

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

QUENCH LLC, d/b/a DELEON
TEQUILA, et al.,

Petitioners,

vs.

Case No. 3:11-cv-811-J-32TEM

LIQUOR GROUP WHOLESALÉ,
INCORPORATED,

Respondent.

ORDER AND FINAL JUDGMENT

On September 13, 2012, the Court granted Petitioners' Amended Petition for Confirmation of the Arbitration Award (Doc. 45). Previously, on April 9, 2012, the Arbitrator had entered a Final Award (Doc. 43-1) against Respondents Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, a Colorado corporation and a Florida limited liability company, respectively (with principal addresses of 4600 Touchton Road, Suite 1150, Jacksonville, FL 32246). Petitioners, California corporations Quench, LLC, d/b/a DeLeon Tequila (with a principal address of 8700 Melrose Avenue, West Hollywood, CA 90069) and The Wine Care Group, Inc. (with the principal address of 6475 Pacific Coast Highway, No. 206, Long Beach, CA 90803), now seek entry of a Final Judgment pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1- 16 ("FAA") in conformity with the Final Award. Petitioners also seek an award of attorney's fees and costs as the prevailing parties pursuant to the Distribution Agreement that was the subject of the arbitration.

In the Final Award, the Arbitrator awarded compensatory damages and injunctive relief in favor of Petitioners against Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC. (Doc. 43-1 at 26-30.) First, it provided an award against Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, jointly and severally, in the amount of \$139,940, which included compensatory damages plus an award of the AAA fees and the Arbitrator fees totaling \$34,160. (Doc. 43-1 at 27, 33.) The Final Award stated that Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC would be entitled to a set-off for the wholesale value of reclaimed product. (Doc. 43-1 at 27.) Petitioners contend in their Proposed Final Judgment that the wholesale value of the product reclaimed in May 2012 was \$57,145.¹ Thus, the compensatory damages award with the set-off deduction against Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, jointly and severally, is \$82,795. Next, the Arbitrator indicated in the Final Award that Liquor Group Wholesale, Inc. is additionally liable individually for compensatory damages in the amount of \$222,280.² (Doc. 43-1 at 27.)

The Arbitrator explained that while he had the authority to decide if a party owed attorney's fees and costs, he did not have the authority to determine the amount. (Doc. 43-1

¹ The Arbitrator directed that Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, as well as their respective officers, employees, and agents, and entities under their control or acting in concert with them, make the product belonging to Quench, LLC d/b/a DeLeon Tequila available for reclamation by Petitioners. It is the Court's understanding that Petitioners completed reclamation in May 2012, and the value of the reclaimed product is reflected in this set-off amount. (See Doc. 43 at 10 ¶ 30; Doc. 46-1 at 2 n.1.)

² As the Arbitrator fee and set-off were considered under Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC's joint and several liability amount, these are not factored in again here.

at 32.) Accordingly, the Arbitrator awarded attorney's fees and costs to Petitioners against both Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC but did not specify the amount owed. (Doc. 43-1 at 33.) Petitioners submitted evidence to the Court of attorney's fees in the amount of \$137,225.75 and taxable costs in the amount of \$17,002.38, liability for which is to be shared jointly and severally by Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC.³

Pursuant to the Court's jurisdiction under the FAA and 28 U.S.C. § 1332 (a)(1), having granted Petitioners' Amended Petition for Confirmation of the Arbitration Award, and with no further objection or response from Liquor Group Wholesale, Inc. or Liquor Group Florida, LLC, it is hereby **ORDERED** that the Court enters final judgment as follows:

Monetary damages.

1. Judgment is entered in favor of Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc. against Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, jointly and severally, in the principal amount of \$82,795, plus an award of attorney's fees in the amount of \$137,225.75 and taxable costs in the amount of \$17,002.38, for a total joint

³ The Vice President of Operations of Quench, LLC provided a declaration listing the taxable costs as \$17,002.38. (Doc. 43-2 at 7, 8.) As to the attorney's fees, the precise amount of fees incurred from Carlton Fields, P.A. is unclear, due to mathematical errors resulting in a roughly \$200 discrepancy and an estimated amount for work done after the completion of the affidavit of attorney's fees and costs. (See Doc. 43-2 at 7, 8, 10, 11, 18.) However, in the Court's September 13, 2012 Order, the Court directed Liquor Group Wholesale, Inc. to file a response to Petitioners' claim for fees and costs by October 15, 2012, explaining that the Court would assume the claim was unopposed if no response was filed by the deadline. (Doc. 45 at 9.) Liquor Group Wholesale, Inc. did not file a response. As such, the Court views the claim as unopposed and awards the full amount requested by Petitioners.

and several judgment of \$237,023.13, with post-judgment interest to accrue as provided by law.

2. Judgment is additionally entered in favor of Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc. against Liquor Group Wholesale, Inc. in the principal amount of \$222,280, with post-judgment interest to accrue as provided by law.

Permanent injunctive relief.

3. Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, their respective officers, employees, and agents, and entities under their control or acting in concert with them, are permanently enjoined from:

- a. selling or distributing the product belonging to Quench, LLC d/b/a DeLeon Tequila (“DeLeon Product”) to any third parties;
- b. using any of Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.’s trademarks or other intellectual property as set forth in greater detail below; and
- c. representing to any third parties that they are authorized distributors of the DeLeon Product.

4. Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC, their respective officers, employees, and agents, and entities under their control or acting in concert with them, are permanently enjoined from:

- d. using any reproduction, counterfeit copy, colorable imitation or designation substantially similar to Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.’s trademarks to identify any goods or the rendering of any

services by them to third parties;

- e. engaging in any course of conduct likely to cause confusion, deception or mistake or any injury to Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.'s trademarks or business reputation;
- f. falsely describing the DeLeon Product as being sponsored by or associated with Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC and offering the DeLeon Product or otherwise providing services in connection with the sale or distribution of such product in commerce;
- g. further infringing on Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.'s trademarks by manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, renting, displaying or otherwise disposing of any product which utilizes or bears any simulation, reproduction, counterfeit copy, colorable imitation or substantially similar designation of Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.'s trademarks;
- h. making any statement or representation whatsoever, using any false designation of origin, or otherwise performing any act which can or is likely to lead the trade or public individual members thereof to believe that any products manufactured, distributed, sold or rented by Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC are in any respect associated or connected with Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc. or are sold, manufactured, licensed, or sponsored with the approval or

authorization of Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.;

- i. taking any actions to counterfeit or infringe on Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.'s trademarks or their rights to use or exploit such trademarks;
- j. secretly destroying, altering, removing or otherwise taking any actions with respect to the DeLeon Product or any books or records which contain any information relating thereto, including without limitation the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting or displaying such product or other product which would infringe on Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.'s trademarks, or taking any other action that would hinder, impair, impede or otherwise interfere with Quench, LLC, d/b/a DeLeon Tequila and The Wine Care Group, Inc.'s ability to provide an accurate and complete proof of Liquor Group Wholesale, Inc. and Liquor Group Florida, LLC's infringing activity, if any, to a court in order to determine the entire scope of such infringing activity; and
- k. affecting assignments or transfers, forming new entities or associations, or utilizing any other similar scheme or device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in the preceding paragraphs.

5. The Court reserves jurisdiction over this cause for the entry of such other orders and relief as may be appropriate to enforce and execute upon this Final Judgment.

FOR WHICH LET EXECUTION ISSUE.

DONE AND ORDERED at Jacksonville, Florida this 5th day of November, 2012.


TIMOTHY J. CORRIGAN
United States District Judge

ktm.

Copies:

Counsel of Record

Terrance E. Schmidt, Arbitrator