

POWELL  
GOLDSTEIN  
FRAZER &  
MURPHY LLP  
ATTORNEYS AT LAW

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GENEVA WASHINGTON

direct dial 202-624-7330

bkappol@pgfm.com

March 13, 2002

N. Bradley Litchfield  
Associate General Counsel for Policy  
Office of General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

AOR 2002-04

Re: Advisory Opinion Request

Dear Mr. Litchfield:

On behalf of Austin, Nichols & Co., Incorporated (the "Company"), otherwise known as Pernod Ricard USA, we hereby request an advisory opinion pursuant to the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 437f, and Federal Election Commission ("FEC" or "the Commission") regulations, 11 C.F.R. § 112. Specifically, we request that the Commission confirm that the Company may use "Austin, Nichols & Co., Incorporated/Pernod Ricard USA Political Action Committee" as its official name, and use its trade name, Pernod Ricard USA PAC, in its common use, such as on checks and letterhead.

The Company, now known in the industry as Pernod Ricard USA, is a U.S. producer and distributor of fine spirits and wine. The Company is a subsidiary of Pernod Ricard S.A., a Paris-based wine and spirits company.<sup>1</sup> The Company operates from its headquarters in White Plains, New York and has production and distribution facilities in Lawrenceburg, Kentucky and Lawrenceburg, Indiana (owned and operated by an affiliate, Lawrenceburg Distillers and Importers, LLC).

The Company made the decision to change its name to Pernod Ricard USA to better synchronize brand recognition in the United States. The Company received authorization to use Pernod Ricard USA as its trade name from the New York State Department of State, Division of Corporations on October 9, 2001 (see Exhibit A). It subsequently had its trade name reflected on its New York State Liquor Authority license and its permits for operation issued by the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms (see Exhibit B). On January 23, 2002, the Company delivered correspondence to the liquor control authorities in all 50 states and the District of Columbia notifying them that the Company would begin using the

<sup>1</sup> The Company adheres to FECA and Commission regulations that prohibit a foreign national from participating in the decision-making process of a political action committee and from making a contribution, directly or through any other person, or an expenditure in connection with an election to any political office, as well as the prohibition against the solicitation, acceptance or receipt of a contribution from a foreign national. 2 U.S.C. § 441e(a); 11 C.F.R. § 110.4(a)(1)-(4).

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trade name "Pernod Ricard USA" starting in the first quarter of 2002 (see Exhibit C for example).

Additionally, the Company has issued a press release announcing the new name and is already using it on its letterhead (see Exhibit D), in its e-mail addresses, and on its Web site ([www.pernod-ricard-usa.com](http://www.pernod-ricard-usa.com)). A policy has even been issued to all Company employees on the use of the new name. For instance, employees have been instructed to use Pernod Ricard USA "in full in conversation and writing, including internal memos and e-mails" and that the full name, Pernod Ricard USA, "will be used on all printed stationery, forms and signage" (see Exhibit E). The Company also now appears as Pernod Ricard USA on Dun & Bradstreet's Company Detail listing.

The Company intends to organize the Pernod Ricard USA PAC as a separate segregated fund pursuant to 2 U.S.C. § 441b(b)(2)(C). The connected organization of Pernod Ricard USA PAC will be Austin, Nichols & Co., Incorporated d/b/a Pernod Ricard USA.<sup>2</sup>

**The Full Name of Any Connected Organization Must Be Part of the Official Committee Name**

As set forth by statute and applicable FEC regulations, and as the Commission has recognized in several previous advisory opinions, the official name of a separate segregated fund of an organization must include the full name of its connected organization. 2 U.S.C. § 432(e)(5); 11 C.F.R. § 102.14(c). *See also* FEC Advisory Opinion 1999-20, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 6299, FEC Advisory Opinion 1993-7, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 6088. The organization may not use only a portion of its name for its separate segregated fund ("SSF"), but instead must include the legal name of the organization in its entirety. FEC Advisory Opinion 1988-42, [1976-1990 Transfer Binder] Fed. Election Camp. Fin. Guide (CCH) ¶ 5905.

Accordingly, the Company intends to use its full name in the name of the SSF, i.e. Austin, Nichols & Co., Incorporated/Pernod Ricard USA Political Action Committee. It intends to use this name in its Statement of Organization and in all disclosure statements required pursuant to 2 U.S.C. § 441d.

