

Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN:

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Statement of: ALAN EDWARD RICHARDS

Age if under 18 (if over insert "over 18"): OVER 18

Occupation: TRADING STANDARDS OFFICER

This statement (consisting of 3 Pages(s) each 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.

Name / Signature:

A. Richards

Date:

17/9/10

Tick if witness evidence is visually recorded:

(Supply witness details on last page)

Statement

I am Alan Richards and I am employed as a Trading Standards Officer by the London Borough of Tower Hamlets Trading Standards Service. This is an additional statement to that made and signed by me on 3rd August 2010 relating to Low Cost Food and Wine.

Dealings with Glen Catrine

Since sending the samples of Glens vodka to Glen Catrine for examination I have had a number of contacts with Mr Tom Taylor the Quality Control Manager for Glen Catrine. On 3rd June 2010 I had a telephone conversation with him in which he verbally informed me that the products are genuine Glens Vodka but with false rear duty labels applied. Further he confirmed to me that the bottle lot codes etched on the bottom of the bottles (and referred to in exhibit AER/LC/3) refer to the packing line, date and time of manufacture e.g L2/048/10 equates to Packing Line 2, packed on the 48th day of 2010 (17th February 2010). Unfortunately however Mr Taylor is unwilling to provide a S.9 witness statement to that effect and I produce an email from Mr Taylor dated 27th August 2010 outlining his reasons for this as exhibit **AER/TTemail**. I have made numerous requests for him to provide email or other written confirmation of this, for the purposes of the licensing review hearing, however to date none has been received.

Visit to Eastenders Cash and Carry

On the 16th September 2010 I went to Eastenders Cash and Carry at 24 Riggs Approach, accompanied by Police licensing officer Alan CRUICKSHANK and Waltham Forest Trading Standards Officer Marcia BROWN. We met with the manager, Mr Jatar Chatha, and requested to view his stocks of Glens vodka and wine. I examined all the 1ltr and

Name / Signature:

A. Richards

Signature Witnessed by:

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70cl bottles of Glens vodka individually on display on the shelves and the cases of six (6) 70cl bottles available. All the stocks and their rear labels were, in my opinion, genuine. We also walked the aisles of wine observing the pricing of the various types of wine and there were no 'buy 2 get 1 free' or similar offers on any of the wines although many of the wines indicated reduced prices for a case. Mr Chatha stated that he had never offered wine on a 'buy 2 get 1 free' offer, only at a reduced price per case. Alpa wine was displayed at £15.99 (+VAT) for a case of six bottles. There was a spirit based drink which was promoted as 'buy one get one free' and Mr Chatha indicated that this would be shown on any purchase invoices with a nominal value of 1p placed against the free case, and so would appear on the invoice. He stated that this is the standard policy on all similar promotions. At the time of our visit Eastenders Cash and Carry was in the middle of a '3 Day Offer' and their promotions were contained on a six (6) page promotional flyer which I produce as exhibit **AER/LC/14**.

I also asked Mr Chatha to produce all the purchase invoices relating to account number 201041, the account number of Low Cost Food and Wine, from the 1st January 2010 to 30th April 2010 which he did. There are 36 invoices in total contained on 41 pages and I produce these 41 pages as exhibit **AER/Invoice/5**. Following this we left the premises at approximately 15:20. Later that day I examined the invoices referred to as AER/Invoice/5 and note the following:

1. Up to the time of our seizure on 22/4/10 there are no purchases of Alpa wine. There is one (1) purchase of Alpa wine on 22/04/10 at 14:00 hrs of twenty four (24) cases of six (6) at £14.99 (+ VAT) per case noted on invoice number 41799
2. Up to the time of our seizure on 22/4/10 there are two purchases of one (1) case of six (6) bottles of 1ltr Glens vodka on the 13/03/10 (invoice number 34146) and 20/03/10 (invoice number 35507), totalling twelve (12) bottles. There is an additional purchase of six (6) 1ltr bottles of Glens on 28/4/10.
3. During this time period there are no purchases of 70cl Glens Vodka
4. During this period there were purchases of twenty three (23) cases of six (6) 35cl Glens vodka (138 bottles), sixteen (16) purchases of six (6) 20cl Glens vodka (96 bottles) and one (1) case of six (6) 5cl Glens vodka.

