

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B)

Statement of: Mathew Allen

Age if under 18: Over 18 (If over 18 insert 'over 18')
Customs

Occupation: Higher Officer, HM Revenue & Customs

This statement (consisting of 11 page(s)) each signed by me 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.

Signature: 

Date: 07/05/2019

I work in ISBC Operations, Jubilee House, Stratford. As part of my duties I conduct visits to Off Licences, Cash and Carries and Tobacco and Alcohol Wholesalers. As part of these duties I will seize Excise Goods (that is goods that are liable to a duty of Excise) where the goods are found to be not duty paid. I will also issue Civil Assessments to recover lost duty, and issue Excise Wrongdoing Penalties when evasion has taken place. One of my roles as an HMRC officer would be to check the duty stamps on bottles of spirits wine or made wine. As a result of my work in retail and wholesale sector's I have gained a knowledge of counterfeit, foreign, evaded and duty diverted alcohol within the UK.

I provide the following information under schedule 15 of the Enterprise Act

I acquired the information during my visit under the Customs and Excise Management Act 1979.

- 1. At approximately 10:24 am on 27/03/2019 I was on duty with follow HMRC Officers conducting an inspection of shop premises under Section 112 of the Customs & Excise Management Act 1979. The reason or the shop inspection was because excise goods were clearly seen on sale at the premises behind a service counter and within a fridge. Also in attendance was Officer Squire from Trading Standards, Harringey. I was the leading case Officer for this inspection and was accompanied by Officers Strauss, Parr and Idziak from HMRC. We identified ourselves to the 2 members of staff on the premises by way of your official identification cards and explained the reasons for the visit. The purpose of the visit was to determine**

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the duty status of the excise goods on sale at the following premises: OZ Food Limited, 467-469 High Road, Tottenham, London, N17 6QA. We were notified by 2 members of staff that the director of the company was not on the premises when we arrived. The director's brother, Mehmet Temur (DOB 14/03/1971), was on the premises and identified by way of their UK driver's license. He confirmed to Officer Strauss and myself that he was the manager of the premises.

- 2. Upon entering the premises, Officer Strauss checked the canned beer on sale in the shops fridge. Officer Strauss notified me that cans of Karpackie (0.5l) were being sold for £1.29 can which is below the UK excise duty rate for beer of this strength (9% ABV). The member of staff operating the till identified themselves as Ozge Boran (they stated that they had no form of identification on their person) and scanned a can of Karpackie through the till to confirm that this was in fact the price.**
- 3. The UK excise duty on a 0.50cls can of Karpackie at 9% ABV is £1.11 plus VAT is £1.33 a can. This is without even factoring in the cost of transport costs, buying from a Cash & Carry who would sell to make a profit without the traders profit whilst selling to a retail customer. This price makes it very unrealistic that this product could be sold at this price and the UK excise duty having been paid on this product.**
- 4. Officer Idziak asked Ozge Boran if there was any foreign tobacco on the premises. Ozge Boran confirmed that there was foreign tobacco behind the service counter which was for personal use. She stated that she and other members of staff smoked which is why cigarettes were being kept behind the counter. Officer Idziak located 21 boxes (packs of 20) foreign Marlboro Gold which had Turkish and Polish writing on them. Ozge Boran and Mehmet Temur were advised by Officers Strauss and Idziak that this volume of foreign tobacco was suspicious for personal use and could not be kept on a retail premises in such close proximity to UK duty paid tobacco which was on sale. It is reasonable to assume that a member of staff would have one/ two packets of 20 cigarettes to smoke. But the amount of**

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- cigarettes found was 420. In addition to this, all the packets were not opened and remained intact with the seal not broken.**
- 5. Whilst discussing the foreign cigarettes with Ozge Boran, Officer Idziak advised me that a customer entered the premises and asked about buying "cheap cigarettes". This interaction was recorded by Officer Idziak in their own notebook as I was not present at the time of the conversation.**
 - 6. At approximately 10:28 Officer Idziak located 6 bottles (0.2l) of Black Ram rum being stored behind the service counter where the foreign tobacco had been located. These bottles were 40% ABV and had Turkish duty stamps on them.**
 - 7. Mehmet Temur was advised by myself that both the foreign cigarettes and Black Ram rum would be seized by HMRC under Section 139 of The Customs & Excise Management Act 1979. The reason for the seizure was because neither of these goods had UK fiscal markings on them to verify that UK excise duty had been paid on them. The goods were foreign in nature and had not had the relevant UK tax applied to them, in addition to this, the goods were being stored on a retail premises in an area where they could be readily sold for consumption to the UK public.**
 - 8. At approximately 10:34 Officer Strauss advised me that bottles (0.75l) of Continental Italian wine were on sale for £2.99 each but would not scan through the till. Mehmet Temur told Officer Strauss that the wine had been purchased 3-4 years ago. Officer Strauss stated that invoices would need to be seen to verify that UK excise duty had been paid on this wine. Ozge Boran was asked why the wine's price hadn't been programmed into the till if it had been at the shop for 3-4 years. Ozge Boran's response was that the bar codes on the wine can vary so they have never got round to programming them into the till.**
 - 9. Officer Strauss asked Mehmet Temur to show them any storage areas on site where excise goods might be kept. Mehmet Temur showed Officer Strauss a small storage room at the rear of the premises which contained soft drinks but no excise goods. When**

