

PREFACE

Let me provide some context to help you understand the background about the content in my latest Excerpt.

In 1996 I was asked to join a new organization that several California wineries had formed called the Coalition for Free Trade, (CFT). Their expressed goal was to challenge laws that many states were enacting to prevent wineries from shipping their wine directly to consumers. In fact, several states, most notably Florida & Kentucky, had passed laws that made it a felony for a winery to ship directly into their states. This in effect would put the wineries in jeopardy of losing their Federal Basic Permit and out of business as a result. I was President of The Henry Wine Group in California at that time, and we were the only Distributor in the country who supported the wineries right to ship to consumers directly. I was Vice-Chair of CFT for three years, (1999 through 2001) and helped form the legal strategy that would ultimately hire Ken Starr in 2003. He guided the effort which resulted in a positive ruling from the Supreme Court on May 16th, 2005.

This case titled *Heald v. Granholm* proved to be the proverbial game changer for direct shipping. To this day major Distributors continue to try and undo the gains that were the result.

Let me note that Kirkland & Ellis, one of the most prestigious Law firms in the country, which Ken Starr was associated with, was instrumental in our success. Most notably, Tracy Genesen who was on staff at Kirkland & Ellis had been tireless in her efforts to move this forward. Tracy is someone I have known and trusted for years and today is the Vice President and General Counsel of the Wine Institute in California.

There had been many discussions between me and the folks at Kirkland & Ellis after the Oral Arguments on December 7th, 2004, and before the

ruling was announced on May 16th, 2005. Most importantly the next steps and laws to be challenged to continue the momentum of the anticipated win in the Supreme Court.

I have had for years a deep-seated dismay and disgust with one onerous Law that governs wine distribution, currently in almost 50% of the states in this country. What I am referring to are statues commonly called Franchise Laws. Or better said “Franchise Protection for Distributors.” I spearheaded an organization called the Wine Fair Trade Coalition (WFTC) which is the basis for the following excerpt. Enjoy the read and see how laws that govern wine distribution to this day provide Distributors with an unwarranted hold on wine producers’ future.

WINE FAIR TRADE COALITION: an excerpt from my Chapter on Politics, Bureaucracy, & Organized Crime in the Wine Industry.

Following the Oral Arguments in the Heald v. Granholm case in December of 2004 the Supreme Court on May 16th, 2005, ruled in favor of CFT’s lawsuit on the case’s merits. It was a narrow ruling, though, and left much work to be done to implement the Justices’ interpretation. The majority opinion stated, *“although states did have the authority to regulate the sale and distribution of alcohol within their borders, they could not treat in-state and out-of-state alcohol producers differently.”*

Numerous press releases were published from both sides of the argument claiming some level of victory. There was cause for celebration because there was no doubt that the sale of wine directly to consumers in this country was about to change dramatically.

However, unfortunately for me, on Saturday, May 21st, I had a Heart Attack. Subsequently, I underwent five-level bypass surgery and spent

the next six weeks focused as best I could on my health and family. So, when I got a call the first week of July from Tracy Genesen asking me to attend a luncheon Ken Starr was expected to speak at, I was surprised. It was being hosted at Cardinale one of Jackson Family Wines flagship Napa wineries. Ken was there that day to speak about his understanding that the Federal Trade Commission was interested in reviewing any additional constraints wineries faced that were anti-competitive in nature.

Tracy Genesen who had worked tirelessly on behalf of the CFT and who was at that time on staff at Kirkland & Ellis, one of the top five law firms in the country and whom Ken Starr was associated with called me to express her hope that I could attend this meeting. Apparently, their efforts to form a movement to take on additional discriminatory and onerous restrictions had not borne any fruit and had gotten nowhere since I had been out the past six weeks. They continued to run into the usual foot-dragging and other excuses the industry always faced when it came to change and how to pay for it. As I have experienced in my 44 years in the wine industry, everyone wants change, but no one wants to pay for it.

I was a bit overwhelmed by the call. I let Tracy know that “my surgeon had just cleared me to drive the day before, and, quite honestly, I am still a bit fragile and weak. I am not sure if I can stomach or have the energy for this.” She continued to plead with me saying my presence would make a difference. I caved in and said “yes, I would be there.”

