



WITNESS LIST

Case of: ESCC v Four Seasons Hastings Ltd

URN P1186

Date of completion:

★ Tick if statement attached

Wit. No.	Witness Details (In the 'Wit.No.' column enter 'V' if the witness is a victim, 'Vu' if vulnerable or intimidated)	Statement Number	★	
	Name: Graham WOLSTENHOLME Address: Trading Standards, County Hall, St Anne's Crescent, Lewes Post Code: BN7 1UA Occupation: Senior Trading Standards Officer Date of Birth: over 18 Telephone No. (Work) [REDACTED] Mobile: E-mail: [REDACTED]	1 Original signed in file		
	Name: Wendy SCOTT Address: Trading Standards, County Hall, St Anne's Crescent, Lewes Post Code: BN7 1UA Occupation: Senior Trading Standards Officer Date of Birth: over 18 Telephone No. (Work): Mobile: E-mail: [REDACTED]	2 Original signed in file		
	Name: Tim DOWDING Address: Trading Standards, County Hall, St Anne's Crescent, Lewes Post Code: BN7 1UA Occupation: Trading Standards Officer Date of Birth: over 18 Telephone No. (Work): TB Mobile: E-mail: [REDACTED]	3 Original signed in file		



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Wit. No.	Witness Details (In the 'Wit.No.' column enter 'V' if the witness is a victim, 'Vu' if vulnerable or intimidated)	Statement Number	★	
	<p>Name: Rachelle RUSH</p> <p>Address: Regal House, 70 London Rd, Twickenham TW1 3QS</p> <p>Post Code: BN7 1UA</p> <p>Occupation: Head of Supply Chain Projects, NPD & Quality Date of Birth: over 18</p> <p>Telephone No. (Work): +44 (0)20 8843 8382 Mobile: + 44 (0)7880151625</p> <p>E-mail: rachelle.rush@tweglobal.com</p>	<p>4</p> <p>Original signed in file</p>		
	<p>Name:</p> <p>Address:</p> <p>Post Code:</p> <p>Occupation: Officer Date of Birth:</p> <p>Telephone No. (Work): Mobile:</p> <p>E-mail:</p>			
	<p>Name:</p> <p>Address:</p> <p>Post Code:</p> <p>Occupation: Officer Occupation: Officer</p> <p>Telephone No. (Work): Telephone No. (Work):</p> <p>E-mail:</p>			

EAST SUSSEX COUNTY COUNCIL STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

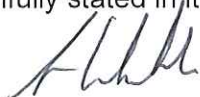
Statement of: Graham Michael WOLSTENHOLME

Age of Witness if under 18: OVER 18

Occupation: Senior Trading Standards Officer

This statement (consisting of 4 page signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signed:



Date:

22/10/2020

I am employed by East Sussex County Council as a Senior Trading Standards Officer.

I am authorised under the Consumer Rights Act 2015 and the Trade Marks Act 1994.

This is my statement regarding my dealings with Four Seasons Hastings Ltd of 68 – 70 Bohemia Road, St Leonards On Sea TN376RQ Company number 09900018 (the company)

On the 10th June 2020 I attended the premises of the company at the above address.

I was accompanied by Wendy SCOTT Senior Trading Standards Officer and Tim DOWDING Trading Standards Officer. On arrival I identified myself to the sole occupant of the premises a male who I now know as Mr N NIRMALAN.

An inspection of wine took place and 7 bottles of suspected counterfeit Blossom Hill White Zinfandel (the goods) were found in the rear store room. Mr N NIRMALAN volunteered that these were not for sale and that they had been taken off sale by the manager following a consumer complaint that they tasted odd.

Signed:



.....(witness)

Date:


22/10/2020

I purchased 3 bottles of the goods for analysis under the Food Safety Act 1990 for which I paid £6.99 and now produce the receipt for those 3 bottles as GMW/01. These were sealed in bags as reference A0980A, A0980B and A0980C, Item A0980A was retained by the business. The remaining 4 bottles were seized by DOWDING using powers under the Trade Marks Act 1994.

Tracabilty for the goods was requested from the business in writing on a visit note which I now produce as GMW/02 (Exhibit.....). We then left the premises and continued with other duties.

The sample A0980B was later tested by the Public Analysis and were found unsatisfactory due to the alcohol level been lowered that that declared this is documented in the PA report KSS Ref 162151. In addition, I sent photographs of three bottles within Exhibit TD01 to the brand holder which I identified as TD01a, Td01b and TD01c. I received confirmation from the brand holder that the labelling of 2 of the 3 bottles infringed their Trade Mark. The fourth bottle from TD01 had previously been sent to Matthew Dalton Wine Standards Inspector for separate inspection.

As the wine had tested as unsatisfactory it was important that we could trace it back to its source to ensure it was removed from sale, however on the 3rd July 2020 , despite the request in writing on the 10th June, no tracabilty documents had been received so I wrote to the company asking for it to be supplied by no later than the 10th July 2020. The letter was received by the company on the 4th July 2020 and I now produce a copy of that letter and confirmation of delivery as GMW/03 (Exhibit.....) and GMW/04 (Exhibit.....).

