

## → Wine

Sheppard Mullin has represented winery clients since Napa Valley's infancy in the early 1970's. With more than 15 lawyers focused on wine industry matters, we know the players and understand the issues. We've worked on the acquisition and disposition of wineries, wine brands and vineyards, land use and regulatory matters, as well as ongoing operational matters. We have a solid background representing financial institutions in financings, workouts and other transactions involving wineries and vineyard properties. We're able to draw upon other expertise needed by wineries and growers in traditional business areas such as corporate M&A, labor, ERISA, tax, intellectual property, real estate and environmental, and dispute resolution.

## Key Services for Wine Industry Clients

**Corporate:** Our team negotiates, documents and consummates winery and vineyard acquisitions and dispositions in both large and small scale transactions. We also assist in the formation and capitalization of new wineries and in the preparation of various agreements including those relating to:

- Grape contracts and crush agreements
- Winery and land purchase and sale
- Vineyard development and management
- Bottling agreements
- Distributor arrangements
- Import/export
- Trademark licensing
- Facility and vineyard leases

**Financing:** For lenders and borrowers, we negotiate and document loans secured by vineyard properties, wine inventory, trade receivables and wine making equipment.

**Land Use & Environmental:** We represent individual wineries and growers and industry organizations with land use and environmental matters, including obtaining the necessary permits and approvals from local planning departments, the state and regional Water Quality Resources Boards, the state Department of Fish and Game and the U.S. Department of Fish and Wildlife. We've challenged endangered species habitat designations, such as that for the tiger salamander, which directly affect existing and prospective vineyard properties.

**Litigation:** When disputes can't be resolved cordially, we can go to court. Our wine industry attorneys have been involved in a broad range of adversarial proceedings, drawing from a strong litigation group of more than 300 lawyers nationally.

## Clients

- American AgCredit and other parts of the federal Farm Credit System
- Andres Wines
- Chateau St. Michelle
- Constellation
- Diageo Chateau & Estate Wines Company and Diageo North America, Inc. (and its parent company Diageo plc and Diageo's various divisions, including Beaulieu Vineyard, Blossom Hill, Sterling Vineyards, Chalone, Acacia, Rosenblum, Provenance and others)
- Duckhorn Wine Company
- Heitz Wine Cellars
- National Bank for Cooperatives
- Sebastiani Vineyards, Inc.

- Snows Lake Vineyard
- St. Francis Winery and Vineyards
- Sutter Home Winery, Inc.
- The Christian Brothers Winery
- The CIT Group/Credit Finance, Inc.
- The Seagram Classics Wine Company
- The Winetasting Network
- Vincor International
- Vinwood Cellars, Inc.
- Winetasting.com

## Experience

Sheppard Mullin attorneys have substantial experience representing winery clients and clients serving companies in the wine industry. In addition to representing wineries in ongoing general operational matters, we represent clients in connection with the acquisition and disposition of wineries, land use and regulatory matters, financings, labor and employment matters, and the resolution of disputes involving various facets of the industry. We also have substantial experience representing financial institutions concerning financings, workouts and other transactions involving wineries.

We believe that we have gained a unique understanding of the business concerns of this industry by representing a wide spectrum of clients involved in wine production and distribution. Because of the depth and breadth of Sheppard Mullin win industry team attorneys, we have considerable skill and expertise in representing winery clients and other industry clients serving companies in the wine industry.

## Acquisitions and Dispositions

Our attorneys have extensive experience in negotiating, documenting and consummating wine industry and vineyard acquisitions and dispositions in both large and small scale transactions.

- Represented Diageo in its sale of Chalone Estate Vineyard (producer of award-winning Chardonnay and Pinot Noir in the Chalone appellation in Monterey County) to Foley Family Wines.
- We represented Napa Valley's St. Supéry Estate Vineyards and Winery in its sale to French luxury goods provider Chanel, adding a Californian brand to its portfolio of Bordeaux wines.
- We represented Diageo Plc in the acquisition of its U.S. and British wine units by the Australia's Treasury Wine Estates (TWE.AX) for \$552 million.
- We represented Snows Lake Vineyard in the sale of its 2,300 acre property and related trademarks and assets in Lake County to E. & J. Gallo Winery
- We represented Diageo Chateau & Estate Wines Company in connection with the sale of the assets of Edna Valley Vineyard to E. & J. Gallo Winery and a related grape contract

