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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191056
Party	Defendant Franciscan Vineyards, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
White Rock Distilleries, Inc.

Opposer

v.

Franciscan Vineyards, Inc.

Applicant
-----X

Opposition No. 91191056

Mark: PINNACLES RANCHES

Serial No.: 77/598674

**COMBINED NOTICE OF FILING OF TESTIMONY TRANSCRIPT AND EXHIBITS
PURSUANT TO 37 CFR 2.125(c) and NOTICE OF SERVICE OF TRANSCRIPTS AND
EXHIBITS PURSUANT TO 37 CFR 2.125(a)**

Applicant, Franciscan Vineyards, Inc., hereby files the following excerpts from the trial testimony of Christine Lilienthal, taken on January 4, 2011 along with the corresponding exhibits (certain of the pages and exhibits are being filed under seal as identified below):

The following pages: Page 1; Page 5, lines 11-25; Pages 6-9; Page 10, lines 1-15; Page 11; Page 12, lines 1-15; Page 14, lines 12-25; Pages 15-37; Page 38, lines 1-15; Page 43, lines 14-25; Pages 44-51; Page 52, lines 1-14; Page 57, lines 12-25; Page 58; Page 60, lines 17-25; Pages 61-63; Page 64, lines 1-20; Page 66, lines 24-25; Page 67; Page 68, lines 1-3; Page 70, lines 11-25; Page 71; Page 72, lines 1-17; Page 76, lines 9-25; Pages 77-78; Page 79, lines 1-17; Page 97, lines 20-25; and Page 98.¹

The following Exhibits: B; D-H; J-L; O; P; S; and T.

Being filed under seal as "highly confidential" materials (the "Confidential Materials") pursuant to Order of Confidentiality are the following sections of the above identified testimony

¹ The following pages of the Lilienthal transcript and their corresponding exhibits are of record in this proceeding as a result of Opposer's Notice of Reliance dated February 2, 2011: Pages 6-7; 33-34; 49-50; 60-64; 67; 74-92; and 95-97.

and exhibits: Page 60, lines 17-25; Pages 61-63, Pages 64, lines 1-20; Page 76, lines 9-25; Pages 77-78; Page 79, lines 1-17; and Exhibits L; S; and T.

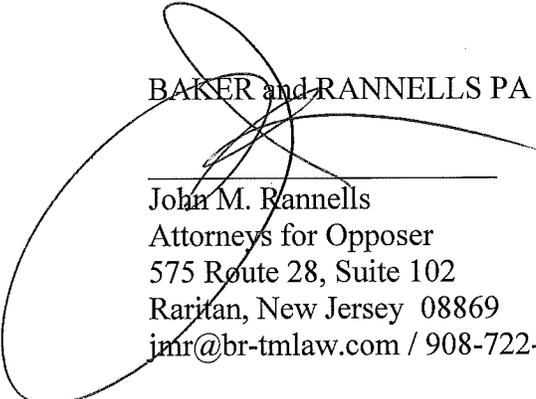
Pursuant to stipulation filed 11/29/10 and approved December 2, 2010:

Relevant portions of Ms. Lilienthal's testimony deposition may be offered into evidence by both parties in both the instant proceeding and in Opposition No. 91191056, during the respective and relevant testimony and rebuttal periods for each case, with each party reserving the right to object to testimony on the basis of relevancy or materiality, or to object to leading questions, with each of the foregoing types of objections to be made by separate document within 30 days of submission of the portion of the transcripts submitted with each case.