Signed:  (witness) Date: 22/10/2020

(To be completed if applicable:.....being unable to read the above statement, I,.....of.....reads it to him/ her before he/ she signed it.


Signed:.....(witness) Date:.....

On the 16th July 2020 I had still received no contact from the company nor had any traceability been provided. I therefore wrote to the company and invited them to attend an interview under caution. According to Royal Mail Track and Trace this letter was received by the company on the 17th July 2020 and I now produce a copy of that letter and confirmation of delivery as GMW/05 (Exhibit.....) and GMW/06 (Exhibit.....) .

On the same day I received an email from Thushya Inthirakumar which I now produce as GMW/07 (Exhibit.....). Thushya Inthirakumar claimed that the product had been in the store when they took over. On checking Companies House, I could see that an AD01 form for change of address was processed on the 6th February 2016 and I now produce a printout as GMW/08. This showed that the company had been at the address from at least February 2016. I made further enquiries with the brand holder who informed me that the label on this product was not designed until 2017 and so could not have been in the shop when Four Seasons Hastings Ltd took over the premises in 2016.

The company was again invited to interview, and both Mr & Mrs Inthirakumar attended on the 21st August 2020. However, despite the excellent written English of the emails, which Mrs Inthirakumar stated she had written, neither had in my opinion a sufficient understanding of spoken English to be able to be interviewed without an interpreter. I therefore cancelled the interview planning on rearranging with an interpreter. However due to the current health precaution surrounding the COVID 19 pandemic it was decided that an interview in writing would be more appropriate.

An interview in writing letter was sent to the company asking for written responses within 14 days, a copy of which I now produce as GMW/09 . No response was provided

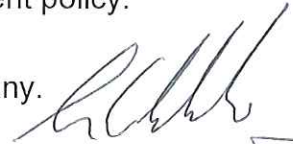
Signed:  (witness) Date: 22/10/2020


(To be completed if applicable:.....being unable to read the above statement, I,.....of.....reads it to him/ her before he/ she signed it.

Signed:.....(witness) Date: 2

but on the 21/10/20 an email from their legal counsel was received requesting disclosure so they could advise their client, this was provided same day. On the 21st October 2020 I had received no response from either the trader or their legal representative and so wrote again advising that a report would be submitted for consideration of further action in line with our published enforcement policy.

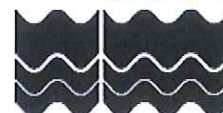
To date I have not received any credible tracabilty from the company.



Signed:  (witness) Date: 22/10/2020

(To be completed if applicable:.....being unable to read the above statement, I,.....of.....reads it to him/ her before he/ she signed it.

Signed:.....(witness) Date:.....



EAST SUSSEX COUNTY COUNCIL STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

Statement of: **Wendy Scott**
Age of Witness if under 18: **OVER 18** **Over 18**
Occupation: **Senior Trading Standards Officer**

This statement (consisting of 2 page signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signed:

Date: 20th October 2020

I am employed by East Sussex County Council Trading Standards Service as a Senior Trading Standards Officer. As such I am authorised under the Consumer Rights Act 2015, the Food Safety Act 1990 and the Trade Marks Act 1994. On the 10th June 2020, at approximately 12.30pm I accompanied Graham WOLSTENHOLME, Senior Trading Standards Officer, and Tim DOWDING, Trading Standards Officer on a visit to Four Seasons, 68-70 Bohemia Road, St Leonards on Sea to inspect the alcohol on sale. On entry into the shop, Mr WOLSTENHOLME introduced us to a man serving behind the counter, who identified himself and I noted down his name as Mr NIRMALAN, a member of staff. I proceeded to look on the shelves in the shop at the alcohol on sale, it was noticeable that the shelves seemed to have lots of space and were not found to be stocking bottles of Blossom Hill White Zinfandel wine, a wine of interest on our inspection due to it being under suspicion of being counterfeit. Mr NIRMALAN then showed us to the rear storeroom accessed directly from the shop floor. On top of a counter in the rear storeroom were 7 bottles of Blossom Hill White Zinfandel, Mr

Signed:

(witness) Date: 20th October 2020...

NIRMALAN explained to us that they had been removed from sale due to a customer informing them that they tasted bad. He said this had happened two days ago and that this was the reason they were out the back and not on the shop floor. Mr WOLSTENHOLME took a formal sample of the bottles (comprising of three bottles) to check for authenticity and these samples were securely bagged and identified as samples A0980A/B/C and payment was made for these bottles. The remaining four bottles were seized by Mr DOWDING under Trade Marks legislation. None of these bottles had visible lot codes. The remainder of the shelves were checked and several bottles were highlighted as missing labelling information, some of these wines were seized by Mr DOWDING under the Trade Marks Act. Two bottles of Gallo Syrah Rose 2007 were found to be missing rear labels and an instruction was given to the premises not to sell them and so these bottles were placed in a secure bag P01662757 and placed in the rear storeroom whilst their traceability was being ascertained. Mr WOLSTENHOLME left an inspection form and seizure documentation with the store assistant and we left the store around 1.30pm.



