

*The Commonwealth of Massachusetts*  
*Department of the State Treasurer*  
*Alcoholic Beverages Control Commission*  
*Boston, Massachusetts 02114*

*Deborah B. Goldberg*  
*Treasurer and Receiver General*

*Kim J. Gainsboro, Esq.*  
*Chairman*

**NO. 25E-1294**  
**M.S. WALKER, INC.**  
**PETITIONER**  
**v.**  
**CONSTELLATION BRANDS, INC.**  
**RESPONDENT**

**MEMORANDUM AND ORDER ON CONSTELLATION'S  
RENEWED MOTION FOR SUMMARY DECISION**

This case arises under M.G.L. c. 138, § 25E. Petitioner, M.S. Walker, Inc. (M.S. Walker) is a Massachusetts wholesaler aggrieved at the refusal of Constellation Brands Inc. (Constellation), a Massachusetts manufacturer of alcoholic beverages, to ship Mark West Wines (Brand Items) to M.S. Walker. On or about September 13, 2012, pursuant to the mandate in M.G.L. c. 138, §25E, the Commission issued an order to Constellation to make sales of the Brand Items to M.S. Walker pending the Commission's determination of the petition on the merits. The Commission also authorized discovery to take place.

On February 7, 2014, Constellation filed a Motion for Summary Decision. In response, on February 20, 2014, M.S. Walker filed a Motion to Enlarge Time to Respond to Constellation's Motion for Summary Decision. On February 27, 2014, M.S. Walker filed a further Motion to Strike and to Compel Further Discovery Responses. On February 28, 2014, Constellation filed a Partial Opposition to Walker's Motion to Enlarge Time.

On June 4, 2014, the Commission held a hearing on M.S. Walker's Motion to Enlarge Time and to Strike and to Compel Further Discovery Responses. Then, on July 30, 2014, the Commission denied the Motion for Summary Decision because "it would be premature to issue a decision while discovery matters remain unresolved. However, the Motion is **DENIED WITHOUT PREJUDICE** and may be refiled when discovery is complete." Constellation filed a Renewed Motion for Summary Decision on March 30, 2015.

CONCLUSION

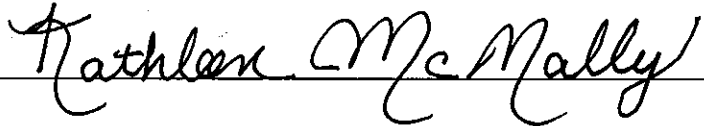
The Commission at this time **DENIES** the Renewed Motion for Summary Decision because, as with the first Motion, it would be premature to issue a decision while discovery matters remain unresolved. However, the Renewed Motion is **DENIED WITHOUT PREJUDICE** and may be refiled when discovery is complete.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Kim S. Gainsboro, Chairman

A handwritten signature in black ink, appearing to read 'K. S. Gainsboro', written over a horizontal line.

Kathleen McNally, Commissioner

A handwritten signature in black ink, appearing to read 'Kathleen McNally', written over a horizontal line.

Dated: May 7, 2015

You have the right to appeal this decision to the Superior Court under the provisions of Chapter 30A of the Massachusetts General Laws within thirty days of receipt of this decision.

cc: William F. Coyne, Jr., Esq. via email  
Mary O'Neal, Esq. via email  
File