A certified copy of the referenced testimony transcript excerpts and referenced exhibits was served upon the Opposer's attorneys on February 25, 2011 via first class mail postage prepaid to the following address. Daniel I. Schloss, Esq., Greenberg Traurig, LLP, 200 Park Avenue, 34th Floor, New York, N.Y. 10166

Respectfully submitted,

BAKER and RANNELLS PA

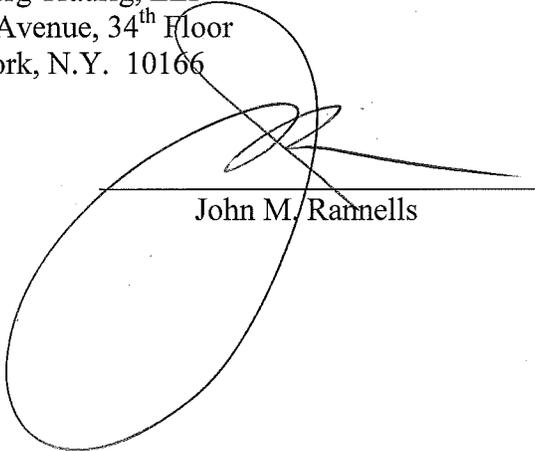


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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **COMBINED NOTICE OF FILING OF TESTIMONY TRANSCRIPT AND EXHIBITS PURSUANT TO 37 CFR 2.125(c) and NOTICE OF SERVICE OF TRANSCRIPTS AND EXHIBITS PURSUANT TO 37 CFR 2.125(a)** in re White Rock Distilleries, Inc. v. Franciscan Vineyards, Inc., Opposition No. 91191056 was forwarded by first class postage pre-paid mail this 25th day of February, 2011 to the Applicant's attorneys at the following address:

Daniel I. Schloss, Esq.
Greenberg Traurig, LLP
200 Park Avenue, 34th Floor
New York, N.Y. 10166


John M. Rammells

DATED: February 25, 2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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FRANCISCAN VINEYARDS, INC., Opposition No .
91185984

Opposer,

Mark: PINNACLE
Serial No. 78166136
Filed: 9/20/2002

vs.

WHITE ROCK DISTILLERIES, INC.,
Applicant.

/ ORIGINAL

WHITE ROCK DISTILLERIES, INC., Opposition No .
91191056

Opposer,

Mark: PINNACLES
RANCHES
Serial No. 77/598674

vs.

FRANCISCAN VINEYARDS, INC.,
Applicant.

DEPOSITION OF CHRISTINE LILIENTHAL
TUESDAY, JANUARY 4, 2011

Job No. NJ299978

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11 Q. BY MR. FRIEDMAN: Ms. Lilienthal, who are
12 you currently employed by today?

13 A. Delicato.

14 Q. What is their corporate name?

15 A. Delicato Family Vineyards.

16 Q. What type of company is that?

17 A. It's a winery. Delicato Family Vineyards.

18 It's a winery.

19 Q. And how long have you been employed by
20 them?

21 A. Just under a year.

22 Q. And prior to working for Delicato Family
23 Vineyards by whom were you employed?

24 A. Franciscan Constellation Wines.

25 Q. Now, you understand that Franciscan

1 Vineyards, Inc. is an affiliated company with
2 Constellation Brands, Inc.; is that right?

3 A. Yes.

4 Q. And what is your present position at
5 Delicato Family Vineyards?

6 A. I am a senior brand manager.

7 Q. And within that position what are your
8 duties and responsibilities?

9 A. I oversee a team, and I oversee a P&L,
10 brand responsibilities, marketing and new product
11 introductions and launches.

12 Q. And in your prior employment at
13 Franciscan Vineyards, Inc. what were your various
14 titles and positions that you held?

15 A. At Franciscan?

16 Q. Yes.

17 A. I started as a marketing services
18 coordinator and moved into the role of creative
19 manager, later to the director of creative services,
20 and my last role with the company was as a brand
21 manager working on Estancia, Paso Creek and Wild
22 Horse brands.

23 Q. Now, when did you in fact start working for
24 Franciscan Vineyards, Inc., what year?

25 A. I believe it was 1999.

1 Q. And these various titles and positions that
2 you've held, can you explain to us what your initial
3 duties and responsibilities were and how they changed
4 over the approximately 10 years that you worked for
5 the company?

6 A. Yes. When I first started with the company
7 we were a group of wines that included Veramonte,
8 Quintessa, Simi, Franciscan, Mount Veeder, Estancia.
9 Six brands initially. And I was in a marketing
10 services role where I had responsibility for working
11 on all of them.