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asked if there were any other areas where excise goods were being kept, Mehmet Temur said "no". It was at this point that Officer Idziak noted that there was a trap door at the rear of the premises partially covered by a rubber mat. Officer Strauss asked Mehmet Temur if there was any goods being stored in the basement which Mehmet Temur confirmed there was.

- 10. Officers opened the trap door and noted a large volume of UK and Polish branded beer was being stored under the shop. Officer Strauss entered the basement and reappeared at 10:43. She confirmed that there were between 150-200 cases of mixed Polish beer as well as over 20 cases of high strength beer Kestrel Super (need to check note to see if this is correct) (ABV over 7.5%).**
- 11. Mehmet Temur contacted the director on his mobile and advised me that he would be at the premises in around 20 minutes.**
- 12. Officer Strauss checked the lot code printed on the Continental wine and confirmed that the goods were in fact bottled on 30/01/2019. Officers questioned Mehmet Temur as he had initially said that the wine was over 1 year old when it was in fact produced less than 3 months ago. Mehmet Temur initially stated that he did not say this however, both Officer Strauss and I reminded him that he had said he purchased the wine 3-4 years ago almost immediately after HMRC questioned him about it. Mehmet Temur then changed his account by stating that he is not involved in purchasing wine and was referring to a different brand of wine all together. I noted that HMRC had not questioned Mehmet Temur about any other brands of wine so was unsure how he had become confused when Officer Strauss was specifically talking about Continental wine**
- 13. Officer Strauss expressed her concerns to Mehmet Temur regarding the duty status of the wine and some of the beer on sale as it seemed it was being sold for below the UK excise duty rate for these types of products.**
- 14. At approximately 11:02 a man arrived at the premises who identified himself as the director, Capbar Temur (DOB 18/01/1969), and identified himself by way of his UK driver's license. Whilst in the**

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process of explaining to Capbar Temur that the foreign cigarettes and Black Ram rum would be seized he admitted to me that the Continental wine that he had on sale had not come from a legitimate cash & carry. Capbar Temur stated that Mehmet Temur had purchased the wine from a man in a white van for cash back in December 2018 which Mehmet Temur immediately agreed with. Officers Strauss and I challenged Mehmet Temur as he had only just told us that he has nothing to do with buying wine for the business. Mehmet Temur claimed that his response was due to poor English skills and that he didn't understand the questions being asked.

15. I informed Capbar Temur that his brother couldn't have purchased this wine in December 2018 as the lot codes on the bottles confirmed that it hadn't been bottled until a month later on 30/01/2019. Officer Strauss and I questioned both Capbar and Mehmet Temur to establish how many times they had purchased excise goods from illicit sources. Capbar Temur eventually confirmed that wine had been purchased off record from a man in a van on 2 separate occasions. The first time was in December 2018 and more recently in 2019. Capbar Temur confirmed this with Mehmet in another language and then Mehmet advised Officers that he had purchased 5-10 cases (6 x 0.75l) of Continental wine off record in December 2018.

16. Capbar Temur advised that he recognised Officer Idziak from a previous HMRC visit. Officer Idziak confirmed that this was true and stated that at the time of HMRC's previous visit, he was told the importance of not purchasing excise goods from businesses or persons who were not AWRS registered. I advised Capbar Temur that based on the fact that previous excise goods had been seized at his shop on 18/10/2017 and he had been educated on that occasion by HMRC about buying alcohol products from illicit sources and not AWRS approved traders that he should have put in stringent measures to make sure this did not happen again. But despite HMRC'S intervention and warning, Capbar Temur had continued and purchased off record alcohol several times knowing this was wrong.

