



MICHAEL TM DAVID

FAMILY OF WINES

For Immediate Release: October 22, 2007

Michael-David Winery Achieves Huge Victory For Small Wineries in Jury Trial

—Court Victory Keeps Brand Value in Vintners, Not Distributors

(Lodi, CA)—In a verdict that will reverberate through the California wine industry, a jury confirmed on Friday October 12th that California vintners have the right to terminate open-ended agreements with wine distributors at any time upon reasonable notice and for any reason - without the requirement of paying a "termination" fee or any other form of compensation. After an intensely contested trial which spanned five weeks, it took a Stockton jury less than two hours to deliver a verdict resoundingly rejecting distributor Frank-Lin Distiller's claim that it was entitled to share in the value of the growth of the Michael-David brands because Frank-Lin had represented the winery in California. This verdict prevented a de facto "franchise law" from being established in the California wine industry.

The case pitted Michael-David Winery, producer of many award-winning wines including "7 Deadly Zins, against Frank-Lin. Upon being told by the winery that its distribution agreement was being terminated upon reasonable notice in 2006, Frank-Lin withheld payments in excess of \$350,000 for wine purchased. Frank-Lin later sued Michael-David Winery for \$8.9 million in damages and asserted that a standard California wine industry practice binding wineries existed. The standard practice Frank-Lin alleged was that an oral distribution agreement with goals could be terminated only for cause, and then only after written warnings and an opportunity to cure were given. This, Frank-Lin asserted, supported its claims and justified the enormous damages sought.

Frank-Lin's allegations were rebutted by wine industry experts – including Gerry Pasterick, former COO of the Henry Wine Group, and Mike Fisher of MKF—who testified that no such practices existed in the wine industry and that nothing other than reasonable notice was necessary to terminate an agreement of undefined length between a winery and distributor. Testimony from other wineries also supported Michael-David's interpretation of common wine industry distribution agreement terms in California.

RULING PREVENTS BACKDOOR ATTEMPT TO DIMINISH WINERIES' RIGHTS

Frank-Lin also claimed that an "oral contract" was made, after the relationship commenced in 2002 and before it ended in 2006, because Michael-David Winery complimented Frank-Lin personnel from time to time, such as "thanks for the great work" and "we look forward to working with you" – common messages of encouragement. The jury found for the winery on all counts and rejected all of Frank-Lin's oral contract and "industry practice" claims.



Almost all wine distribution arrangements between small wineries and distributors in California operate under open-ended “oral agreements,” such as the one between Michael-David Winery and Frank-Lin Distillers.

“Without this decision, California vintners would have found themselves at the mercy of distributors who would, in effect, become entitled to a significant portion of the winery’s brand value and the winery owner’s equity simply because the distributor had delivered the product,” said John Hinman of Hinman & Carmichael LLP, Counsel for Michael-David Winery. “This case was a backdoor attempt to create a wine “franchise” law in California—a legal system in place in 14 states that makes it nearly impossible for wineries in those states ever to change distributors and often forces wineries to buy their own brands back from underperforming distributors.”

Mark Schickman and Cathleen Yonahara of San Francisco’s Freeland, Cooper and Forman successfully presented Michael-David Winery’s case to the jury. Robert Carroll and Paul Byrne of the Nixon Peabody law firm represented Frank-Lin at the trial.

Phillips Farms LLC’s Michael-David Winery is located in Lodi, California and was founded in 1984. Michael and David Phillips, the winery owners, are 5th generation growers who cultivate over 350 acres of wine grapes in the region. Michael-David Winery produces a number of highly acclaimed and award winning wines under a variety of labels including Michael-David Vineyards, 7 Deadly Zins, Earthquake, Incognito, Windmill and 7 Heavenly Chards. More information can be found at www.lodivineyards.com.

#

Contact:

John Hinman, Hinman & Carmichael
415.362.1215 • jhinman@beveragelaw.com

David Phillips or Mike Phillips, Phillips Farms LLC
209-368-7384 • mphillips@michaeldavidwinery.com, dave@lodivineyards.com