To the best of my memory, the lunch was on Wednesday, July 6th. As I drove to Napa that morning, I played back in my mind the many years and struggles I experienced as part of a small group that attempted to bring change in the industry. I reflected on how long it had taken to get to this point. However, I was apprehensive about how I might react to a

crowd of people as I had not interacted much with groups since my surgery.

As I entered the room at Cardinale, I noticed several people I hadn't seen before. But, for the most part, it was the same usual folks that attended many of these meetings in the past. I see Tracy, and she comes up, hugs me, and welcomes me into the room. I say hi to Ken Starr and various other individuals and get myself a glass of wine to calm my nerves. I seated myself next to Jim Basile from Kirkland & Ellis at lunch, who I hadn't seen or spoken with since my heart attack. It provided me the opportunity to thank him again for the legal advice and direction he provided me and The Henry Wine Group (THWG) during the fight we were in with Clicquot of USA to retain the rights to distribute their portfolio in California just before my heart attack in May.

As lunch begins, Tracy kicks off the meeting by thanking everyone for coming and introduces Ken formally to the group. Ken starts by recapping the Supreme Court ruling and its ramifications. He then explains how Kirkland & Ellis had conducted numerous meetings with interested parties to identify the next logical target in the fight to sell their wine unencumbered by the vestiges of post-prohibition laws.

Several of the vintners at the head table commented, but it was mainly Ken talking. He then said he had received indications that the FTC was willing and ready to go further, but they were looking for a roadmap. The industry needed to create a report, a white paper, outlining the issues they still faced and how to proceed. The FTC would then have a clear target.

At this point, I could see Ken's comments were not gaining any momentum or response from most of the leaders in the room to take the necessary action. I could not help myself. I stood up, looked around the room, and stated, "excuse me, but I need to be Fred Reno for a

moment. (While I was shaking inside because of the adrenaline flowing through my body, I could tell I had stunned the group). What the hell are you all waiting for? Get your checkbooks out and start writing a check. Ken has made it clear that this is the moment. We have the FTC ready and willing to help. They are asking for us to provide direction in their efforts. We can now take on Franchise Laws." Then I made a mistake. I kept speaking instead of sitting down. I have never been one to shrink, especially when it came to the issue of Franchise Laws. I continued;" if all of you are not willing or able, then I guess I have to jump in." I turned to Jim Basile and asked "Jim, do you have a coin on you." Jim reached into his pocket and fished out a quarter. I looked at Tom Sheldon, who at that time was President of Joseph Phelps winery. (Tom unfortunately passed away from brain cancer in July of 2008) Tom, I said;" you seem to be the only one in this room besides me who is being vocal about this opportunity. I guess it is either you or me. I will flip this coin, and you call it." I flipped it; he called heads, and it turned up tails. I looked at him; "well, I guess I am now the President, and you are the Vice-President of this yet to be named organization." Ken starts to applaud, and most of the folks in the room join in. I leave that day saying to myself on the drive back to Santa Rosa, what the hell did I just do. (For the record, that quarter still sits on my office desk today!)

With the legal guidance of Kirkland & Ellis, we filed articles of incorporation in California for the new organization, Wine Fair Trade Coalition (WFTC). In September, we were granted a 501 (c) (6) and obtained our new EIN from the IRS. We were now legal and ready to accept money to fund the effort.

The Mission of WFTC was to seek fair access to the U.S marketplace for the Wine Industry by supporting changes to state laws that were anti-competitive and discriminatory. The changes we wanted in state laws will allow for efficient distribution and provide the consumer with greater choice and better value.

The objective and goals of WFTC were to do the research showing how Franchise laws harmed the consumer. Intuitively, I knew that the consumer had less choice in Franchise markets and paid higher prices. The challenge was to document this and write the "white paper" for the FTC. This task was more difficult than I first thought it would be.

I developed a budget which would be adequate to cover the costs involved in this journey. I knew we needed at least \$500,000 to do the work. That was what it ended up costing. However, raising that amount and covering those costs for the research was harder to accomplish than I imagined.

Rather than bog down in detail in this excerpt, let me take you to what I thought was the end game. Through the contacts that Kirkland & Ellis had at the Federal Trade Commission, (FTC) and, with Tracy Genesen's persistence, we finally got a meeting with the Policy Committee at FTC on December 6th, 2006.

