OMB Control No. [insert]
Expires [insert][1]

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

FTC Matter No. P064505

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated , entitled *"Resolution Directing Use of Compulsory Process*," a copy of which is enclosed, [insert target name], hereinafter referred to as "the company," is ordered to file a Special Report with the Commission no later than the dates specified in Appendix A hereto, containing the information and documents specified herein.

The information provided in response to the Special Report will assist the Commission in preparing a report regarding beverage alcohol advertising expenditures and alcohol industry self-regulatory efforts.

The Special Report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, provide the information that is available and explain in what respects and why the answer is incomplete. **The Special Report and all accompanying documentary responses should be bates-stamped.** For purposes of this Special Report, the term "the company" includes any parent, subsidiary or affiliated companies located in the United States.

Please supply the following information and documents, **consistent with the Definitions**

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[1] For your information, under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. For this information request, that number is [insert].

and Instructions contained on Appendix A:

1. Provide the following background information:

   A. Identify by full name, business address, telephone number, and official capacity, the officer of the company who has prepared or supervised the preparation of the company's response to this Order.

   B. Fully identify by name, address, and state of incorporation, the company. In addition, identify each subsidiary, joint venture, affiliated company, partnership, or operation under an assumed name that is owned in whole or in part by the company that engages in the manufacturing, labeling, advertising, promoting, offering, or sale of any beverage alcohol product in the United States.

   C. Identify by name each individual beverage alcohol brand or variety sold by the entities identified in subparagraph 1.B. above, during the calendar year 2005, and for each brand or variety, state total sales for calendar year 2005 in dollars and in number of 9-liter or 2.25 gallon cases sold.

   D. Produce all documents dated, prepared, or received by the company on or after January 1, 2003 that contain data not otherwise publicly available regarding the demographics of persons under 21 who have tasted, used, or purchased any brand advertised or sold by the company.

2. Report the dollar amount expended during the calendar year 2005 by the company, including the entities identified in question 1.B., above, on the advertising, merchandising, or promotion of beverage alcohol products in the United States in <u>each</u> of the categories set forth below (as defined in Appendix A.I.):

   A. Television Advertising
   B. Radio Advertising
   C. Magazine Advertising
   D. Newspaper Advertising
   E. Transit Advertising
   F. Outdoor Advertising
   G. Direct Mail Advertising
   H. Company-sponsored Internet Sites
   I. Other Internet Site Advertising
   J. Other Digital Advertising
   K. Specialty Item Distribution
   L. Public Entertainment Events: Not Sports-Related
   M. Sponsorship of Sporting Events, Sports Teams, or Individual Athletes

N. Other Point-of-Sale Advertising and Promotions
O. Spring Break Promotions
P. Product Placements
Q. Retail Value-Added Expenditures
R. Telemarketing
S. Promotional Allowances
T. Total Reportable Expenditures
U. Sports and Sporting Events
V. Social Responsibility Programs and Messages

3. Provide the information set forth below with regard to advertising placements.

A. Describe fully the procedures used by the company, including the entities identified in response to question 1.B., above, to facilitate compliance with the guidelines contained in the voluntary advertising codes of the Beer Institute, the Distilled Spirits Council of the United States, and the Wine Institute, providing that television, radio, and print ads should appear only in media where 70% or more of the audience consists of adults 21 and over. In the response, indicate which of the 3 voluntary codes the company follows; whether the company follows another code, such as a company code, that addresses advertising placement; what databases are relied on in making placement decisions; how often post-placement data are reviewed to verify that a placement complied with the guideline and what steps are taken if a compliance shortfall is identified; and, what additional safeguards are in place (such as use of "no buy" lists, use of higher placement standards, media content review, or others) to reduce the likelihood that a non-compliant placement will occur.

B. With regard to each instance of dissemination by the company, including the entities identified in response to 1.B., above, of an advertisement during the period January 1, 2006 to June 30, 2006, on television, on radio in measured markets, in magazines, and in newspapers, provide the advertisement's name; the brand advertised; the name of the media and location of dissemination; the date and time that the advertisement appeared; the name of the show during, or in conjunction with, which the advertisement appeared; and the actual demographics of the audience (persons under 21, and persons 21 and over), in absolute numbers and percentages, for that dissemination, consistent with the directions in Appendix A.II. In responding to this question, please mark by use of an asterisk each dissemination that was targeted specifically to Hispanic consumers and mark by the use of a pound sign each dissemination that was targeted specifically to African-American consumers.