2nd visit to Eastenders 17th September

At approximately 10 am on the 17th September I returned to Eastenders in order to locate something which I had left on the visit the previous day. I went directly into the warehouse without challenge and walked to where the Alpa wine was stored. Above the three pallets of Alpa wine were, clearly displayed, hand written signs stating "Buy 1 case get 1

Name / Signature:



Signature Witnessed by:

Witness Statement

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free". I took a photograph of each pallet using my mobile phone (a Nokia 6300) and then went to the till area where I requested to see Mr Chatha. It was some minutes before Mr Chatha appeared and I requested to look around his premises to locate the missing item as he had not recovered it. I then went to the area used for storing spirits and then, a minute or two later, back to the pallets of Alpa wine. The handwritten signs had been removed in the intervening period and I took a further two photographs of the pallets. I then left the premises and on returning to my offices I downloaded the digital images from my phone and I produce the three (3) photographs showing the "Buy 1 case get 1 free" offer as exhibit AER/ECC/1A,B & C and the two (2) photographs showing the pallets with the signs removed as exhibit AER/ECC/2A & B.

AER

Name / Signature:

A. Richards

Signature Witnessed by:

*EXHIBIT AER/TTemail***Alan Richards**

From: Tom Taylor [Tom.Taylor@glencatrine.com]
Sent: 27 August 2010 15:50
To: Alan Richards
Cc: Kevin Maple
Subject: Suspected Counterfeit Glen's Vodka

Dear Mr Richards,

Pat Hough of Ayrshire Trading Standards Dept. sent me a copy of the E-mail that you sent to her.

Counterfeit Glen's Vodka has been an enormous problem over the past three years and I have received hundreds of samples for examination from sixty different Trading Standards Departments throughout the UK to date. In the past the exhibits sent for examination have been counterfeit product and I have provided s9 witness statements for all of them to allow the traders involved to be prosecuted under the Trade Marks Act 1994.

There now appears to be a move away from totally counterfeit product to excise duty evasion scams. Recently, I have been inundated with samples for examination from Trading Standards Departments which are found to be genuine product but the UK Duty Stamp back labels were counterfeit. The bottles in question were produced with an export (non-duty stamp) label applied and came from batches that were despatched for export "under bond" i.e. without payment of excise duty as they were destined for out-with the UK. At some stage the export labels had been removed from the bottles and replaced with counterfeit UK Duty Stamp labels to enable the counterfeiters to avoid the payment of excise duty in the UK. The suppliers / retailers involved should be prosecuted for HMRC excise duty evasion. As I confirmed previously this is the case with the samples that you sent for examination.

Unfortunately, I can no longer provide formal s9 Witness Statements for duty evasion for the following reasons;

As you know, by providing s9 Witness Statements I can be forced by law to attend court by the defence lawyers involved in the court cases.

From past experience, when the people involved are charged they invariably plead "not guilty" and their lawyers insist that anyone who has provided a witness statement appears in court for the trial. This causes massive inconvenience to all concerned as dates have to be kept free for the potential court appearance and travel and accommodation arranged. The majority of the time they change their plea to "guilty" at the last minute.

The number of samples sent for examination by Trading Standards Departments and the number of retailers involved in the duty evasion offences has increased dramatically. This will result in being required to keep dates free and attend an extremely large number of court cases throughout the UK which will become a full time job and a logistical nightmare.

Glen Catrine is a relatively small company and we do not employ anyone that can afford to dedicate all of their time to preparing statements and /or attending numerous court cases. My prime function as Quality Manager is to ensure that our product quality standards are maintained and we therefore continue trading.

The samples and letter that you sent involves 7 retailers and 10 exhibits. I also have samples and letters sent by your colleague at Tower Hamlets, Kevin Maple, which involves 9 exhibits and 22 bottles. You can see the extent of the problem when these are all from one Trading Standards authority.

However, I am prepared to confirm by E-mail or in writing my findings with the samples sent for examination and provide any other information or assistance that you require to help prosecute the offenders or in removal of their trading licences.

I will provide formal s9 Witness Statements if it involves prosecution of the people behind the counterfeiting / duty evasion or preparation or distribution of the illegal products.