12 And later as the manager of creative
13 services I also had responsibility for that where we
14 would design creative marketing materials and we also
15 oversaw the fulfillment and distribution of those
16 into the market.

17 And as a director of creative services my
18 responsibilities were very similar but just included
19 more brands and a larger staff.

20 Q. Now, within your various positions over the
21 course of these 10 years, I'm going to refer you for
22 the moment to the Estancia brand of wines.

23 Were you within your roles involved with
24 the Estancia brand of wines?

25 A. Yes, I was.

1 Q. And was that a brand that remained
2 consistent through all your positions through the
3 entire 10 years that you were at Franciscan?

4 A. Yes.

5 Q. And prior to working for Franciscan by whom
6 were you employed?

7 A. Immediately prior to Franciscan I worked
8 for Golden State Vintners, and prior to that I worked
9 for State Farm Insurance Company, and prior to that
10 Coastal Wine Merchants.

11 Q. Approximately how many years did you work
12 at Golden State Vintners?

13 A. My memory is a little fuzzy. I want to say
14 three to four years.

15 Q. And roughly the years, if you recall?

16 A. So it would have been immediately prior to
17 Franciscan, so that would take me back I guess, if
18 I'm doing the math correctly, that would be 1995.

19 Q. '96?

20 A. Yes.

21 Q. And at Coastal Wine Merchants,
22 approximately how many years were you working there?

23 A. I want to say about four as well.

24 Q. And what were your positions at those two
25 companies?

1 A. At Golden State Vintners I worked in a
2 marketing and sales capacity as a brand marketing and
3 PR manager. At Coastal Wine Merchants I started out
4 in an administrative role and then I moved into
5 customer service and later sales, marketing and
6 support services roles there.

7 Q. And at Coastal Wine Merchants -- I'm
8 sorry --

9 A. Yes.

10 Q. -- is that the name?

11 A. Yes. I was also an operations manager at
12 Coastal Wine Merchants for part of my time there.

13 Q. At this point in your career how many years
14 have you been working in the wine industry?

15 A. Close to 20.

16 Q. Now, within the Estancia line of wines are
17 you familiar with the Pinnacles wine products?

18 A. Yes, I am.

19 Q. And how is it that you became familiar with
20 the Pinnacles wine products?

21 A. When I first started working for
22 Franciscan, Estancia Pinnacles was one of the brands
23 that we were marketing, selling and we had
24 responsibility for.

25 Q. And what particular types of wines was the

1 Pinnacles trademark applied to?

2 A. It was applied to their flagship wine at
3 the time, which was a chardonnay, and it was also
4 used on pinot noir and fumé blanc.

5 Q. And over the 10 years that you worked with
6 the Estancia line were you continuously working as
7 well on the Pinnacles line?

8 A. Yes.

9 Q. And were there any other wines over the
10 course of those 10 years to which the Pinnacles
11 trademark applied?

12 A. Yes. It later was applied to some reserve
13 offerings including reserve Pinnacles pinot noir and
14 it was added to the sauvignon blanc when that was
15 introduced and launched as well.

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1 Q. Now, during your period of time that you
2 were employed by Franciscan, was the Pinnacles
3 trademark used continuously over that course of 10
4 years that you were with the company?

5 A. Yes. Absolutely.

6 MR. FRIEDMAN: If we could have this
7 document marked as Exhibit B, please.

8 (Exhibit B marked for identification.)

9 Q. BY MR. FRIEDMAN: Now, Christine, I am
10 going to draw your attention to Exhibit B.

11 Do you recognize what this document is?

12 A. Yes.

13 Q. And do you recognize this to be a copy of
14 the abstract of the trademark registration for the
15 Pinnacles trademark at the United States Patent and
16 Trademark Office?

17 A. I do.

18 Q. Okay. I'm going to draw your attention at
19 this time to the registration date for the Pinnacles
20 trademark.

21 Can you tell us what that date is, for the
22 record?

23 A. Yes. It's November 5, 1974. It was filed
24 in 1973.

25 Q. Looking up to the "Goods and Services" area

1 just beneath the word "Mark," there's dates of first
2 use and first use in commerce.