In early 2006 THWG began to represent Folio Wine Partners, Michael Mondavi's new wine company. At that time, I convinced him to join the WFTC Board. When I was sure of our meeting with FTC, I asked Michael to join me. I knew they wouldn't know who Fred Reno was. Still, most certainly would know of if not recognize the name, Mondavi. He would lend a level of credibility to our presentation. He agreed to come along.

Additionally, traveling with us was Tracy Genesen and Barbara Insel. At that time, Insel worked for Motto, Krier & Fisher, a leading research, and accounting firm specializing in the wine industry. She was the head of their research department and had done work for WFTC on brand availability in the different states that were in our report.

Michael and I made an excellent presentation that played off each other's years of experience handling distributors in the states governed by Franchise Laws. As a result, we had a very positive meeting, and Michael Mondavi's presence had the intended effect of getting their attention and having the FTC taking us seriously. They asked for some further follow-up information, which we provided once we returned to California. By the beginning of 2007, I was now turning my attention to raising money to pay down the costs WFTC had incurred. The administration for WFTC was done at no cost by the financial team at THWG where I was still President & CEO at the time. The only funds needed were those required to cover research, legal bills, and some travel and marketing materials.

There wasn't much to do between raising money and waiting on the FTC other than hoping they would take this seriously. Ultimately, we needed them to issue a report that would form the basis for potential litigation. As far as I was concerned, once the FTC published their report, the mission of WFTC was complete. At that point, it would be necessary for another entity, most likely a significant producer of wine, to challenge one of the states in a Federal Circuit that would be friendly to such an initiative.

Unfortunately, our efforts came to a standstill with a different administration in place after the 2008 Presidential election. Because these are political appointments, any momentum we gained from our meeting in December of 2006 with the FTC was lost. Additionally, I continued to have trouble raising funds to pay off the legal fees WFTC had incurred. You couple that with how slow the wheels of justice move--throw in the financial collapse that was upon us, and you can imagine how the wineries who supported WFTC lost interest as they dealt with just staying above water during that time.

After several years of endeavoring to get the FTC to release the report that we were promised, I had to throw in the towel. I started the process of closing down WFTC and unwinding our financial obligations to Kirkland & Ellis. Eventually, in a desperate act to get some support from my new employer at that time, Jackson Family Wines, I managed to convince Rick Tigner, the President, to help me. He agreed to have JFW contribute matching funds dollar for dollar, up to \$50,000, if I could raise the other \$50,000 to help retire the legal bills. My argument to Rick was based on Jess Jackson's commitment in May of 2005. Jess had pledged to be shoulder to shoulder with me both mentally and financially to undo the Franchise Laws in the country. While a significant contributor, Jess never really stepped up to the plate with the funds that I anticipated, and I would not characterize his effort as "shoulder to shoulder."

As a final effort to meet my end of the \$50,000 fundraising, I did something rather foolish in retrospect. I owned a bottle of 1973 Stags Leap Wine Cellars Cabernet Sauvignon that had won the Judgement of Paris tasting in 1976. I knew that Stags Leap Wine Cellars, owned at that time by Ste. Michelle Estates, did not possess many bottles of this wine in their cellar upon the acquisition in July of 2007. I called Ted Baseler, the CEO of Ste. Michelle Wine Estates at the time and let him know I would be willing to sell my bottle, which had come directly from the cellars of SLWC. It was a donation to a charity auction where I was the winning bidder back in 2001. I explained that he would be writing a check to the Wine Fair Trade Coalition and not directly to me. After a few more questions, I clarified the mission of WFTC because I didn't want him to be blindsided if it ever got back to his distribution network that he had supported the Coalition. To his credit, he made it clear that he was not worried about that or any fallout. Eventually, after I threw in a 9Liter bottle of 1997 SLWC Cask 23 to sweeten the deal, he cut a check for \$25,000. That got me to my goal of \$50,000, and I negotiated a settlement with Kirkland & Ellis that canceled the debt WFTC owed. To

this day, I still kick myself in the ass for giving up a piece of California Wine History to benefit the ungrateful vintners that populate the California Wine Industry. I never even took a tax deduction or received anything personally from my actions.

The WFTC officially closed its books and filed the Dissolution paperwork with the State of California Secretary of State on May 17th, 2012, coincidentally 7 years and 1 day after the Supreme Court ruling back in 2005. All I can say is, "I TRIED."

Below is a photo taken the day I handed over the bottle to Stags Leap Wine Cellars and their Tasting Room staff.

