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## **As TTB/States Top Up Trade Practice Investigation, “A Lot More Coming” from IL; Elsewhere**

The topic not on NABCA Legal Symposium program, lotsa buzz among attys about TTB's stepped-up enforcement efforts that resulted so far in several offers in compromise (OIC) for pay-to-play, numerous one-day suspensions of small wineries/distributors for consignment sales. ***Several industry attys privately supported recent blogpost by veteran alc bev lawyer John Hinman challenging fairness/appropriateness of recent actions.*** (See our Mar 13 INSIGHTS Express.) Indeed, one normally reserved atty actually suggested TTB actions amount to “extortion.” Many waiting for next shoes to drop.

That could be in IL. Recall, TTB tagged distrib Elgin Bev for \$325K OIC in 2018, alleging it used 3d party mktg co to pay to play. Donovan Borvan, chief of IL Liquor Control Comm when TTB did joint investigations with ILCC that resulted in offer, told NABCA that “a lot more coming” from those investigations. ILCC launched some investigations on its own a coupla yrs back. But, understaffed, working with ageing regs and convinced there was “a lot going on” in IL mkt, ILCC sought TTB's help in looking more deeply at pay-to-play schemes. ILCC expected to see tap purchases, charge-backs, credit card swipes, and more. And, “we found all kinds of different stuff.... The industry is two steps ahead of regulators at all times,” Donovan noted. Amounted to “multiple violations of TTB's tied house laws.” Importantly, lying to TTB is a criminal violation, he added, which the state could use to go after a retail license (TTB doesn't regulate retailers). “That was the stick. Then we got cooperation.” Investigations “ongoing” in IL, with “a lot of moving pieces.” ILCC more likely to tag retailers, who often make the “demands” of distributors/suppliers, Donovan acknowledged. TTB will focus on distributors/suppliers. “Don't lie to state officials or the feds,” was Donovan's brief, blunt advice to industry members.

That advice urgently seconded by Allison Herman, compliance chief for mega-distrib Southern Glazer's. SG significantly beefed up its compliance team after Southern Wine/Glazer's deal. Went from ad hoc state-by-state to coordinated regional approach. Trained over 6K employees on compliance last yr, will hit same # this year. If regulators come knocking, “tell the truth and cooperate,” Allison urged.

Ain't just IL or joint investigations with TTB. Arizona Liq Control Comm (ALCC) enforcement agency got \$60K consent agreement from Phusion Projects. Phusion sponsored special event in Jan 2017, “Fat Jewish Tour” in Tempe, via 3d party production co. Subpoenas revealed contracts that called for 4 Loko getting exclusive, retailers got paid for product, received promo items, and more. Phusion took back unused product. There were also reports of over-service of large, high-ABV cans. Ultimately ALCC charged numerous violations. Phusion signed \$60K agreement without admitting guilt. Net-net: TTB and state ABCs are on the hunt, with big and small game in their sights.