that when JH applied for the federal permit, he failed to disclose a 2008 felony conviction for insurance fraud in Sonoma County Superior Court (case no. 538987), based on an investigation of the California Department of Insurance in case no. 08BS001296. The agents alleged this was a violation of 18 USC 1001, and alone would be grounds to annul all the permits.

**2. Lake County Wine Sold as Napa County Wine.** Based on interviews, bills of lading, e-mails, sworn affidavits of witnesses, and other documentation, the agents alleged that JH, in August, 2013 purchased Lake County wine and sold it as Napa County Cabernet Sauvignon ("CS"), which was the wrong AVA. Approximately 13,000 gallons of this wine was sold to Don Sebastiani & Sons ("DSS") in Sonoma; an equal amount was sold to two wineries: Trinitas Cellars and Adobe Cellars. As part of these events, the agents alleged JH unexpectedly temporarily laid off his wine maker to conceal forged documents.

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**3. Failure to Pay Taxes.** The agents alleged that JH never filed or paid any taxes on the wine processed at any of the 3 facilities ( CV, the Ranch, or HWC), despite having signed his name on documents which stated that taxes had been paid. They asserted this also constituted a violation of 18 USC §1001.

**4. Mislabeling of BevMo Wine.** The agents alleged that JH sold and sent 2400 cases of wine to BevMo as CSS Cabernet Sauvignon from Rutherford, AVA when in fact witnesses have testified it was not from that AVA. Additionally they said the lot had no Certification of Label Approval ("COLA") and no sulfite level statement on the labels.

**5. Ticen Ranch Property.** On at least one occasion JH asked Madeline, his viticulturist, to sign a document saying that certain grapes actually came from this ranch. She refused to do so. (I saw no supporting documentation of this claim.)

**6. ASV Wine.** Based on a fax from "North Coast Transporter" 40,000 gallons of wine were purchased from a Lodi based facility. The wine was moved to the Hill Winery at a time when the facility did not have a valid permit. None of the wine was Napa Valley Cabernet Sauvignon, yet the wine was transported to ASV as 100% Napa Valley CS. ASV allegedly paid \$500K for the wine.

**7. Agajanian Chardonnay.** In October, 2012 Agajanian sold HWC 50 tons of Chardonnay from the Sonoma Coast AVA. Weigh tags do not indicate any AVA whatsoever. JH's former winemaker, Philippe, testified that the wine was sold as Napa AVA. Two known purchasers were Trinitas Cellars and Liquid Trade Solutions.

**8. Ahnfeldt Non-Sale/DSS Sale.** In September, 2013, JH signed a Bill of Lading which stated that Ahnfeldt Wines received 3,000 gallons of Merlot. Bruce Ahnfeldt, its owner, has testified that neither he nor his winery ever received the wine. Documents indicate that around the same time, DSS was sent 3,000 gallons of Pinot Noir ("PN"). The Agents contend that in reality DSS received 3,000 gals of Sonoma Mountain Merlot. The Agents believe that one reason for this is that PN commands a much higher price than Merlot.

**9. Red Feather Grapes.** In January, 2014 JH told agent EH that he found a vineyard in the Coombsville area of Napa where he was going to be able to purchase 4 acres of CS. When the fruit arrived, JH's winemaker, Philippe, complained that the grapes smelled of eucalyptus. He asked JH where it was from, and was told it came from Coombsville, a sub-appellation in Napa County. Agent EF investigated and found no such vineyard in Coombsville, Napa County, but did find a vineyard in Livermore by the name of Red Feather ("RF"). The owners of RF have testified that JH had a contract to purchase CS Grapes from them in 2011 and 2012, but they were warned by JH to "never tell anyone that I bought grapes from you." They also were

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denied access to the weigh tags. The owners historically were able to produce 18- 20 tons of CS annually, but records show JH reported receiving 9 tons and 14 tons in the years he purchased from them in 2011 and 2012. In these years, JH sold the wine made from the RF grapes as Napa Valley CS. JH volunteered an admission to these facts. Red Feather has since gone out of business.<sup>1</sup>

**10. Knightsen Contra Costa Vineyard.** Truck driver Chris Foncia has testified that he saw JH change the weigh tags and the AVA and that he was not allowed to fill the tags out. In 2013, the AVA for these grapes was listed as “Carneros, Napa Valley.”

**11. Wrap-it Transit Taxes.** Because Wrap-it Transit had no bond, JH owes taxes for all wine sent through the entity at least before 2012. JH admitted having paid no taxes. The Agents opined that Western Wine Merchants, a distributor will be charged the tax, estimated at \$124,000, but JH will eventually be liable for it. The Agents expressed uncertainty about the exact amount of tax to be paid.

**12. “Toolbox Brand”.** Apparently records exist showing Mr. Terry Otton bought the brand. Taxes, however, have yet to be paid on the purchase, and a question exists as to who owes them.