3 Can you tell us what those dates are?

4 A. So the first use was in 1971 and the first
5 use in commerce was also in 1971.

6 Q. Now, looking at the owner information, can
7 you take a look there and tell us who the original
8 registrant who was listed as the owner for this mark
9 was?

10 A. Yes. It was Paul Masson.

11 Q. And within your position at Franciscan are
12 you -- are you or did you become aware of the fact
13 that this trademark was acquired for Paul Masson by
14 Franciscan Vineyards?

15 A. Yes.

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that point in time?

I would like to draw your attention now to our next exhibit which is going to be Exhibit letter D.

(Exhibit D marked for identification.)

Q. BY MR. FRIEDMAN: Drawing your attention now to this document, do you recognize what this document is?

MR. RANNELLS: Just take your time and look through it.

Q. BY MR. FRIEDMAN: Drawing your attention to the section in the center of the page which is called the "Section 8 Amendment/Correction/New Certificate Issued" area of the document, do you recall what this document is?

1 MR. SCHLOSS: I am going to object again as
2 to lacking personal knowledge.

3 Q. BY MR. FRIEDMAN: That's all right. You
4 can go ahead and answer it.

5 A. It looks like a trademark patent
6 certificate.

7 Q. It is actually section 8's amendment; is
8 that right?

9 A. Yes.

10 Q. Now, within the document itself is the
11 original registration on page 2 and the amendment on
12 page 3.

13 Can you explain to us what the change in
14 registration was and the date that that took place?
15 The amendment is dated on the last page.

16 A. Yes. So it was amended from Pinnacle to
17 Pinnacles.

18 Q. And looking at the amendment date, can you
19 take a look at that.

20 A. It looks like it's 1974.

21 Q. That is actually the date of registration.
22 I draw your attention to the line right below.

23 A. It was amended on April 10, 2001.

24 Q. Okay. Having reviewed this document, did
25 you become aware that the Pinnacles trademark as it

1 exists today actually was originally registered back
2 in 1974 by Paul Masson as Pinnacle in the singular?

3 A. Yes.

4 Q. Now, as the brand manager, just prior to
5 leaving the Franciscan Vineyards, Inc. corporation --
6 how long did you hold that position for, the brand
7 manager position?

8 A. Approximately a year and a half.

9 Q. Okay. Now, within your employment at
10 Franciscan are you familiar with where the Pinnacles
11 trademark as it was used by Franciscan, where it
12 appeared on actual products?

13 A. Yes.

14 Q. And can you you explain to us where it can
15 be found on actual products?

16 A. Certainly. They could be found on the
17 skirt of the closure. They could be found on the
18 front label, on the back label. In some occurrences,
19 on the cork at various points and on the carton, the
20 outer shipper for the product as far as on its
21 packaging itself.

22 Q. Now, besides wine, was there any other
23 products that the Pinnacles mark appeared on?

24 A. Yes. The Pinnacles mark appeared on
25 merchandise and clothing. It appeared on invites and

1 programs. It appeared on marketing and supporting
2 collateral materials both to our distributors and
3 gatekeepers as well as to consumers, so it would have
4 appeared on case cards, shelf talkers, neckers. It
5 could have been used in advertisements in magazines
6 and periodicals, distributor price books and
7 PowerPoint presentations.

8 My goodness, just about any way that the
9 brand was marketed it would have been used because it
10 features predominantly on the label, so it was shown
11 in photography on most collateral materials that we
12 produced.

13 Q. What does Pinnacles mean? What is being
14 conveyed to the the consumer by that trademark?

15 A. Well, Pinnacles in itself, the word is a
16 very powerful word and it communicates a sense of
17 prestige, as being the best of something, the top,
18 the peak, so the name was a very powerful statement
19 of quality and a reinforcement to a consumer at that
20 purchase point decision that it was a certain
21 quality.