- We represented Diageo Chateau & Estate Wines Company in connection with the sale of two of its Washington State wineries, Canoe Ridge and Sagelands, to Precept Brands LLC and an affiliate of Precept
- We represented Diageo Chateau & Estate Wines Company in connection with the sale of its Echelon brand and related inventory to Winery Exchange, Inc.
- We represented Diageo Chateau & Estate Wines Company in connection with the sale of Moon Mountain Winery
- We represented Sebastiani Vineyards, Inc. and its shareholder group in connection with the sale of Sebastiani to the Foley Wine Group. The Foley Wine Group, based in Santa Barbara, manages a portfolio of premium vineyards and wineries in California and the Pacific Northwest
- We served as counsel to Duckhorn Wine Company in the sale of the company to an affiliate of GI Partners, a private equity group. Duckhorn produces and sells wines under the Duckhorn, Paraduxx, Golden Eye, Decoy and Migration brand names
- We represented several wine companies in connection with bids made to purchase wineries in California, including bids to purchase Domaine Carneros and to purchase the wine operations sold by Fortune Brands, including Geyser Peak, Buena Vista, Clos du Bois and a number of other brands
- We represented The Winetasting Network in the sale of that company to 1-800-Flowers.com. The Winetasting Network, which will operate as a division of 1-800-Flowers.com, is a Napa Valley-based leader in distribution services for more than 100 of California's leading wineries and direct-to-consumer wine marketing through the Ambrosia Catalogue of Fine Wine and its websites ([www.winetasting.com](http://www.winetasting.com) and [www.ambrosiawine.com](http://www.ambrosiawine.com))
- We represented Diageo North America, Inc., a subsidiary of Diageo plc (the world's largest alcoholic beverage company) in connection with the sale of its Glen Ellen and M.G. Vallego brands and related inventory to a limited liability company managed by The Wine Group
- We served as California counsel to Diageo North America, Inc. in connection with its acquisition of the beverage business operated by the Seagram family of companies and the subsequent spin off of various brands and related assets, including Mumm Cuvee Napa
- We served as California counsel for Vincor International, Canada's largest producer and marketer of wines, in connection with its acquisition of R.H. Phillips, a publicly held wine company located in Esparto, California. The transaction took the form of a tender offer to R.H. Phillips' shareholders followed by a merger transaction.
- We represented Heublein in the sale to Golden State Vintners of Heublein's Christian Brothers brandy and dessert wine production facility in Reedley, California. Production contracts for the continued production by the buyer of Christian Brothers brandy and dessert wines were an important part of the transaction
- Our attorneys represented Heublein and its division Beaulieu Vineyard in connection with the sale of the Inglenook Winery facility and surrounding vineyards to Niebaum-Coppola Estate Winery, L.P., a company owned by Francis Ford Coppola. As a part of the transaction, Beaulieu Vineyard entered into a grape contract covering a portion of the vineyards that were included in the sale
- Our attorneys handled for Heublein the sale of its Almaden and Inglenook brands and related assets and inventories to Canandaigua Wine Co. in a transaction involving more than \$100 million. Included in the sale was Heublein's large production facility in Madera, California
- Our attorneys represented Heublein in its acquisition of the Glen Ellen and M.G. Vallejo brands and related inventories and other assets from the Benziger family. The Glen Ellen brand, then the nation's ninth largest, accounted for annual sales of almost 4 million cases at the time of the acquisition

- Our attorneys represented Heublein in its acquisition of the Christian Brothers wine and brandy operations. At the time, this transaction was reported to be the largest acquisition in the history of the Napa Valley and helped to solidify Heublein as one of the dominant players in the California wine industry
- Our attorneys assisted Heublein in its acquisition of all of the assets of Almaden Vineyards, Inc., including Almaden's extensive wine operations and land holdings in California
- Our attorneys represented Heublein in the sale of its Italian Swiss Colony brand and related wineries, facilities and other brands to a new subsidiary formed by Allied Grape Growers. The transaction took the form of a multi-million dollar leveraged buyout involving many different parties and lending institutions
- Our attorneys represented Heublein in the sale of a California winery to Bisceglia Brothers Wine Co.
- We provided support to New York counsel for Canandaigua Wine Co. (now Constellation) in its acquisition of Guild Wineries and Distilleries and its acquisition of Vintners International
- Our attorneys represented Joseph E. Seagram & Sons, Inc. (Sterling Vineyards) in its acquisition of the highly regarded Winery Lake Vineyard in the Carneros district of the Napa Valley
- We represented Shadow Creek Champagne Cellars in its sale of various assets to Glenmore Distilleries Company. The assets sold included the "Shadow Creek" trademark and a significant inventory of sparkling wine
- We assisted Vinwood Cellars, Inc., a subsidiary of Chevron Land & Development Corporation, in developing a marketing strategy for the disposition of its winery facilities in Geyserville, California, and represented Vinwood in the negotiation and documentation of the sale of the winery
- We represented Takara Shuzo Co., Ltd. in connection with a proposed investment in the United States
- We have assisted many of our clients in the acquisition and disposition of vineyard properties

