

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

Federal Trade Commission,

Petitioner,

v.

Retail Services & Systems, Inc. d/b/a Total Wine  
& More,

Respondent.

Case No. \_\_\_\_\_

**[PROPOSED] ORDER**

Pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, and Federal Rule of Civil Procedure 81(a)(5), Petitioner, the Federal Trade Commission (“FTC” or “Commission”), has invoked the aid of this Court for an order requiring Respondent Retail Services & Systems, Inc. d/b/a Total Wine & More (“Total Wine”) to comply with a civil investigative demand issued by the Commission in the course of a law enforcement investigation (FTC File No. 211-0155).

The Court has considered the Commission’s Petition for a Show Cause Hearing and an Order Enforcing Civil Investigative Demand (“Petition”) and the papers filed in support thereof, and the Commission has shown good cause for entry of this Order.

Accordingly, it is ORDERED that Respondent Total Wine appear at \_\_\_\_\_ a.m. on \_\_\_\_\_, 2023, in Courtroom No. \_\_\_\_ of the Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA 22314 and show cause why this Court should not grant the Commission’s Petition and enter an Order enforcing the civil investigative demand issued to Total Wine and directing it to produce, within twenty (20) days of the date of the Order:

- a. Documents responsive to Specifications 3, 6, 12-13, and 15-16 from the files of Total Wine employees Thomas Trone, Travis Smith, Eli Aguilera, Angela Weber, and Troy Rice, identified using the seven keyword searches listed in Appendix A to the Commission's Petition;
- b. Documents responsive to Specification 13, wherever they are found;
- c. Data for purchases by Total Wine of Relevant Products from Republic National Distributing Company and Breakthru Beverage Group or their respective affiliates, responsive to Specification 7;
- d. A single, consolidated dataset export that merges Total Wine's prior response to Specification 11;
- e. Internally created maps identifying stores and competitors (similar to what Total Wine produced for Arizona, California, Florida, and Texas), for all states where Total Wine and its affiliates conduct business with Southern, responsive to Specification 12;<sup>1</sup>
- f. Addresses and opening dates for Total Wine's warehouses in California and Florida, responsive to Specification 14;
- g. Southern-related Cost Collection Files, QD Buy Tools, Pre-Sell Reports, Out-of-Stock Reports, Vendor Unknown Reports, and Vendor-Does-Not-Carry Reports (similar to what Total Wine produced for Arizona, California, Florida, and Texas) for all states where Total Wine and its affiliates conduct business with Southern, responsive to Specification 15; and
- h. Descriptions of all fields in the datasets produced by Total Wine, similar to the keys provided for datasets responsive to Specifications 7 and 10 and as directed by CID Instruction I.7(c), including for the Cost Collection Files, QD Buy Tools, Pre-Sell Reports, Out-of-Stock Reports, Vendor Unknown Reports, and Vendor-Does-Not-Carry Reports;

and further directing that, within forty (40) days of Total Wine completing its production of the documents and information listed above:

- a. FTC staff may, via written notice to Total Wine's counsel, identify no more than three additional custodians if FTC Staff deem it necessary to capture non-duplicative responsive information; and

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<sup>1</sup> In addition to Arizona, California, Florida and Texas, this includes Colorado, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New Mexico, Nevada, New York, South Carolina, and Washington.

- b. Total Wine shall produce, within twenty (20) days of receipt of such notice, all documents responsive to Specifications 3, 6, 12-13, and 15-16 from the files of such custodians, identified using the seven keyword searches listed in Appendix A to the Commission's Petition.

It is further ORDERED that Total Wine shall file any opposition to the Petition within fourteen (14) days after the entry of this Order, by \_\_\_\_\_, 2023; and

The Commission shall file any reply in further support of the Petition within seven (7) days after the filing of any opposition, by \_\_\_\_\_, 2023.

It is further ORDERED, pursuant to Federal Rules of Civil Procedure 26(a)(1)(B)(v) and 81(a)(5), that this is a summary proceeding and that no party shall be entitled to discovery without further order of the Court upon a specific showing of need.

It is further ORDERED, pursuant to Federal Rule of Civil Procedure 81(a)(5), that a copy of this Order and of the Petition and its supporting papers be served by the Commission on Total Wine or its counsel using as expeditious means as practicable.

SO ORDERED:

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UNITED STATES DISTRICT JUDGE

Dated: \_\_\_\_\_, 2023  
Alexandria, VA