22 It also helped to lead or determine the
23 source later and provided genuineness and
24 authenticity to the brand messaging.

25 Q. And in addition to the Pinnacles trademark,

1 has the company Franciscan used any other variations
2 of the Pinnacles name to distinguish the product and
3 to promote the product?

4 A. Yes. They've used Pinnacles by itself.
5 They've used the term Pinnacles Ranches. And they've
6 used Pinnacles Vineyards.

7 Q. Do you know roughly the date when
8 Pinnacles Ranches began being used by the company?

9 A. I want to say it was with a 2002 vintage
10 initially, but it's difficult to say the exact time.
11 So that may have been in the year of like 2004,
12 approximately.

13 Q. Can you explain to us the variation as far
14 as the sell date of the wine and the vintage date
15 that appears on the label?

16 A. So the vintage date will also precede the
17 actual in-market date. So for instance wines that
18 were made just a few months ago in 2009 most commonly
19 won't be released with that vintage for a year or two
20 years later depending on the varietal and on sales in
21 the marketplace.

22 Q. And the insertion of the vintage date is
23 something that legally is technically applied to all
24 wines; is that right?

25 A. Not applied to all wines, but all wines

1 that are vintage dated.

2 MR. FRIEDMAN: I am going to show you now
3 what we'd like to mark as Exhibit E.

4 (Exhibit E marked for identification.)

5 Q. BY MR. FRIEDMAN: Ms. Lilienthal, looking
6 at Exhibit E, do you recognize what is contained
7 within the exhibit?

8 A. Yes. They are various versions of the
9 Estancia, Pinnacles label.

10 Q. If you could just thumb through the exhibit
11 and let us know what dates are covered as far as the
12 vintage dates that appear on these various labels
13 over the -- I believe they are in date order starting
14 from the back until the most recent that is on the
15 front page.

16 A. So at the back it starts with 1991 and
17 Pinnacles.

18 Q. You don't have to go through page by page.
19 I don't think it's necessary. But if you could let
20 us know --

21 A. And then in 1992 the same. This is where
22 Pinnacles appeared as a separate brand mark, too,
23 separate from Estancia. In 1995 Pinnacles and
24 Estancia are shown together. In 1996 these are
25 somewhat old-fashioned ad slicks not used in the

1 market anymore, but back in the day you would cut for
2 advertising material showing Estancia and Pinnacles
3 together in the logo lockup.

4 MR. RANNELLS: Would you please identify
5 which page starting from the back you are referring
6 to so it is clear on the record.

7 THE WITNESS: Yes. Page 6.

8 Q. BY MR. FRIEDMAN: What is the most recent
9 vintage or label date that appears within the packet?

10 A. 2008.

11 Q. Now, the various labels that appear within
12 Exhibit E, are all these labels from the books and
13 records of Franciscan Vineyards, Inc.?

14 A. Yes.

15 Q. And these are actual labels that appeared
16 on products over the course of these -- over the
17 course of the years that are represented in this
18 exhibit?

19 A. Yes.

20 Q. And these wine products bearing these
21 labels were actually sold in commerce?

22 A. That is correct.

23 Q. And sold within interstate commerce in the
24 United States?

25 A. That is correct.

1 Q. Now, a few moments ago we mentioned that
2 besides Pinnacles, the company has also used
3 Pinnacles Vineyards and Pinnacles Ranches.

4 Can you explain how these marks were
5 selected as additional trademarks for the brand?

6 A. Yes. They came about as a response to
7 various packaging changes and briefs at the behest of
8 the brand manager at the time. So they would have
9 developed a brief with an objective on communication
10 points, and that would have come in, and then the
11 Pinnacles would have been used in conjunction with
12 that.

13 And so on the reserve wines you see
14 Pinnacles Vineyard and on the more -- if you refer to
15 I guess the back page, it would be this page here
16 (indicating) where it says Estancia Monterey, this
17 was the syrah, grenache and mourvedre that would have
18 been in a reserve class of wines.