## Operational and Real Estate Matters

Sheppard Mullin attorneys have represented a number of wineries in nearly all aspects of their day-to-day operations. Our experience in the industry has permitted us to play a significant role in such matters as the formation and capitalization of new wineries, as well as preparing and negotiating various agreements, including land purchase agreements, vineyard development agreements, vineyard management agreements, grape contracts, grape crush agreements, co-pack agreements, import/export agreements, facility and vineyard leases, distributor agreements and trademark licensing agreements. We are also able to draw upon expertise needed by wineries in traditional business areas, including public and private securities offerings, labor relations, ERISA, taxation, environmental compliance and obtaining credit facilities.

- We represented Diageo Chateau & Estate Wines Company in the sale to and leaseback from Realty Income Properties of 15 separate vineyard and winery properties, including the management of extensive due diligence and title/survey review by the buyer/lessor
- We represented Heitz Wine Cellars in the acquisition of a 28 acre vineyard in Napa County and resolution of potential access issues
- We represented a seller in negotiating a complicated purchase agreement for the purchase by a grower of approximately 7,000 acres of grazing land, with the reservation by the seller of all rights to develop and sell mitigation credits derived from wetlands and endangered species habitat on the property and corresponding

- limitations on the areas of the property which can be developed for vineyard or related purposes
- We represented Diageo Chateau & Estate Wines Company in connection with the purchase of the interest of its tenant-in-common in the Marina Vineyard property surrounding the Acacia Winery
- We served as California counsel for Kluge Estate Winery and Vineyard in connection with various matters. Founded in 1999, Kluge is located in Charlottesville, VA and was acquired by the Trump Organization
- Prior to its sale to Gallo, we served as counsel to Snows Lake Vineyard, a company that owned substantial vineyard acreage in Lake County, California. Snows Lake produced and sold grapes to a number of well-known Napa and Sonoma County wineries
- Our attorneys have represented wineries in employment law matters and have expertise in issues unique to the industry
- We represented Diageo North America, Inc. in connection with several large vineyard redevelopment projects, including the preparation and negotiation of development agreements and management agreements with third party developers and managers
- We have represented Winetasting.com dba Ambrosia, the Catalogue of Fine Wines, in their business of internet mail order wine and related products
- Our attorneys represented a large Canadian wine company in the formation of a California subsidiary, as well as with related licensing and export matters
- Our attorneys have prepared and reviewed scores of grape contracts, ranging in size from a grape contract between a publicly held winery client and the then largest grape cooperative in the U.S., to a standard form evergreen contract for use by a small winery with its individual growers
- Our attorneys represented the owner of a large vineyard property under lease to Wine World Estates Company (Beringer). The lease was renegotiated in connection with the sale by Nestle Food Company of Wine World Estates Company
- We also represent individual wineries and growers and industry organizations such as The Wine Institute in connection with land use and environmental matters. We assist our clients in meeting the requirements of and obtaining the necessary permits and approvals from local cities and counties, the state and regional Water Quality Resources Boards, the U.S. Army Corps of Engineers, the state Department of Fish and Game and the U.S. Department of Fish and Wildlife with respect to vineyard lands and winery operations. We have also challenged endangered species habitat designations, such as that for the tiger salamander, which directly affect existing and prospective vineyard properties.
- Our attorneys have represented wineries, growers and vineyard managers with the preparation and negotiation of vineyard management agreements, vineyard leases, rootstock purchase agreements and technical service agreements
- Our attorneys represented Duckhorn Wine Company from inception to its sale in 2007 to a private equity group in corporate and real estate matters including property acquisitions, vineyard management agreements, grape sales contracts and general business matters, including several equity offerings
- We have represented a producer and importer of Australian wines in connection with trademark matters and various operational matters
- Our attorneys have represented the St. Francis Winery and Vineyards in entering into a partnership agreement with a national wine distributor. We also represented this company in their land acquisitions and miscellaneous land use and production facility matters