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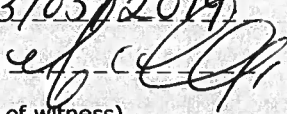
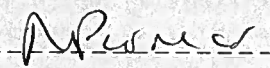
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It was made clear that for the purposes of an excise wrongdoing penalties that may be raised against OZ Food Limited, Capbar Temur's behaviour may be viewed as deliberate which he understood.

- 17. At approximately 11:17 Officers questioned Capbar Temur about the foreign beer that was on sale as they still had concerns regarding the duty status of some of these products. Capbar Temur admitted that some beers had also been purchased for cash from a man in a van no invoices given. Officer Strauss asked Capbar Temur to point to the brands that he had purchased off record. Capbar Temur highlighted the following products: Karpackie, Perla Black, Timisoreana (0.5l), Perla Honey, Zubr, Okocim, Warka Red and Warka Strong. Capbar Temur also admitted that he had purchased several cases of Debowe and Perla Green off record but had invoices for some of these stating they had come from a legitimate cash & carry.**
- 18. At approximately 11:23 and with the help of Ozge Boren who translated, Capbar Temur advised HMRC that he had purchased beer for cash from a man in van around 6-7 times in the last 4 months. Capbar Temur was unable to provide the man's name or vehicle registration but stated he was Romanian and operated alone.**
- 19. At approximately 11:29 Capbar Temur was advised that the excise goods Officers had discussed with him would be seized as they were liable for forfeiture for the following reasons: 1) Both the foreign cigarettes and Black Ram rum did not possess correct UK fiscal markings to verify that UK excise duty had been paid on them 2) No evidence of UK excise duty payment had been produced for the beer and wine Officers had seen 3) Capbar Temur had openly admitted that some of these goods had been purchased off record from an illicit source without the issuing of an invoice 4) High strength beer such as Karpackie was being sold for below the UK excise duty rate.**
- 20. I provided Capbar Temur with my contact information so that he could have his accountant send over relevant invoices. Capbar Temur was adamant that some of the beer HMRC Officers had**

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questioned had come from a bona fide cash & carry and that duty had been paid. I agreed to leave these products in situ whilst Officer Strauss conducted a stock take on them. It was made clear to Capbar Temur that if invoices were not produced that satisfied me that the UK excise duty had been paid on these goods, he would be assessed for any outstanding duties on them along with the goods that Officers were seizing. Capbar Temur verbally confirmed that he understood.

21. At approximately 11:56 Capbar Temur was issued with relevant seizure paperwork including Notice 12a and Civil Service Factsheets 9 & 12. His right to appeal the seizure within 1 calendar month today's date (27/03/2019) was also explained to him.

22. At approximately 12:24 Officer Strauss emerged again from the basement and advised that they had located several cases (6 x 1l) of Glen's and Smirnoff vodka. Further examination of the cases determined that the rear label on these bottles had been removed and new labels attached.

Since 1 January 2007 it has been a requirement of The Duty Stamp Regulations 2006 that all bottles and other retail containers of spirits, and wine or made-wine, with a strength of 30% alcohol by volume or more, of a capacity of 35cl and larger have to carry a duty stamp to be legal for retail sale.

The stamps take the form of a pink circle incorporating the wording "liable to Excise Duty" and For "The UK Market". The central portion of each duty stamp should fluoresce yellow when exposed to UV light.

Bottles that are not destined for the UK market are not liable to UK duty and so must not carry a stamp as they are not required to do so.

Goods which have been duty stamped but are to be exported or destroyed must have the stamps voided before the goods can be removed from the UK market. There are three ways in which duty stamps can be voided either by removal, obliteration, or destruction. In order for

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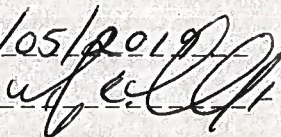
satisfy obliteration of the duty stamp, the element of the stamp containing the words "For the UK market" must be removed from the bottle. Duty diversion takes place when spirits for export are relabelled with fake labels bearing UK duty stamps.

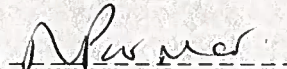
Most of the duty stamps I come across are duty stamps that are incorporated into the bottle label, this is called a type B duty stamp. Type B stamps is known as a label stamp and must be incorporated into the label of a spirit. Type B stamps can only be printed by manufacturers or distributors using artwork supplied by HMRC.

In the case of goods bearing the label stamp type B, when the goods are to exported from the UK, either the part of the label incorporating the stamp, or the entire label must be completely covered by a sticker or label which must be affixed in such a way that it cannot be removed without destroying the part of the label incorporating the stamp. Removal of the sticker leaves a sticky deposit on the label.