I would be grateful if you could discuss the matter with Kevin Maple and let me know how you want to

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proceed.

Regards

Tom Taylor.

From: Alan Richards
Sent: 30 July 2010 16:10
To: 'Hough, Pat'
Subject: RE: Glen Catrine contact details

Hi Pat,

Good to speak with you earlier.

Attached is the letter that accompanied the samples sent to Tom, one of which (Low Cost) is the subject of an imminent licensing review as well as a future prosecution. In addition to Trade Mark offences relating to the rear label we are also hoping to take a run at offences under the Consumer Protection from Unfair Trading Regulations:

Schedule 1 Point 9 – Stating or otherwise creating the impression that a product can be legally sold when it cannot.

Essentially our argument is that it is a legal requirement under the Alcohol Liquor Duties Act that alcoholic spirits cannot be sold without customs and excise duty having been paid on it and they must carry a stamp indicating this. The stamp must comply with the requirements of the Act and can only be applied by an authorised person.

Tom has already informed me verbally that it is genuine product with fake rear labels. I am not familiar with the 'standard' Glen Catrine statement (so excuse me if I am teaching my granny to suck eggs!!) but I would like to make sure the statement (in relation to the Low Cost product at least) covers the following points:

1. Stating that the rear label is not the same as the one applied by Glen Catrine, the main differences and that it has been substituted
2. That the label contains a copy of the Glen's Trademark device (the crest 2319225B)
3. Producing a copy of the TM registration
4. That they have not authorised the application of the trademark by any other persons
5. That they are an authorised body able to apply a 'Type B' stamp and that the allocated number is specific to them
6. That the 'type B' duty stamp has not been applied by them and is not in accordance with their specification
7. That they have not authorised the application of their type B duty stamp by any other persons
8. Stating the date of manufacture of each sample from the bottom Lot code.

Just out of interest, it is clear that Glens is being re-imported illegally in large quantities and with a degree of sophistication. I know it's more a Customs issue but do Glens keep records of boxes sent out as part of wholesale shipments? There is information on the boxes and I am wondering if that can be matched to initial supply from Glens which can then be followed through to see where it is being diverted/re-imported.

Thanks very much for your help with this and thank Tom Taylor for me for providing the statements.

Regards

Alan Richards
Trading Standards Officer
London Borough of Tower Hamlets
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent

17/09/2010

London
E14 1 BY

Tel: 020 7364 6719
Fax: 020 7364 6901

From: Hough, Pat [mailto:Pat.Hough@east-ayrshire.gov.uk]
Sent: 28 April 2010 09:55
To: Alan Richards
Subject: Glen Catrine contact details

Hi Alan

I have attached an old information sheet with Tom Taylor's contact details at the bottom of it. Tom is really helpful but can be very busy, if you have a problem getting hold of him let me know.

Regards

Pat

Pat Hough
Trading Standards Officer
East Ayrshire Council
14 London Road
Kilmarnock
KA3 7AF

Tel. 01563 554383
Fax. 01563 554379
<mailto:Pat.Hough@east-ayrshire.gov.uk>

They fight our Wars, we fight their Battles - The Provost's Charity for
2009 - 2010 is Combat Stress. For more information on how you can
support this charity please go to www.combatstress.org.uk.

East Ayrshire Council's service commitment states that all
correspondence will be answered within seven working days of receipt.
Customers will be informed should the Council require additional time to
resolve their query. Please note that different legal standards apply to
Social Work.