C. Based upon the responses to question 3.B., provide the following summary information regarding the code compliance of placements made by the company during the period January 1, 2006 to June 30, 2006 in each of the four advertising categories (all television ads; all radio ads in measured markets; all magazine ads; and all newspaper ads):

i. The total number of advertisement disseminations;
ii. The total number of persons reached;
iii. The number of advertisement disseminations that complied with the 70% guidelines, and, with regard to these compliant disseminations, the total number of persons reached, the number of persons 21 and over reached, and the number of persons under 21 reached; and
iv. The number of advertisement disseminations that did not comply with the 70% guideline and, with regard to these noncompliant disseminations, the total number of persons reached, the number of persons 21 and over reached, and the number of persons under 21 reached.

D. Repeat the analysis performed in question 3.C.:
i. With regard to those disseminations identified in question 3.B. as targeted specifically to Hispanic consumers; and
ii. With regard to those disseminations identified in question 3.B. as targeted specifically to African-American consumers.

E. Provide copies of all documents relied on to support the company's responses to questions 3B., 3C., and 3D., above.

4. Describe in detail the enforcement mechanism(s) available as of December 31, 2006 regarding possible violations of the voluntary advertising codes of the Beer Institute, the Distilled Spirits Counsel of the United States, and the Wine Institute. With regard to each complaint about the company's advertising, promotion, or marketing forwarded for independent review under the procedures set forth by the Beer Institute, Distilled Spirits Council of the United States, or Wine Institute at any time between January 1, 2006 and December 31, 2006, provide a copy of the complaint, any document reflecting the recommendation or decision of the reviewer, and describe what action, if any, the company took in response to the recommendation or decision of the reviewer.

Penalties may be imposed under applicable provisions of federal law for failure to file Special Reports or for filing false reports.

The Special Report called for in this Order is to be filed on or before ____, 2006.

By direction of the Commission.

Deborah Platt Majoras
Chairman

SEAL

Date of Order:

The Special Report required by this Order, or any inquiry concerning it, should be addressed to the attention of:

Janet M. Evans
Division of Advertising Practices
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2125 phone
(202) 326-3259 facsimile
jevans@ftc.gov

Appendix A

Definitions and Instructions

I. Reportable Expenditure Definitions

These definitions of reportable advertising, merchandising or promotion expenditures track the 22 Categories set forth in question 2 of the Order to File Special Report. Please provide information for each Category in thousands of dollars. Expenditures may be rounded to the nearest thousand dollars. In responding to question 2, exclude expenditures targeted to the trade, such as expenditures for promotions in trade magazines or password-protected Internet sites targeted to the trade.

A. Television Advertising

Definition: Television advertising on broadcast, cable, or satellite channels, including spot ads, long-form commercials, and sponsored programming (such as televised events bearing the name of, or stated to be sponsored by an alcohol brand or company); **allocate** such expenditures among: (a) advertising placed for national distribution on (i) broadcast, (ii) cable, or (iii) satellite television; and (b) spot advertising placed on (i) broadcast, (ii) cable, or (iii) satellite television. This category excludes expenditures in connection with product placements (defined in Category P).

B. Radio Advertising

Definition: Radio advertising including spot ads, long-form commercials, and sponsored programing (such as radio broadcast events bearing the name of or stated to be sponsored by an alcohol brand or company); **allocate** such expenditures among: (a) advertising on subscription-based satellite radio channels; (b) advertising in markets where the audience is measured by a syndicated data source (such as Arbitron); and, (c) advertising in unmeasured markets. This category excludes expenditures in connection with product placements (defined in Category P).

C. Magazine Advertising

Definition: Advertising placed in magazines or other print media; this category excludes newspaper advertising (defined in Category D) and direct mail advertising (defined in Category G).

D. Newspaper Advertising

Definition: Advertising placed in newspapers, including national, regional, and local papers, and advertising placed in free-standing inserts to newspapers. This category excludes expenditures for magazine advertising (defined in category C) and direct mail advertising (defined in Category G).

E. Transit Advertising

Definition: Advertising on or within private or public vehicles and all advertisements placed at, on or within any bus stop, taxi stand, transportation waiting area, train station, airport or any other transportation facility.

F. Outdoor Advertising

Definition: Advertising on billboards; signs, placards or posters placed on outdoor street furniture, kiosks, shopping malls (whether open-air or enclosed), pay telephone booths, parking space bumpers or other advertising in parking lots or garages, or trash receptacles; airplane banners; and, any other advertisements placed outdoors regardless of their size. This category excludes expenditures in connection with transit advertising (defined in Category E), public entertainment events: not sports-related (defined in Category L), sponsorship of sporting events, sports teams, or individual athletes (defined in Category M) or other point-of-sale advertising and promotions (defined in Category N).