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Inspection of the rear label on the bottle showed signs that the original rear label had been removed and a new self-adhesive label had been affixed, I could see what appeared to be glue residue above where the new label had been placed indicating the original label containing the original duty stamp had been removed or obliterated prior to intended export. The rear label is self-adhesive whereas original labels are wet glue when applied to the bottle, and therefore did not leave a horizontal striped pattern when it was affixed to the bottle as I would have expected had it been a machine applied label. The front label has the striped pattern which is consistent with what I

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would expect if put on by machine. This is what you should see if you look at the back of the label through the bottle.

Several rear labels were creased and poorly attached; when labels are correctly attached to bottles they are glued and put on by a machine leaving a smooth and not wrinkled surface to the label.

The rear label is a fake as is the duty stamp. The use of a fake self-adhesive rear label bearing a fake duty stamp is an indication this is duty diverted alcohol.

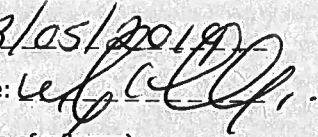
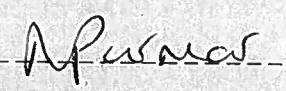
Whilst this product itself may be the genuine product, having established the following inconsistencies I would conclude that these products were removed from the UK market and the original duty stamp was either voided or obliterated as they were to be exported. It is likely they have not left the UK but been diverted back onto the UK market. As the duty stamp would have been ruined a new rear label would be attached to show the UK duty stamp but this will be a counterfeit rear label bearing a fake duty stamp. The products would therefore be illegal to sell in the UK due to non-payment of Duty.

23. Capbar Temur was advised that these cases of vodka would likewise be seized due to concerns that the rear labels were

24. At approximately 13:20 Officer Squire arrived at the premises. The 420 sticks of foreign cigarettes were handed to Officer Squire and removed from HMRC's seizure tally sheet to be used as evidence by Trading Standards. Several bottles of the vodka (1 x 0.7l Glen's, 1 x 1l Glen's and 2 x 1l Smirnoff) were sealed in a separate bag (Seal Number AB0843485) and likewise not included on HMRC seizure tally. These too were handed to Officer Squire as evidence.

25. At approximately 13:43 I issued Capbar Temur with seized goods tally sheet ENF156 and an excised Warning Letter both of which he signed; I reconfirmed that he had 1 calendar month from today's date in order to appeal the seizure if he so wished.

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26. Capbar Temur was given a copy of the seizure tally sheet which itemised the brands and amounts of alcohol and tobacco products seized.

27. The following quantities of excise goods were seized from the premises:

- **108 litres of mixed branded beer (ABV. 5.5%)**
- **120 litres of mixed branded beer (ABV. 6.5%)**
- **156 litres of mixed branded beer (ABV. 5.0%)**
- **288 litres of mixed branded beer (ABV. 7.0%)**
- **73.1 litres of mixed branded vodka (ABV. 37.5%)**
- **120 litres of mixed branded beer (ABV. 9.0%)**
- **220.5 litres of mixed branded made wine (ABV. 12.0%)**
- **1.2 litres of Black Ram rum (ABV. 40.0%)**
- **420 sticks foreign Marlboro Gold cigarettes**
- **108 litres of mixed branded beer (ABV. 4.6%)**
- **252 litres of mixed branded beer (ABV. 6.0%)**
- **228 litres of mixed branded beer (ABV. 7.6%)**

28. Capbar Temur did not submit any invoices to HMRC for the goods that had been left in situ following the seizure despite the fact he was adamant that he had purchased them from AWRS approved wholesalers. As no evidence of duty payment has been provided on these goods also, the trader will be issued with an excise assessment for £4,989.00 to account for the UK excise duty on these goods.

29. To cut down on unlawful selling of alcohol HMRC have bought in a scheme that requires all businesses who are wholesaling alcohol to become registered AWRS (Alcohol Wholesaler Registration Scheme) if the business is successful it will be issued with a unique reference number which will be visible on the invoice, so the retailer will know that the wholesaler is approved by HMRC. It also requires retail buyers to make sure that they are purchasing alcohol from a registered and approved supplier.

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- 30. HMRC may seize stock supplied from an unapproved UK wholesaler.**
- 31. From the 1st April 2017 trade buyers who buy their alcohol from UK wholesalers for re-sale need to make sure that these wholesalers are approved by HMRC for AWRS.**
- 32. HMRC provides an online look up service that allows trade buyers to look up the details of the alcohol suppliers to ensure that they are approved for AWRS.**

Date: 13/05/2019
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(signature of witness)

Signature: *M. Purmer*
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