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<sup>2</sup> A connected organization is one which is not a political committee, but which directly or indirectly establishes, administers or financially supports a political committee. 2 U.S.C. § 431(7); 11 C.F.R. § 100.6(a) and (c).

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**A Separate Segregated Fund May Also Use an Abbreviation So Long As It Is Clearly Recognizable and Readily Associated with the Connected Organization**

The Commission has consistently permitted PACs to use abbreviations outside of official statements so long as the abbreviation used is "a clearly recognized abbreviation or acronym by which the connected organization is commonly known." 11 C.F.R. § 102.14(c); FEC Advisory Opinion 1980-23, [1976-1990 Transfer Binder] Fed. Election Camp. Fin. Guide (CCH) ¶ 5476. The Commission has recognized that use of an abbreviation in public materials and marketing materials is evidence that such abbreviation is "clearly recognized" within the meaning of FEC regulations. FEC Advisory Opinion 1999-20, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 6299 (authorizing the use of an abbreviation which had been used as a trademark as well as on the company's web site).

Further, the Commission has stated that the trade name or service mark of an organization may be used by the organization's SSF as its abbreviated name on business identification materials, such as letterhead and business cards, so long as it contains "enough qualifying words to assure identification of the connected organization." FEC Advisory Opinion 1987-26, [1976-1990 Transfer Binder] Fed. Election Camp. Fin. Guide (CCH) ¶ 5905. *See also* FEC Advisory Opinion 2000-34, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 6346.

The use of the name Pernod Ricard USA is widespread in all of the Company's marketing materials. The Company also uses the name "Pernod Ricard USA" on all of its business identification materials, such as letterhead, business cards, and e-mail addresses. As a matter of trade, Pernod Ricard USA's business partners have been informed, through trade association notifications and press announcements, that the use of the name Austin, Nichols & Co., Incorporated has been replaced by Pernod Ricard USA. The fact that the Company has also received authorization, from the State in which it is headquartered, to do business under the name Pernod Ricard USA further demonstrates that the Company is now recognized primarily as Pernod Ricard USA.

Accordingly, the Company proposes the name Austin, Nichols & Co., Incorporated/ Pernod Ricard USA Political Action Committee as its official name and Pernod Ricard USA PAC as the abbreviated name by which it is known. We believe that the use of these names is consistent with the requirements of FECA, applicable FEC regulations and the Commission's long line of advisory opinions regarding this matter.

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MURPHY LLP

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**March 13, 2002**  
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**If you require any additional information to respond to this request, please do not hesitate to contact me.**

Sincerely,



**Brett G. Kappel**

**For Powell, Goldstein, Frazer & Murphy LLP**

**Attachments**

EXHIBIT A

NYS Department of State  
Division of Corporations, State Records and UCC  
41 State Street, Albany, NY 12231-0001  
www.dos.state.ny.us

**Certificate of Assumed Name**  
Pursuant to General Business Law, §130

1. NAME OF ENTITY

Austin, Nichols & Co., Incorporated

2. BUSINESS FORMED UNDER (CHECK ONE):

- Business Corporation Law
- Limited Liability Company Law
- Education Law
- Not-for-Profit Corporation Law
- Insurance Law
- Revised Limited Partnership Act
- Other (specify law): \_\_\_\_\_

3. ASSUMED NAME

Pernod Ricard USA

4. PRINCIPAL PLACE OF BUSINESS IN NEW YORK STATE (MUST BE NUMBER AND STREET, IF NONE, INSERT OUT-OF-STATE ADDRESS)

733 Third Avenue, 10th Floor  
New York, NY  
10017

5. COUNTIES IN WHICH BUSINESS WILL BE CONDUCTED UNDER ASSUMED NAME

ALL COUNTIES (if not, circle county(ies) below)