19 Q. This would be the third page of the exhibit
20 from the front?

21 A. Yes.

22 Q. And the Pinnacles Vineyard and
23 Pinnacles Ranches designations, are they correctly
24 identified as just further expansion of the Pinnacles
25 mark?

1 A. Oh, absolutely.

2 Q. Now, looking at the various labels within
3 Exhibit E, you mentioned a moment ago how in the
4 1991, 1992 labels Pinnacles was all by itself and
5 over time it has been used in conjunction with the
6 Estancia trademark.

7 Can you explain to us from a trademark
8 perspective what the relationship is between those
9 two marks, Estancia and the Pinnacles marks?

10 A. Sure. Estancia is the brand name and
11 Pinnacles is like a sub-brand of the Estancia brand.

12 I guess probably the easiest analogy is to
13 use cars as a reference or other things that have --
14 for instance where Chevy makes an Impala, but they
15 also make others. So Chevy is the brand and then
16 they have several marks or classes underneath. The
17 same would be true. Honda has Civics. They have
18 Accords. They have other cars. But the overarching
19 brand would have been Honda.

20 So this would have been the case for
21 Estancia, and Pinnacles was a sub-brand of the
22 Estancia brand.

23 Q. Now, in addition to the labels that we've
24 talked about in Exhibit E, you mentioned a moment ago
25 in your testimony about the foil or the capsule that

1 appears on the bottle.

2 Can you explain to us how the Pinnacles
3 mark has been used in connection with that feature of
4 the bottle?

5 A. Yes. That was added to the closure at the
6 bottom because certainly the bottle when it is on
7 display or served at a restaurant, the very top part
8 of the foil is cut off, leaving the capsule there.
9 No matter where you are at or where the bottle is
10 presented, it repeats around the bottom of the
11 capsule the word Pinnacles so it is a constant
12 reinforcement of that secondary brand name or
13 classification thereof.

14 Q. Now, from a marketing perspective and as
15 somebody who has been in the wine industry for as
16 many years as you have been, how important is the
17 identification of the brands on the wine packages
18 themselves and what is your experience in connection
19 with appearance of trademarks or other logos on
20 capsules?

21 A. The singularly most important thing that
22 any wine brand does other than quality in the bottle
23 is make sure that they have a label that works. The
24 consumer is faced with many choices when they go to
25 the wine aisle, unlike in other consumer product

1 goods where you might have four or five selections.
2 They are faced with hundreds of choices there and it
3 can become confusing, so we try to make the
4 communication as clear as possible and use quality
5 reinforcements throughout, whether it be foil
6 stamping on the label, embossing, statements of
7 quality, the Pinnacles term as a sub-brand and a
8 reinforcement to help identify the brand. That is
9 the most important thing that goes into marketing, is
10 the packaging. The promotional and other materials
11 all are to support that overarching message.

12 Q. Now, besides the Pinnacles line of wines,
13 are you familiar with any other wines that similarly
14 have trademarks or logos on the capsule?

15 A. Yes, I am.

16 Q. Can you give us a couple examples, if you
17 know them off the top of your head?

18 A. My goodness. Certainly like Fetzer, they
19 have Sun Dial. And Robert Mondavi has private
20 collections. So there are certainly other like
21 sub-brands within.

22 Q. But specifically on the foil, are you
23 familiar with other brands that include trademarks or
24 logos on the foil itself besides the Franciscan
25 Pinnacles line of wine?

1 A. I would say almost -- most wines on the
2 shelf have other branding on them, so certainly with
3 the brands that I'm responsible for, 337 has 337 on
4 the closure as well as the top and on the skirt. 181
5 has the same thing, on the top and on the skirt
6 closure as well so that you can see it. It is
7 reinforcement of the brand statement. Black Stallion
8 Estate Winery has it on the top dot as well.

9 Q. And when we referred a moment ago to the
10 relationship and the interplay between the Estancia
11 trademark and the Pinnacles trademark, would you
12 agree that Pinnacles Ranches is similarly a sub-brand
13 to Estancia?