Signed:  (witness) Date: 20th October 2020

(To be completed if applicable: being unable to read the above statement, I, of reads it to him/ her before he/ she signed it.

Signed: (witness) Date:

EAST SUSSEX COUNTY COUNCIL STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

Statement of: Tim DOWDING

Age of Witness if under 18: OVER 18

Occupation: Trading Standards Officer

This statement (consisting of 2 pages signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signed:



Date: 21st October 2020

I am a Trading Standards Officer employed by East Sussex Trading Standards and am authorised under the Consumer Rights Act 2015 to inspect businesses that are suspected of breaching the Trade Mark Act 1994.

On 10th June 2020 I assisted Graham WOLSTENHOLME and Wendy SCOTT with an inspection for suspected trade mark infringing wine at Four Seasons Supermarket, 68-70 Bohemia Road, St Leonards on Sea, TN37 6RG.

Seven bottles of Blossom Hill White Zinfandel 750ml were found on a shelf in the stock room to the rear of the premises. I seized four of the bottles and placed them into evidence bag R01385053 which I then sealed using a security tag with the number WY106783. I now produce these signed and dated by me as TD/01.

Signed:




.....(witness) **Date:**.....

I also seized three bottles of Gallo Chardonnay 2015 750ml and placed them into evidence bag number P01662762 which I now produce signed and dated by me as TD/02 and one bottle of Gallo Chardonnay 2013 750ml which I placed into evidence bag number P01662761 which I now produce signed and dated by me as TD/03.

I took images of the seized bottles which I now produce signed and dated by me as TD/04. The remaining three bottles of Blossom Hill White Zinfandel were procured as formal samples to be tested by the Public Analyst.

I completed a seizure form showing details of the items seized which I now produce signed and dated by me as TD/05. On leaving the premises I took all the seized items and locked them into the Trading Standards van. Later that afternoon the bottles were taken to a secure location for storage.

On 2nd July 2020 I broke open the seal WY106783 to evidence bag R01385053 and removed one bottle of Blossom Hill White Zinfandel. I then placed this bottle into a separate evidence bag with the reference number P01664196. I resealed R01385053 with security tag number LB440151 and left the bag in secure storage until I needed it.

On 6th July 2020 I removed evidence bag P01664196 from the secure storage facility and took it to County Hall in Lewes where I met with Matthew Dalton, a Wine Standards Inspector, who took the sample away for examination. 

Signed:  (witness) Date:

(To be completed if applicable:being unable to read the above statement, I,ofreads it to him/ her before he/ she signed it.

Signed:(witness) Date:

STATEMENT OF WITNESS

(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)

STATEMENT OF RACHELLE RUSH

Age of witness (if over 18, enter "over 18"): Over 18

This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

On the 17th of September 2020, I was contacted by Graham Wolstenholme, Senior Trading Standards Officer in East Sussex, reporting that suspicious bottles of wine (75cl) bearing the Blossom Hill trademark and marketed as White Zinfandel had been found at Four Seasons Hastings Ltd, 68-70 Bohemia Road, St Leonards-On-Sea, East Sussex with case reference GMW/01.

Evidence was provided for three samples referenced TD01a, TD01b and TD01c. The evidence suggests that the samples referenced TD01b and TD01c are devoid of numerous security features that are found on genuine examples of this product. Based on my experience, knowledge and the evidence provided by Mr Wolstenholme, it is my assertion that the bottles referenced TD01b and TD01c are not genuine, are counterfeit and infringe the Blossom Hill trademark. Inspection of the evidence related to TD01a indicates the presence of the numerous security features on this product and my subsequent assessed that this particular bottle is a genuine example which does not infringe trademark.

In my role as Head of Supply Projects, NPD and Quality at TWE, my team is responsible for the quality assessment of dry goods and bottled liquids which have been packed here in the UK. Blossom Hill White Zinfandel is produced by TWE in the UK, is therefore well known to me and my team through regular post packaging assessments and as a result of the continuous monitoring of the ongoing issue of counterfeit Blossom Hill White Zinfandel reported from various locations across the UK.

The trademark for the Blossom Hill brand (Trademark number **WE00001305079**) was issued on 19 January 2017 to Holder: **Treasury Chateau & Estates**, 240 Gateway Road West, Napa California 94558, United States of America. I am authorised by POA to act for Treasury Chateau & Estates, the trademark holder, with relation to matters infringing IP in the UK.

Treasury Chateau & Estates (240 Gateway Road West, Napa California 94558, United States of America) has not given consent to any person or business for the sign in question to be applied to the products TD01b or TD01c in question that I've examined, or for the sale or possession in the course of a business of such items.

Signed:  (witness)

Date: 19/10/2020

(To be completed if applicable: being unable to read the above statement I, of, read it to him/her before he/she signed it.

Signed: Date:)