

SHOWDOWN IN CALIFORNIA

As a prologue to my latest excerpt from my book posted below, I would like to give you, the reader, context as to why I testified in the California Legislature's joint hearing on "The Future of Direct Shipments of Wine."

In the spring of 1996, the founders of what was to become the Coalition for Free Trade, (CFT) John Hinman, a renowned attorney for alcoholic beverage law, and Bill McIver of Matanzas Creek Winery, asked me if I would be interested in joining the cause as a Board member. Without hesitation, I said; Yes. CFT was birthed because of the fight in Florida to ban wine shipping directly to consumers by winery producers in California, as well as a sting that was conducted in Kentucky under the guise that a minor bought wine directly on the internet, in this case, Kendall-Jackson Chardonnay.

As CEO of The Henry Wine Group, we were the only Wine Wholesale Distributor in the country to back the efforts and rights of wine producers to sell directly to consumers by passing the 3-Tier system. You might ask why in the world would a distributor want a winery supplier to sell around them. My view on this was and is simple. As a distributor, your role is to provide value and service. If you are not doing either, you have no ground to stand on by blocking any producer's opportunity to find an alternative solution to effectively sell their wine. Because of my belief, it was a no-brainer to support this effort by the CFT.

Furthermore, I was and still am in the business of selling and marketing wine. To the extent that the market grows when wine producers are free to find alternative ways to reach the consumer, then my business can grow also. If, on the other hand, restrictions are put in place to limit market opportunities, then my chance to succeed becomes much more limited. It seems that basic to me.

One final note. As I reflect on this episode, which happened close to 24 years ago, I now realize that I did not come with any particular talking points or prepared remarks. I felt so strongly about the issue, I chose to have my gut tell me what to say and how to respond that day. Thus, my closing remarks ended up being prescient when I stated that we would not be selling wine in the future in the fashion we were that day. Read for yourself.

C A L I F O R N I A L E G I S L A T U R E

SENATE SELECT COMMITTEE ON
CALIFORNIA'S WINE INDUSTRY

SENATOR MIKE THOMPSON
CHAIR

ASSEMBLY SELECT COMMITTEE ON
CALIFORNIA WINE

ASSEMBLYMEMBER VALERIE BROWN
CHAIR

JOINT HEARING ON

"The Future of Direct Shipments of Wine"



November 10, 1997
Meadowood Resort
St. Helena, California

941-S

Figure 1 The cover of the full transcript of the hearing

Showdown in California

By 1997, the issue of direct shipment of wine from vintners to consumers dominated the California wine industry. In many U.S. states, the middle tier of the wine industry – Wholesale Distributors – had a legal stranglehold on which wines would be accepted by them and sold into the marketplace. These monopolies, which varied from state to state, were becoming intolerable to the growing ranks of wine entrepreneurs who were producing world-class wines they could not sell, or sell enough to survive, because of the distributor markups and, frankly, laziness. It was so much easier, and more profitable, for a wholesaler to market 10,000 cases of one wine than 1,000 cases of ten wines. And because of state licensing systems that granted monopolies to well-connected distributors, the incentive to research, purchase, transport, track and deliver products from smaller vintners was just not there. But the political pressure to open the entire U.S. marketplace to small

vintners had become acute in California. The potential for economic development (investment, jobs, population growth and, of course, tax revenues) of vast vineyards and modern wineries in the Northern part of the state was obvious. Shipping increasingly desirable wines to the rest of the country and, indeed, around the world would bring more prosperity to the Golden State. Small wineries in other states would benefit from a free market as well but California had to take the lead. The State Legislature established two bodies to study the issue and make recommendations for legal changes. On November, 10, 1997, the Senate Select Committee and Assembly Select Committee on California's Wine Industry held a joint hearing on "The Future of Direct Shipments of Wine," organized and chaired by State Senator Mike Thompson. As President and CEO of The Henry Wine Group and a Board member (later, a Vice President) of the Coalition for Free Trade (I was chosen as a Vice President of the CFT the following year), I was asked to testify in the hearing at Meadowood Resort in Napa. (THWG was the only distributor in the country that openly supported the right of the wine producer to ship directly to consumers.) I accepted the invitation with alacrity.