14 A. Yes, it is.

15 MR. FRIEDMAN: Now, in addition to the
16 Pinnacles and Pinnacles Ranches or
17 Pinnacles Vineyards trademarks that are used by
18 Franciscan, I am going to show you now what I would
19 like to have marked as Exhibit F.

20 (Exhibit F marked for identification.)

21 Q. BY MR. FRIEDMAN: Okay. I am showing you
22 now Exhibit F, which is a trademark printout from the
23 U.S. PTO Web site for the trademark Keyes Canyon
24 Ranches.

25 Are you familiar with the Keyes Canyon

1 Ranches trademark?

2 A. Yes, I am.

3 Q. Who is the owner of this mark?

4 A. Franciscan Vineyards.

5 Q. And can you tell us where the Keyes Canyon
6 Ranches trademark is utilized?

7 A. It is utilized on certain varietals in the
8 Estancia brand.

9 Q. And do you know which particular varietals?

10 A. Yes. It is used on the cabernet. It is
11 used on the meritage. It is used on the merlot and
12 the zinfandel.

13 Q. Now, within the Estancia brand as an
14 umbrella, are the Keyes Canyon Ranches and the
15 Pinnacles Ranches and Pinnacles Vineyards marks all
16 considered sub-brands within the Estancia line?

17 A. Yes.

18 Q. And does the Keyes Canyon Ranches trademark
19 similarly appear on Estancia-branded wines?

20 A. Yes, it does. The difference is that it
21 doesn't appear on the top closure, but it does appear
22 on the label, the face label and the back label.

23 Q. And from a trademark perspective --

24 A. And the carton, sorry, as well.

25 Q. Sorry about that.

1 From a trademark perspective, within the
2 Estancia line are these trademarks, Keyes Canyon
3 Ranches and Pinnacles, Pinnacles Ranches, being used
4 to distinguish the particular varietals?

5 A. To distinguish particular varietals, so the
6 pinot noir, the chardonnay, the sauvignon blanc share
7 the Pinnacles. The cab, merlot, zinfandel, meritage
8 share the Keyes Canyon Ranches symbol.

9 Q. Now, within your position at Estancia, did
10 you similarly have duties in connection with these
11 lines of wines, the Keyes Canyon Ranches wines?

12 A. Yes.

13 Q. Can you tell us how these branded wines
14 were promoted and sold by Franciscan?

15 A. So they were promoted and sold in the same
16 way as Pinnacles wines to the distributor trade.

17 Is that the question?

18 Q. Well, in general, you know, how did the
19 mark get promoted within the Estancia line?

20 A. So it would have been promoted both on the
21 packaging, on the outer shipper, and then it would
22 also have appeared on sell sheets, neckers,
23 collateral advertising and other places as well.

24 Q. And these wines all together, the Estancia
25 brand with the Pinnacles and Pinnacles Ranches and

1 Pinnacles Vineyards designations, how were they sold?

2 A. They are sold to distributors and
3 distributors in turn sell them to retailers or
4 restauranteurs.

5 Q. The three-tier system, so to speak, of
6 manufacturer, in this case, Franciscan, distributor,
7 second tier, and then the final tier being the
8 retailer or a restaurant off premises or on premises,
9 can you explain to us how that works?

10 A. Yes. It is part of the original old tax
11 laws from state to state. So in general in many
12 states wineries are prohibited from selling directly
13 to consumers, so we go through a distributor network,
14 and the distributors sell to restauranteurs and
15 retail, and then they in turn sell to consumers.

16 Q. Now, for Franciscan, do they in fact have a
17 Web site as well?

18 A. Does Estancia?

19 Q. Yes, Estancia.

20 A. Yes.

21 Q. And obviously based upon state rules and
22 regulations, do they offer for sale wines over the
23 Internet through the Estancia Web site?

24 A. They do through a separate portal so they
25 go to a bundled company store that has offerings as

1 like a third-party merchant so that you could
2 purchase Estancia wines, but other wines from the
3 Franciscan Vineyards portfolio as well, including
4 other brands but, yes, you can go to the shopping
5 cart area. I don't know if that is still how they
6 are marketing or selling, but that is how it was when
7 I was with the company. Only in states where it's
8 legal.

