



A354583

Mr Tony Schwartz
Partner
Back Scharz Vaughn
Level 1, 156 Edgecliff Road
WOOLLAHRA NSW 2025

By email: tschwartz@bsv.com.au

Dear Mr Schwartz

Woolworths Limited - Activities suspected of encouraging the misuse or abuse of liquor under section 102A of the *Liquor Act 2007*

I refer to correspondence of 25 March 2013, inviting the National Liquor Compliance Officer of Woolworths Pty Ltd, to show cause as to why a notice under section 102A of the *Liquor Act 2007* ("the Act") should not be issued in relation to activities promoted on BWS/Woolworths branded "receipt rewards" documents. I note on 18 April 2013, you advised me you were acting as the legal representative for Woolworths Limited and provided a response to my invitation to show cause which I am currently considering.

To further assist in my consideration of this matter, I requested an independent expert report on "shopper docket" alcohol promotions. On 20 May 2012, Professor Sandra Jones, Director of the Centre for Health Initiatives, University of Wollongong provided this Office with the *Expert Report on "shopper docket" Alcohol Promotions* ("the report"). A copy of the report is attached to this letter. You are invited to make a submission in response to the report.

I further note that to test compliance with the controls outlined on the "receipt reward", a compliance officer from this Office attended a BWS store on 2 April 2013 with one "receipt reward". As you are aware the "receipt rewards" promotion subject to the show cause notice offered a bonus 6 pack of Sol Mexican Beer with the purchase of a specified bottle of wine and were available for redemption from 2 – 29 January 2013. A similar "receipt reward" promotion was later conducted at BWS liquor stores titled "bonus Kopparberg offer". This promotion offered 3 bonus 500ml bottles of Kopparberg cider when the customer purchased a 750ml bottle of Essenze Marlborough sauvignon blanc and produced the "receipt reward".

The officer who attended the BWS store on 2 April 2013 was able to purchase 6 bottles of the wine and receive 18 bonus bottles of the cider on production of a single receipt. This limited testing throws doubt on the effectiveness of controls implemented by individual stores and provides an indication of poor compliance culture. A statement from the

compliance officer is attached; you are invited to make a submission in response to the statement.

Any submissions in response to the expert report and the compliance officer's statement must be received by this Office within 21 days of the date on this letter.

Please direct your response or any enquiries to Mr James Shand, Compliance Officer, Office of Liquor, Gaming and Racing who can be contacted on (02) 9995 0726 or at james.shand@olgr.nsw.gov.au.

Yours sincerely



Paul Newson
Director Compliance

Encl. **21 MAY 2013**



**Trade &
Investment**

Office of Liquor Gaming and Racing

STATEMENT OF A WITNESS

In the matter of:	Woolworth Pty Ltd.
Place:	NSW Office of Liquor Gaming and Racing – Sydney, Compliance Branch
Date:	20 May 2013

Name:	Sarina Wise
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STATES:

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement 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.
2. I am 29 years of age
3. I am an Inspector appointed under Section 20 of the Gaming and Liquor Administration Act 2007, currently attached to the Compliance Branch of the New South Wales Office of Liquor, Gaming and Racing, 323 Castlereagh Street Sydney.
4. For the purposes of making this statement and giving evidence I have refreshed my memory of the incident by referring to my contemporaneous notes.
5. On 1 April 2013, I made a purchase at the Woolworths store situated at 113 Sailors Bay Road, Northbridge NSW. Once I completed the purchase I was provided with a receipt. I noticed that at the end of the receipt document there was an advertisement for a liquor promotion. The promotion was offering three bonus, Kopparberg 500ml ciders with a purchase of a bottle of Essenze Marlborough Sauvignon Blanc 750ml from BWS stores.

Witness:

Signature:

Statement (continued) in matter of Woolworths Pty Ltd

6. I walked over to the BWS store which is also located at the same address in Northbridge. I noticed a round shelf near the entry where approximately 50 bottles of Kopparberg 500ml ciders was situated. I picked up one of the bottles to look at the labelling.

7. Whilst looking at one of the cider bottles, a male staff member approached me. I would describe him as being approximately 30 years of age, dark brown hair, fair complexion, Caucasian, slim build (I now know this male to be 'Jordan') I had the following conversation with Jordan:

I said: "Are these the ciders you get for free with the receipt deal?"

He said: "Yeah, they are actually really nice."

I said: "I just saw the offer on the receipt I got."

He said: "I can do multiples if you wanted to buy more than one bottle of wine?"

I said: "Oh yeah, what do you mean?"

He said: "If you wanted to buy a case of the wine, I can give you 18 of the ciders for free. The till doesn't ask for receipts."

I said: "Awesome, I can't get it today but I will come back tomorrow."

He said: "No worries."

I departed the BWS store.

8. On 2 April 2013, I attended my work office building at 323 Castlereagh Street, Haymarket. I had a conversation with the Director Compliance regarding what occurred at the BWS store the previous day. I was instructed by the Director to

Witness:



Signature:



Statement (continued) in matter of Woolworths Pty Ltd

return to the store and attempt to acquire more than three free ciders from the one transaction.