It was a packed room. People from every agency or organization concerned with wine were there. Besides the anxious group of California vintners, there were representatives from the Wine Institute, Alcohol, Tobacco and Firearms, the California Department of Alcoholic Beverage Control, California Retailers Association, the Coalition for Free Trade, and, of course, Enemy Number One, the well-funded Wine & Spirits Wholesalers of America. The WSWA was there to fiercely oppose any change that would threaten their monopoly on handling the sale of wine from producers in the United States.

As the hearing progressed that morning, I was unaware that I was going to be called up to testify alongside Doug Metz, the in-house attorney for WSWA. It was surprising to me that Senator Thompson represented us both as "Distributors," who would speak together, though we were a world apart on the issue.

Metz went first with the dubious claim that WSWA was trying hard to find a solution for the smaller vintners. He also trotted out their longstanding "It's all about the children" argument. He said this was "not like L.L. Bean" selling clothes on the Internet. We obviously can't allow underage children to buy alcohol online. Only a regulated system like the three tier one we have long operated stands between us and the frightening specter of alcoholic children; it was the same old no-evidence scare tactic. Metz continued to argue that we had the best of all worlds right now with this regulated system, so why change it? He insisted that the three-tier system not only protected the consumer but delivered to them their choice of alcohol at a cost advantage.

My turn to speak. After introducing myself as a California wholesale distributor, I explained why I broke ranks with the WSWA, why it was necessary for the mid to

small-size wine producers to be able to sell directly to their consumers if the industry were to survive and thrive. To best explain my position, I contrasted the way I was received by distributors when I was Vice-President of Sales at William Hill Winery and then, later, as Vice-President of Sales and Marketing at Sonoma-Cutrer. I used my experience with one unnamed distributor in Florida who was the same in both instances. The difference was amazing, I explained, between when I had a “push brand” like William Hill and a “pull brand” like Sonoma-Cutrer. I was the same guy, with the same set of skills, and the same distributor. Yet I was treated like royalty in the latter case, when selling Sonoma Cutrer, and like a leper in the former, when I represented William Hill.

One of the Legislators asked me to explain what I meant by push vs. pull brand. My answer was simple: a push brand was one that the distributor had to work hard to sell. That was the case with William Hill wines, which did not yet have a strong demand before I took over sales. Yes, we grew our sales dramatically in my time there, but it was hard work getting distributors on board with our marketing programs. Many resisted. A pull brand, by contrast, was one that wholesalers just took an order for. In my years at Sonoma Cutrer, our Chardonnay became the most-requested white wine at prestigious restaurants in the entire country. Wholesalers would take as much of our wine as we could produce and even competed to carry it. “How many cases can we get, Fred?” No hard selling to end use consumers was necessary. Just take the order. The legislators seemed to understand my point.

I was supportive of the three-tier system, but it should be voluntary, not mandatory. I explained how THWG added value for the vintners through professional marketing and end-use consumer service. We wanted to earn the trust of the vintners, and we did, to everyone’s benefit. I finished by challenging the politicians: “Fifty years from now, are we going to sell wine in America the way we’re selling it today? I believe the answer is obvious—NO! So, if you look at the inevitable time continuum and you start walking it back 50, 40, 30, 20 years, at what point does the change begin? Well, the change can begin right now. It’s simply a matter of us deciding what the change should be and then just do it.” Senator Thompson thanked me, warmly, I sensed, and as I got up to return to my seat the vintners in the room began to applaud. They let me know I had spoken for them, the only distributor who had. I could not have known then that I would later, at a different venue: get aggressive (some would say threatening) feedback from that unnamed distributor I had mentioned in Napa. But I leave that episode for another chapter.