G. Direct Mail Advertising

Definition: Advertising circulars or other printed matter that is sent directly through the mail to consumers. This category excludes expenditures in connection with magazine advertising (defined in Category C) and newspaper advertising (defined in Category D).

H. Company-sponsored Internet sites

Definition: Any company-sponsored Internet site that contains information about the company's beverage alcohol brands or beverage alcohol products, and that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page.

I. Other Internet Site Advertising

Definition: Advertising on Internet sites other than company-sponsored Internet sites, including, but not limited to, hyperlinks, banner or pop-up advertisements, sponsored-text advertising, search keywords, and advertising in chat rooms, weblogs, bulletin boards, listserves, and on social networking sites.

J. Other Digital Advertising

Definition: Advertising and promotional content visible on personal computers and other digital devices, including PDAs (personal digital assistants) and mobile phones, whether or not Internet-enabled. This category includes but is not limited to expenditures for electronic mail (email) messages, short message service (SMS or "text") messaging, instant messaging (IM), picture messaging, multimedia messaging, mobile broadcasts, and downloads or podcasts.

K. Specialty Item Distribution

Definition: All net costs (deducting payments by consumers) of distributing items other than beverage alcohol products, whether distributed by sale, redemption of coupons, or otherwise. **Allocate** among expenditures for items that (a) bear the name, logo, or any portion of the package of any brand or variety of beverage alcohol product sold by the company and (b) do not bear the name, logo, or any portion of the package of any brand or variety of beverage alcohol products sold by the company. Exclude costs associated with distributing non-alcohol items in connection with retail value-added programs (defined in Category Q).

L. Public Entertainment Events: Not Sports-Related

Definition: Public entertainment events that are not sports-related, such as appearances by musicians, comedians, celebrities, or other entertainers or public figures, bearing or otherwise displaying the company name or logo, the name, logo, or any portion of the package of any of the company's beverage alcohol brands, or otherwise referring or relating to beverage alcohol, including all expenditures made by the company in promoting and/or sponsoring such events; **allocate** these expenditures among (a) adult-only facilities and (b) general audience facilities. This category excludes expenditures in connection with television or radio advertising (defined in Categories A and B), Internet or digital programming (defined in Categories H, I, and J) sponsorship of sporting events, sports teams, or individual athletes (defined in Category M) and other point-of-sale advertising and promotions (defined in Category N).

"Adult-only facility" means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe that no underage person is present and includes company-sponsored private parties and event hospitality tents. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, provided that the operator ensures or has a reasonable basis to believe that no underage person is present during the event or time period in question. Furthermore, for purposes of this Order, the term "underage" means younger than twenty-one (21) years of age.

M. Sponsorship of Sporting Events, Sports Teams, or Individual Athletes

Definition: Sponsorship of sporting events, sports teams, or individual athletes. "Sports teams or individual athletes" includes but is not limited to competitors in football, basketball, baseball, soccer, hockey, tennis, wrestling, golf, karate, judo, weight lifting, volleyball, skiing, skating, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, and hunting events, competitions, tournaments, and races. This category excludes expenditures in connection with television and radio advertising (defined in Categories A and B), Internet or digital programming (defined in Categories H, I, and J), public entertainment events: not sports-related (defined in Category L), and other point-of-sale advertising and promotions (defined in Category N).

N. Other Point-of-Sale Advertising and Promotions

Definition: Expenditures for advertising and promotions at on-premise or off-premise locations where beverage alcohol can be purchased. This category excludes expenditures in connection with specialty item distribution (defined in Category K), public entertainment events: not sports-related (defined in Category L), spring break promotions (defined in Category O), and retail value-added expenditures (defined in Category Q).

O. Spring Break Promotions

Definition: Expenditures for advertising and promotion of college "spring break" events, including vacation trips, cruises, beach or pool parties, and on-premise and off-premise events where beverage alcohol can be purchased. This category may include expenses reported in response to other categories; if so, indicate which expenses also are reported elsewhere.

P. Product Placements

Definition: The dollar value of consideration provided in connection with permitting, promoting, or procuring the integration of any beverage alcohol product, logo, signage, trade name, or package into a television or radio program, motion picture, music video, music recording, electronic game, or other form of entertainment programming; such expenditures would include, for example, the dollar value of alcohol beverages or logoed items (such as clothing or signage) provided, or expenditures by the company to cross-promote a film or program in which a placement occurs.

Q. Retail Value-Added Expenditures

Definition: Expenditures for promotions involving: (1) free beverage alcohol products (*e.g.,* buy two, get one free), whether or not the free beverage alcohol products are physically bundled together with the purchased beverage alcohol products, including all expenditures and costs associated with the value added to the purchase of beverage alcohol products (*e.g.*, all associated excise taxes paid on the free beverage alcohol products); and (2) free non-alcohol products items (*e.g.,* buy two, get a can opener) including all expenditures and costs associated with the value added to the purchase of beverage alcohol products.