17/09/2010

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AER/ECC/1A



ALPA ITALIAN
MERLOT
14.99

BUY 1 CASE
GET 1 FREE

ALPA
14.99
E22.99

ALPA

ALPA
MERLOT
14.99

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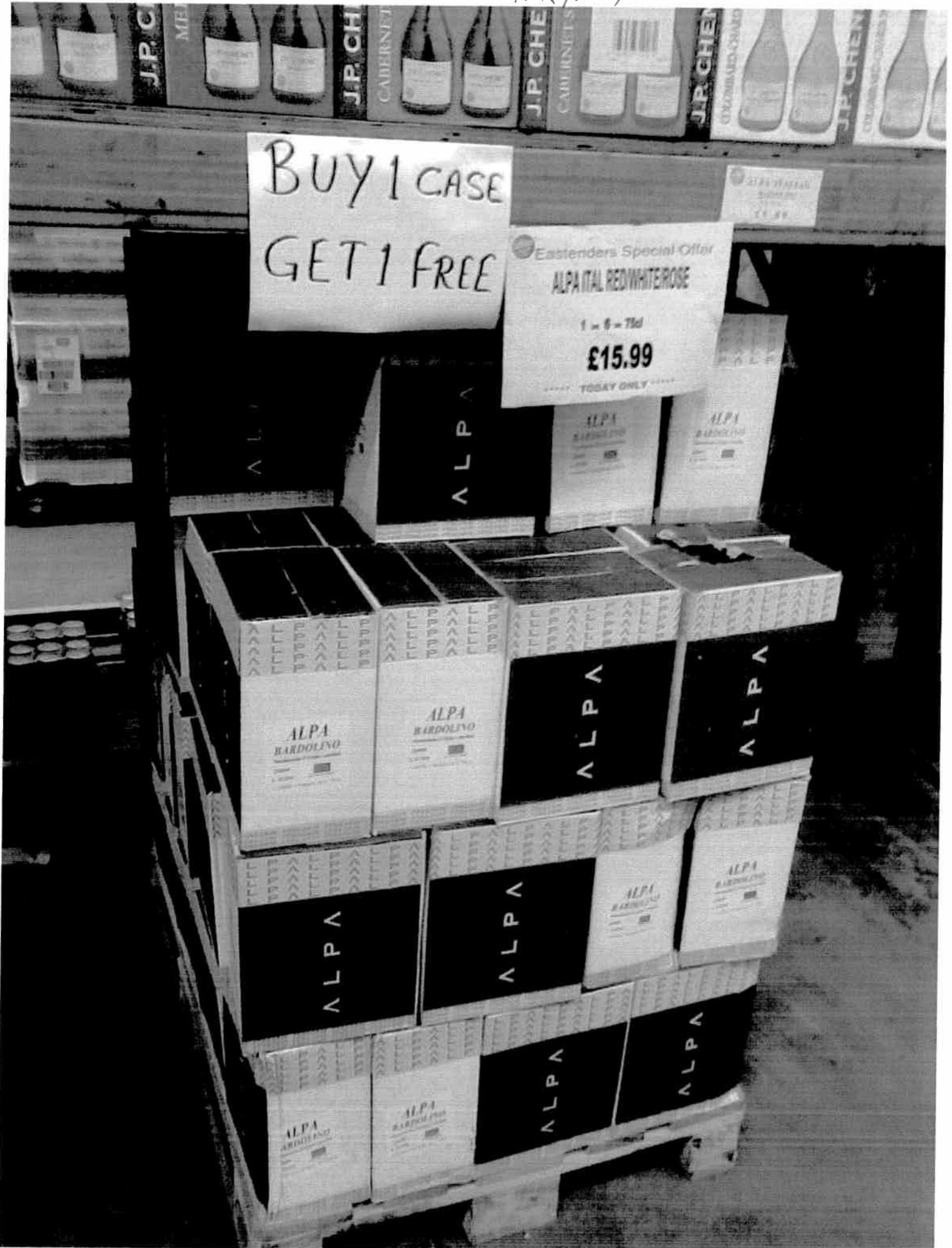
ALPA
MERLOT
14.99

ALPA
MERLOT
14.99

PER/ECC/1B

BUY 1 CASE
GET 1 FREE

Eastenders Special Offer
ALPA ITAL RED/WHITE/ROSE
1 = 6 = 75cl
£15.99
TODAY ONLY



ARR/ECC/IC

BUY 1 CASE
GET 1 FREE

ALPHA PREM RED/WHITE ROSE
1 = 6 = 12
£15.99
TODAY ONLY



AKR/ECC/2A



ALPA PREM RED/WHITE ROSE
1 - 8 - 75cl
£15.99
PRICE TODAY ONLY



PKR/ECU/2B



ALPA STAMPS
REDACTED
15.99

ALPA CASSIS DE JURASSI
15.99
£15.99

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