Albany	Clinton	Genesee	Monroe	Orleans	Saratoga	Tompkins
Allegany	Columbia	Greene	Montgomery	Cayuga	Schenectady	Ulster
Bronx	Cortland	Hamilton	Nassau	Otsego	Schoharie	Warren
Broome	Delaware	Herkimer	<u>New York</u>	Putnam	Schuyler	Washington
Cattaraugus	Dutchess	Jefferson	Niagara	Queens	Seneca	Wayne
Cayuga	Essex	Kings	Oneida	Rensselaer	Steuben	<u>Westchester</u>
Chautauque	Franklin	Lewis	Orangeta	Richmond	Suffolk	Wyoming
Chemung	Fulton	Livingston	Ontario	Rockland	Sullivan	Yates
Chenango	Madison		Orange	St. Lawrence	Tioga	

6. NUMBER AND STREET ADDRESS(ES) AND COUNTY OF EACH BUSINESS LOCATION WITHIN NEW YORK STATE (USE CONTINUOUS SHEET, IF NEEDED)

No New York State Business Location

733 Third Avenue, 10th Avenue  
New York, NY 10017  
New York County

105 Corporate Park Drive, Suite 200  
West Harrison, NY 10604  
Westchester County

INSTRUCTIONS FOR SIGNATURE: If corporation, by an officer; if limited partnership, by a general partner; if limited liability company, by a member or manager or by an attorney-in-fact or authorized person for such corporation, limited partnership, or limited liability company.

Thomas R. Lalla, Jr. -- V.P. Administration  
Name and Title

  
Signature

*I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.*

*Witness my hand and seal of the Department of State on* OCT 09 2001



A handwritten signature in black ink, appearing to read "J. L. ...", with a long horizontal line extending to the right.

*Special Deputy Secretary of State*

EXHIBIT B

DEPARTMENT OF THE TREASURY - BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

**BASIC PERMIT**

(Under Federal Alcohol Administration Act)

5. NAME AND ADDRESS OF PERMITTEE (Number and street, city or town, State and Zip Code)

**AUSTIN, NICHOLS & CO., INCORPORATED**  
**733 Third Avenue**  
**New York, NY 10017**

1. PERMIT NUMBER

**NY-I-466**

2. DATE OF PERMIT

**DECEMBER 31, 1980**

3. REGISTRY NUMBER (if applicable)

4. DATE OF APPLICATION (for amendment)

**NOVEMBER 8, 2001**



6. TRADE NAMES AUTHORIZED BY THIS PERMIT (Trade name approval does not constitute approval as a brand name for labeling purposes. If needed, list on reverse or use continuation sheet.)

**SEE ATTACHED**

7. PERMIT GRANTED FOR (ONE TYPE OF OPERATION ONLY)

Pursuant to the application of the date indicated in item 4, you are authorized and permitted to engage, at the above address, in the business of:

- a.  Distilled Spirits -  distiller  rectifier (processor)  warehouseman and/or  warehouseman and bottler and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the distilled spirits so distilled or rectified, or warehoused and bottled, or the wines so rectified,
- b.  Wine -  producer and blender  blender and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the wine so produced or blended,
- c.  Importer - importing into the United States the following alcoholic beverages: **DISTILLED SPIRITS AND WINE** and while so engaged, to sell, offer to deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so imported,
- d.  Wholesaler - Purchasing for resale at wholesale the following alcoholic beverages: and while so engaged, to receive or to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so purchased.

This Permit is conditioned upon your compliance with the Federal Alcohol Administration Act; the Twenty-first Amendment and laws relating to its enforcement; all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect to them; the Federal Water Pollution Control Act; and, all applicable regulations made pursuant to law which are now, or may hereafter be, in force.

This basic permit is effective from the date shown above and will remain in force until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated.

THIS PERMIT WILL AUTOMATICALLY TERMINATE THIRTY DAYS AFTER ANY CHANGE IN PROPRIETORSHIP OR CONTROL OF THE BUSINESS, unless an application for a new basic permit is made by the transferee or permittee within the thirty day period. If an application for a new basic permit is timely filed, the outstanding basic permit will continue in effect until the application is acted on by the District Director, Bureau of Alcohol, Tobacco and Firearms.

THIS PERMIT IS NOT TRANSFERABLE. ANY CHANGE IN THE TRADE NAME, CORPORATE NAME, MANAGEMENT OR ADDRESS OF THE BUSINESS COVERED BY THIS PERMIT, OR ANY CHANGE IN STOCK OWNERSHIP (MORE THAN 10%) MUST BE REPORTED TO THE DISTRICT DIRECTOR WITHOUT DELAY.