R. Telemarketing

Definition: Expenditures associated with the placement of telephone calls for the purpose of selling a good or service or the maintenance or operation of incoming telephone lines that allow consumers to participate in any promotion or hear pre-recorded product messages, but excluding costs associated with having customer service representatives available for responding to consumer complaints or questions.

S. Promotional Allowances

Definition: Allowances paid to retailers or wholesalers/distributors for development and distribution of consumer-directed advertising and promotional efforts, but excluding expenditures specifically designated to be expended for advertising and promotions in categories A-R above, which expenditures should be reported in the appropriate category. Allocate such expenditures among payments to (a) retailers and (b) wholesalers/distributors.

T. Total Reportable Expenditures

Definition: The figure provided for total reportable expenditures should equal the sum of the expenses listed in Categories A-S above.

U. Sports and Sporting Events

Definition: "Sports and sporting events" include but are not limited to football, basketball, baseball, soccer, hockey, golf, tennis, wrestling, karate, judo, weight lifting, volleyball, skiing, skating, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, and hunting events, competitions, tournaments, and races. Report all items including but not limited to all expenditures connected with or related to the sponsoring, advertising, or promotion of sports or sporting events, including support of an individual or a group sports or racing team, and purchase of, or support for, sports or racing equipment, uniforms, sports or racing facilities and/or training facilities, and all expenditures for advertising including but not limited to print, television, radio, billboards, or banners in the name of the company or any of its beverage alcohol products in a sports or racing facility, on a scoreboard or in conjunction with the reporting of sports or racing results; and all expenditures connected with the production, offer, sale, or provision without fee of all functional promotional items at or in connection with a sporting or racing event, including but not limited to, clothing, hats, bags, posters, sporting or racing goods, and equipment. Allocate among (a) expenditures for college sports and sporting events and (b) all others. The expenditures reported in this category are intended to be duplicative of expenditures listed above for Categories A-S and totaled in Category T. For example, televised ball games sponsored by an alcohol brand, reported in Category A, and untelevised events for a sponsored sports teams, reported in Category M, would also be reported in Category U. Do not report any expenditures in this Category that have not also been reported in Categories A-S.

V. Social Responsibility Programs and Messages

Definition: Expenditures for social responsibility programs and messages. The expenditures reported in this category may be duplicative of expenditures listed for Categories A-S and totaled in Category T.

II. Audience Demographics Definitions

These instructions shall be used in responding to question 3.B.'s request for the actual demographics of the audience for an advertisement:

A. Television ads. Provide, for the program in which or adjacent to which the ad appeared, the quarterly average demographic data for that program in that timeslot; if program-specific data are not available, provide the quarterly average demographic data for the daypart in which the ad appeared.

B. Radio ads. Provide the quarterly average demographic data for the daypart during which the ad appeared. In responding to this question, use Arbitron standard dayparts unless data for a shorter period of time is available.

C. Magazine ads. Provide average demographic data for the 12-month period during which the ad appeared, if the ad was placed in the standard national edition. If the ad was placed in a 21+ or other specialized edition, identify the edition and explain its demographics.

D. Newspaper ads. Provide average demographic data for the 12-month period during which the ad appeared.

III. Due Dates for Responses

Responses to this Order are due on a rolling basis, as follows:

A. Response to question 1: 30 days after the issuance of this order.
B. Response to question 2: 45 days after issuance of this order.
C. Response to question 3A.: 30 days after issuance of this order.
D. Response to question 3B.: as to television advertisements, responses are due 30 days after issuance of this order; as to radio advertisements, responses are due

________ (will be 30 days after the updated demographic data for radio stations is released); as to magazines and newspapers, responses are due ______________ (will be 30 days after the updated demographic data for print media is released).

E. Response to questions 3C. and 3D.: _________ (will be 15 days after the last date in D).

F. Response to question 3E.: Within 5 days following receipt from the FTC staff of a written request to provide such documents (but not before timely submission of audience composition data for the applicable media in response to question 3B).

G. Response to question 4: January 10, 2007.

IV. Instructions for Production of Responses

All responses should be provided in electronic form (by DVD or as email attachments), formatted as Word or Word Perfect documents, with the exception of the responses to questions 1C., 2, and 3B., C., and D., which should be provided electronically (by DVD or as email attachments) on an Excel Spread Sheet, labeled fully to indicate the question to which the provided data responds; and responses to question 1D., which should be provided in electronic form (by DVD or as email attachments), formatted as Word, Word Perfect, or PDF documents.