- Our attorneys have represented an individual with 400 acres of vineyards in matters such as the acquisition of land, grape vineyard management contracts and grape sales agreements. We also handled the formation of a number of limited liability companies to own the various parcels of land
- We have provided legal assistance to several wineries with grape crush agreements, glass purchase agreements, wine and brandy production agreements and co-pack agreements, including a co-pack agreement for a major producer covering certain services relating to blending, processing, packaging, warehousing and shipping
- Our attorneys have handled the legal aspects of a vineyard syndication involving the formation of a limited partnership to acquire and develop a 90 acre premium grape vineyard in the Napa Valley. Limited partnership units were offered through a large, national brokerage firm to prospective investors. A well regarded local winery concentrating in the super premium wine market acted as vineyard developer and manager
- We are familiar with the intricacies of distribution agreements and have assisted clients in negotiating and preparing distribution agreements. For example, we assisted Mildara Wines Ltd., an Australian producer, with distribution issues in the U.S., and our attorneys have represented Sutter Home Winery and Christian Brothers in various distribution matters
- We have also been involved in the acquisition, disposition and licensing of intellectual property. Our experience includes handling the licensing of numerous trademarks and trade names and the licensing of processes with the production of wine
- Attorneys in the firm are familiar with water rights and have assisted clients in acquiring and handling disputes regarding water rights

## Financing and Related Matters

On behalf of industry leading lenders and borrowers, our attorneys have negotiated and documented loans secured by vineyard properties, wine inventory, trade receivables and wine making equipment. We have considerable expertise, including workout expertise, in the laws governing security interests in winery related assets. Our experience includes documenting sophisticated finance transactions, restructuring and workouts of troubled loans, as well as representing clients in bankruptcy proceedings and other trial and appellate litigation.

- We regularly represent secured lenders in the non-public restructuring of credit facilities to California wineries
- We represented The CIT Group/Credit Finance, Inc. with a large credit facility provided to Wente Bros.
- We represented Diageo North America, Inc. in connection with the bankruptcy of Michael Hat, one of the largest growers in Monterey County. We successfully defeated the bankruptcy estate's attempts to affirm Diageo's grape contract with Hat, winning in both the bankruptcy court and on appeal
- We represented Den Norske Bank in a Chapter 11 proceeding involving La Crema, a case that presented many complex issues involving producers' liens, processing agreements, debtor in possession financing, fraudulent conveyances, etc.
- We handled a major loan workout involving Bear Mountain Winery, a winery cooperative that was sold, as a part of the workout, to Labatt, the Canadian beer company
- Our attorneys represented the secured lender in the liquidation of Clos du Muriel, a winery in Temecula. The matter involved a receivership, a bankruptcy and ultimately the liquidation of the winery collateral

- We have represented lenders in connection with the financing of wine retailers, including the Liquor Barn chain

## Dispute Resolution

As a logical outgrowth of our representation of wineries in their business operations, Sheppard Mullin attorneys can handle virtually all types of wine industry related dispute resolution.

- We have represented Diageo Chateau & Estate Wines Company in connection with the loss of inventory as a result of a fire at a warehouse on Mare Island.
- We represented UDV North America, Inc. in a lawsuit filed by a company owned by Francis Ford Coppola. The lawsuit sought to invalidate a grape contract based on alleged violations of the Berryhill statutes
- Our attorneys have represented clients in many other grape contract disputes, including Heublein in a dispute concerning the interpretation of supply contracts with certain large growers
- We have been involved in many cases arising out of the termination of distributors. We are familiar with the types of antitrust, franchise law and other issues often raised in distributor litigation
- Our attorneys have handled arbitration proceedings concerning disputes over various issues arising from winery acquisitions and dispositions, including the appropriate calculation of "book value"
- Our attorneys have litigated disputes under vineyard purchase agreements and vineyard leases, and have handled suits over defective installation of farming systems and equipment
- In the environmental area, our attorneys have handled numerous matters including matters involving underground tank contamination of soil and ground water and other environmental regulatory problems
- We have litigated many disputes involving intellectual property rights, including trademark disputes involving labels