9. About 6.25pm on 2 April 2013, I returned to the BWS store in Northbridge with the same receipt I had acquired the previous day. On this occasion there was a different staff member at the store to the previous day. I would describe this staff member as early 20's. Caucasian, medium brown hair, approximately 160cm in height and slim build. I approached the male with the receipt and had the following conversation:

I said: "Hi, I came in yesterday and the guy that was working here said I could buy a case of the wine and get 3 times free cider on the receipt offer with the one receipt."

He said: "Oh ok, the guy that was working yesterday is actually my boss, Jordan. I will have to give him a call to see if I can do that."

I said: "No worries."

10. I observed the male make a telephone call on his mobile phone.

11. The male staff member did not appear to speak with anyone before putting the mobile telephone back on to the counter. A short time later, the conversation between him and I continued as follows:

He said: "He is not answering his phone; I will just serve this person and then see what I can do."

The conversation terminated while the male staff member served a different customer.

12. Moments later the other customer departed the store after making their liquor purchase. The male staff member appeared to answer his mobile telephone, the

Witness:



Signature:



Statement (continued) in matter of Woolworths Pty Ltd

male staff member terminated his telephone conversation and had the following conversation with me:

He said: "That was Jordan my boss, he remembers speaking to you yesterday he said that is fine. I know how to put it through the system now."

I said: "Great, I was just going to get a case of the wine and then get 3 times in the cider."

He said: "Yeah, no worries."

I said: "So that's 18 free ciders, right?"

He said: "Umm...Yeah you got six wines time three for the ciders, so eighteen is right."

13. I handed the male staff member the receipt reward offer and he appeared to scan the barcode on the POS system. I saw him draw a cross of the receipt voucher before returning it to me.

I NOW PRODUCE A COPY OF THE RECEIPT THAT I WAS RETURNED WHICH I USED TO OBTAIN THE LIQUOR PROMOTION MARKED 'A'

14. I observed the male staff member put the transaction through scanning each of the eighteen cider bottles and scan one of the wine bottles in one sale. The total came to \$113.94. I paid for the sale and was provided with an additional receipt for the liquor purchase. I thanked the male staff member and loaded a trolley with the 6 bottles of wine and the 18 bottles of the free cider.

I NOW PRODUCE A COPY OF THE RECEIPT FOR THE LIQUOR I PURCHASED MARKED 'B'

Witness:



Signature:



Statement (continued) in matter of Woolworths Pty Ltd


15. On 3 April 2013, I returned to work with the liquor which I had purchased. I put the liquor in the exhibit room after recording the details in the exhibit register.

I NOW PRODUCE A COPY OF THE LIQUOR WHICH I PURCHASED INCLUDING THE FREE CODER MARKED 'C'

Witness:


JARREN JURE
21/5/13

Signature:


Sarina Wise
21 May 2013

2



'A'

RECEIPT REWARDS

BWS/WOOLWORTHS LIQUOR

Bonus Kopparberg Offer
Get 3 Bonus Kopparberg Cider Apple
or Pear 500ml bottles when you buy one
Essenze Marlborough Sauvignon Blanc 750ml
on presentation of this receipt at any
BWS OR WOOLWORTHS LIQUOR STORES
From 20th of March 2013 - 2nd of April 2013

*Not available to under 18's. Limit of 1 redemption per
receipt. At this great price, no further discounts
apply. For store locations and Receipt Rewards
terms & conditions visit bws.com.au



STORE 1199 POS 010 TRANS 1034 13:57 01/04/13

FUEL OFFER

Surrender this docket at any Caltex Woolworths
co-branded outlet to receive a discount of 8.0 cents
per litre off the pump price. LPG discounts at
selected outlets. Not available with other fuel offers.
Limit 150 litres per customer. No discount on Starcards.
This docket offer expires: 29/04/2013

STORE: 1199 13:57 01/04/13



STORE 1199 POS 010 TRANS 1034 0086 13:57 1/04/13

'B'



...too easy

NORTHBRIDGE PH : 8199 - 7379
Store Manager Is : NELSON

TAX INVOICE - ABN 88 000 014 675

*KOPPARBERG PEAR CIDER 500ml		65.00
Qty 10 @ \$6.50 ea		
*KOPPARBERG APPLE CIDER 500ml		52.00
Qty 8 @ \$6.50 ea		
*ESSENZE MARLBOROUGH SAUV BLNC750ml		113.94
Qty 6 @ \$18.99 ea		-117.00
*WINE RECEIPT REV		0113.84
18 SUBTOTAL		

WOOLWORTHS 1199
 NORTHBRIDGE NSW
 MERCH ID:611000802001199
 TERM ID: W1199025
 CARD:.....0977 D
 MasterCard CREDIT
 AID A0000000041010
 ARQC 008E5577F76675EA
 TC 5A413158C53485FA
 PURCHASE \$113.94

TOTAL \$113.84
 APPROVED 08
 02/04/13 18:33 001815

TOTAL 0113.84
 EFT 0113.84
 CHANGE 00.00

* Taxable Items
 TOTAL Includes GST 010.36

You could have earned at least 83 Qantas Frequent Flyer points for this sale. Pick up a card instore & register online today at everydayrewards.com.au

STORE 1199 POS 025 TRANS 1815 0514 18:33 2/04/13