**13. Manuscript Winery Taxes.** Seven different bills of lading exist showing JH stating under oath that the taxes had been paid, apparently by Manuscript. One agent opined that charging an entity for taxes – then not paying them – is a felony.

**14. Whiskey River Ranch Winery.** Weigh tags show the delivery of grapes to this Napa Valley Winery, located in the Pope Valley Region, allegedly sent to it from the Ticen Ranch. The grapes, however, did not come from the Ticen Ranch. JH said that this had been “cleared up.”

**15. Lodi Shipments.** The agents alleged that over 300 tons of grapes were sent to three Lodi entities: 1) Omega Vineyard and Winery, 2) Rodney Schatz Winery and 3) Lodi Vintners, all of which were misidentified either by varietal and/or AVA. They contended that representatives of a trucking company told them that JH represented the grapes as “all Napa Cabernet Sauvignon,” but weight tags from the grapes indicate that they were either from Solano County, or Mendocino County – none were from Napa County.

**16. Purple Pear and Affiant.** “Marco” has testified that JH shipped 125 tons of Merlot and 40 tons of Syrah from Solano County to entities in Lodi. Apparently, JH instructed

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<sup>1</sup> After this issue, the Agents went through the remaining issues rather quickly, showing less and less documentation.

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the trucking company to change the weight tags to show that the grapes were Cabernet Sauvignon from the Napa Valley. The Company is now out of business.

**17. Langtry Estate and Vineyards (Guenoc Valley, Lake County, California) Shipments.** Eric Stine, the winemaker at Langtry Estate and Vineyards in Lake County called Rodney Schatz in Lodi, California, telling him that JH had purchased 50 tons of Merlot and Malbec from Langtry. Schatz was told by JH that the wine was Cabernet Sauvignon from Napa Valley.

**18. Prohibited Practices.** The Agents described several misrepresentations of JH in connection with his wines. First, JH claimed on labels that HWC gives 2% of its net profits to the Lake County Society for the Prevention of Cruelty to Animals, but the Agents could not find records existing for such gift. Second, they alleged that at the HWC Tasting Room, on its website and on Hill Wine Bottles, HWC claims that the grapes were organically grown. The Agents said that a winery cannot publicly make that claim without having been certified as organic. No such certification exists for HWC. Third, the Agents alleged that this was false and misleading advertisement and demanded that such deceptions be removed wherever they can be seen by the public (website, shelf talkers, signage, etc.). Fourth, with respect to the lack of COLAs, the Agents observed that without a COLA, there is a "per bottle" fine for each violation and that labels with misrepresentations came from all three bonded winery locations where HWC made wine or had wine made by others.

**19. Lake County Truck Shipments.** Eight separate trucking companies transporting for at least 11 Lake County wineries complained to the TTP of JH engaging in the following: JH would hand-deliver sealed manila envelopes to the grower to give to the trucker. The grower was instructed "not to open the envelope" but to "give it to the trucker" and that if they did open the envelope they would not be paid or the grapes would not be received at the "end location." The truckers complained not only of these instructions, but also that JH would require the grower and trucker to allow him to fill out the weigh tags, which in the end falsified the AVA, the weight of the grapes and the varietal picked. Without being specific, the Agents said that some of the growers and truckers have not been paid and some are out of business.

Throughout the session, the Agents were complementary of yourself, Robin and Madeline, the viticulturist. They expressed relief that a fundamental change had been made at the Winery.

The Agents requested that HWC provide them with the "5120s", the original permits and a transition proposal showing JH and his wife would be transferring ownership of the winery. They also wanted to be informed of who and when individual(s) received permits to operate at

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Gordon Munroe, CEO  
Hill Wine Company, LLC  
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HWC from the TTB, California Department of Food and Agriculture and the Alcohol Beverage and Control.

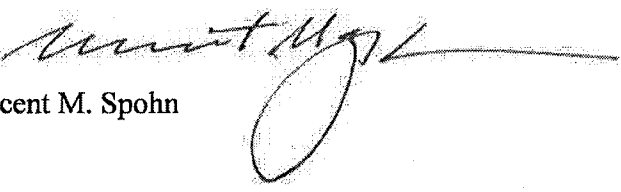
Throughout the session, as general counsel for HWC, I refrained from either defending Jeff Hill, or from asking him about the allegations. He initially blamed other people for the first few allegations, but then after being reprimanded by EH for doing so, he largely remained silent.

After the meeting, the Agents and I walked over to the Winery offices to surrender the permits related to the Ranch and Carneros Vintners. We filled out the surrender documents, which are on file. The Agents then thanked me and yourself for your cooperation and encouraged us to continue the changes that have been put in place since you arrived and became the Chief Executive Officer.

Should you have any questions with respect to the foregoing, please do not hesitate to call.

Very truly yours,

LAW OFFICES OF VINCENT M. SPOHN, A.P.C.

  
Vincent M. Spohn

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