THIS IS AN	<input type="checkbox"/> ORIGINAL PERMIT	<input checked="" type="checkbox"/> AMENDED PERMIT
REASON FOR AMENDMENT	DATE OF AMENDMENT	
<b>ADD TRADE NAME</b>	<b>NOVEMBER 26, 2001</b>	

SIGNATURE OF DISTRICT DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

BY AUTHORITY OF DD

Austin, Nichols & Co., Incorporated  
Permit Nos. NY-I-466, NY-P-2356  
New York, New York

TRADE NAMES AUTHORIZED BY THIS PERMIT

CLARK, CHAPIN & BUSHNELL  
STODDARD, GILBERT & CO.  
DEAN CONNAUGHT CO.  
PERNOD RICARD USA

TRADE NAMES FOR LABELING PURPOSES ONLY

CLARK, CHAPIN & BUSHNELL  
STODDARD, GILBERT & CO.  
AUSTIN, NICHOLAS DISTILLING COMPANY  
AUSTIN, NICHOLAS DISTILLING CO.  
AUSTIN, NICHOLAS & CO.  
SATIN WOOD DISTILLING CO.  
WILD TURKEY DISTILLING CO.  
JOHN JAMESON IMPORT COMPANY  
PERNOD RICARD USA

**BASIC PERMIT**

(Under Federal Alcohol Administration Act)

5. NAME AND ADDRESS OF PERMITTEE (Number and street, city or town, State and Zip Code)

**AUSTIN, NICHOLS & CO., INCORPORATED**  
**733 Third Avenue**  
**New York, NY 10017**

1. PERMIT NUMBER

**NY-P-2356**

2. DATE OF PERMIT

**NOVEMBER 9, 1983**

3. REGISTRY NUMBER (if applicable)

4. DATE OF APPLICATION (for amendment)

**NOVEMBER 8, 2001**



6. TRADE NAMES AUTHORIZED BY THIS PERMIT (Trade name approval does not constitute approval as a brand name for labeling purposes. If needed, list on reverse or use continuation sheet.)

**SEE ATTACHED**

7. PERMIT GRANTED FOR (ONE TYPE OF OPERATION ONLY)

Pursuant to the application of the date indicated in item 4, you are authorized and permitted to engage, at the above address, in the business of:

- a.  Distilled Spirits -  distiller  rectifier (processor)  warehouseman and/or  warehouseman and bottler and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the distilled spirits so distilled or rectified, or warehoused and bottled, or the wines so rectified,
- b.  Wine -  producer and blender  blender and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the wine so produced or blended,
- c.  Importer - importing into the United States the following alcoholic beverages: and  
 while so engaged, to sell, offer to deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so imported,
- d.  Wholesaler - Purchasing for resale at wholesale the following alcoholic beverages: **DISTILLED SPIRITS AND WINE** and  
 while so engaged, to receive or to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so Purchased.

This Permit is conditioned upon your compliance with the Federal Alcohol Administration Act; the Twenty-first Amendment and laws relating to its enforcement; all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect to them; the Federal Water Pollution Control Act; and, all applicable regulations made pursuant to law which are now, or may hereafter be, in force.

This basic permit is effective from the date shown above and will remain in force until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated.

THIS PERMIT WILL AUTOMATICALLY TERMINATE THIRTY DAYS AFTER ANY CHANGE IN PROPRIETORSHIP OR CONTROL OF THE BUSINESS, unless an application for a new basic permit is made by the transferee or permittee within the thirty day period. If an application for a new basic permit is timely filed, the outstanding basic permit will continue in effect until the application is acted on by the District Director, Bureau of Alcohol, Tobacco and Firearms.

THIS PERMIT IS NOT TRANSFERABLE. ANY CHANGE IN THE TRADE NAME, CORPORATE NAME, MANAGEMENT OR ADDRESS OF THE BUSINESS COVERED BY THIS PERMIT, OR ANY CHANGE IN STOCK OWNERSHIP (MORE THAN 10%) MUST BE REPORTED TO THE DISTRICT DIRECTOR WITHOUT DELAY.

THIS IS AN

ORIGINAL PERMIT

AMENDED PERMIT

REASON FOR AMENDMENT

**ADD TRADE NAME**

DATE OF AMENDMENT

**NOVEMBER 26, 2001**

SIGNATURE OF DISTRICT DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

BY AUTHORITY OF DD

Austin, Nichols & Co., Incorporated  
Permit Nos. NY-I-466, NY-P-2356  
New York, New York

TRADE NAMES AUTHORIZED BY THIS PERMIT

CLARK, CHAPIN & BUSHNELL  
STODDARD, GILBERT & CO.  
DEAN CONNAUGHT CO.  
PERNOD RICARD USA

TRADE NAMES FOR LABELING PURPOSES ONLY

CLARK, CHAPIN & BUSHNELL  
STODDARD, GILBERT & CO.  
AUSTIN, NICHOLAS DISTILLING COMPANY  
AUSTIN, NICHOLAS DISTILLING CO.  
AUSTIN, NICHOLAS & CO.  
SATIN WOOD DISTILLING CO.  
WILD TURKEY DISTILLING CO.  
JOHN JAMESON IMPORT COMPANY  
PERNOD RICARD USA



**Austin, Nichols & Co., Inc.**  
Groupe Pernod Ricard

January 23, 2002

Alcoholic Beverage Control Commission  
4307 Mail Service Center  
Raleigh, NC 27699-4307

**RE: Trade Name Change**

To Whom It May Concern:

Austin, Nichols & Co., Inc., a supplier and importer of wine and spirits based in New York, will begin using the trade name "Pernod Ricard USA" during the first quarter of 2002 for operating purposes, which will include labeling, reporting, price filing, invoicing, and brand registration. The Federal Import Permit # I-466 and Federal Basic Permit # P-2356, and the New York Wholesale Liquor License # 22-NEW LL 00977-203 have been amended to reflect the change in trade name. Please note that everything else (the Tax ID #, the corporate name, officers, directors, etc.) shall remain the same.

Please make take any relevant measures that reflect the recognition of the change by your office. Please let me know if anything else is required.

Thank you,

Thomas R. Lalla, Jr.  
Secretary and General Counsel  
Austin, Nichols & Co., Inc.

EXHIBIT D



Pernod Ricard USA



# Pernod Ricard USA

## POLICY ON USE OF OUR NEW NAME:

**Pernod Ricard USA** has been unveiled to the world: a dynamic new organization with a portfolio of premier spirits and wine -- and a new name. As with all new names, it will take time to establish it among our customers and consumers. **Pernod Ricard USA** will stand for the quality of our products and services and the values we hold as a company.

How we refer to our company internally will spread that terminology to our customers and clients. So we want to establish good usage from the beginning. Here are just a few "rules" to help us do that:

- **Pernod Ricard USA** should be used in full in conversation and writing, including internal memos and e-mails,
- Please avoid abbreviations of any kind in both oral and written communication:
- Although abbreviations may seem easy to use, they get established in our minds and with others,
- By not using abbreviations, we can assure that our company name is used with consistency,
- Using the full name also prevents confusion with other companies or organizations with similar initials.
- No punctuation is used in **Pernod Ricard USA**.
- There are no spaces between the letters U, S and A, thus **USA**.
- The full name, **Pernod Ricard USA**, will be used on all printed stationery, forms and signage.
- Our parent company has also made a change. They have dropped the use of the word "Groupe" or "Group." The correct name is **Pernod Ricard**.
- To differentiate the parent company from **Pernod Ricard USA**, refer to **Pernod Ricard** corporate. The 'c' in corporate is lower case, as it is not part of the official name.

The names of the distilleries are also changed:

- **Wild Turkey Distillery** is the only name to be used for the distillery in Lawrenceburg, KY, which produces *Wild Turkey* Bourbon. The new name, **Wild Turkey Distillery**, will appear below the **Pernod Ricard USA** name in their special logo. The policy for the use of **Pernod Ricard USA** applies for the **Wild Turkey Distillery**.
- The distillery that produces *Seagram's Gin* in Lawrenceburg, Indiana, will use the name **Pernod Ricard SLD**. The name, **Seagram Lawrenceburg Distillery**, will appear below the **Pernod Ricard USA** name in their special logo. The name-use policy is similar to the **Pernod Ricard USA** policy (the full name -- **Pernod Ricard SLD** -- should be used, without abbreviation.)