9 MR. FRIEDMAN: I am going to show you now
10 what I would like to mark as Exhibit G.

11 (Exhibit G marked for identification.)

12 Q. BY MR. FRIEDMAN: Turning to Exhibit G, do
13 you recognize the various documents that are
14 contained within the exhibit?

15 MR. SCHLOSS: I am going to object that the
16 first two pages were not produced to us previously.

17 MR. FRIEDMAN: I would just put on the
18 record that these are, as I understand it, 2011, 2012
19 advertising and promotional materials. We just
20 recently received them.

21 MR. SCHLOSS: Okay.

22 Q. BY MR. FRIEDMAN: Christine, looking at --

23 A. So these are samples of promotional
24 materials and advertising. Some of it would be
25 distributor and others would be for consumers,

1 in-store marketing for the most part.

2 Q. Backing up just for moment to what you just
3 said, some of this as far as the documents contained
4 within Exhibit G are directed to distributors and
5 some to retailers.

6 Can you explain to me exactly how that
7 works and what Franciscan's goals were in connection
8 with these documents?

9 A. Certainly. The first two pages are an
10 inside spread of a sell sheet that would have gone to
11 a distributor, and the distributor would have had
12 this in a book along with probably some story and
13 bullet points and selling tools on the brand so that
14 they could go out and present information in an
15 educated manner, talking about what Estancia stands
16 for, what it means.

17 What you're seeing here are what are the
18 tools that they have in the marketplace to help them
19 sell through the wines.

20 In this instance they have case cards.
21 They have bottle toppers. They have wait staff and
22 educational cards. They have value-add consumer
23 offers where there are savings off of wine or off of
24 grocery purchase.

25 And then as you continue along --

1 Q. Let me stop you there for a moment. Sorry.
2 Looking for a moment at the first two
3 pages, you were telling us about these being from a
4 sell sheet.

5 Can you explain to us why it's so important
6 for the distributor to have these materials?

7 MR. SCHLOSS: I am going to object as to
8 the first two pages as the witness lacks personal
9 knowledge if they were produced after her tenure.

10 Q. BY MR. FRIEDMAN: You can go ahead and
11 answer as far as sell sheets in general and how they
12 are used.

13 A. Sell sheets in general -- sell sheets in
14 general, not specifically this one, are provided to
15 distributors. They are invaluable. They are
16 representing many items within their book from
17 spirits to beer and wine when they go out and sell.
18 Sometimes they'll have as many as, gosh, thousands of
19 items in their books.

20 So this is a way to educate them when they
21 go out and are presenting on behalf of the winery to
22 a retailer or a restaurateur so they can talk to
23 them about how the wine tastes, how it's made, where
24 it is from, who is the winemaker, why is it different
25 from something else that they are presenting and

1 pour, and then on top of that in your market and to
2 help you sell to your consumers, we have these
3 additional offerings.

4 Q. Now, when you educate the distributors with
5 sell sheets, do you educate them not only about the
6 Estancia brand but about the Pinnacles trademarks?

7 A. Yes, we do.

8 Q. And how do you go about doing that?

9 A. Well, we feature it prominently which, as
10 you can see, is generally featured both on collateral
11 materials and on packaging over the years. We talk
12 about our vineyards, so we talk about our
13 Pinnacles Vineyards ranches and our Keyes Canyon
14 ranches and the locations and how those refer to
15 where our grape sources come from and how controlling
16 that source from start to finish is a statement of
17 quality, that we manage the grapes basically from
18 ground to glass.

19 Q. How is that important to the consumer?

20 A. For the consumer, it means that these are
21 not factory or mass-produced wines. That we are
22 putting an artisan's touch into the making of the
23 wines, and that they can be guaranteed that the
24 quality is going to be consistent year in and year
25 out because we are taking the time to grow and make

1 these wines ourselves as opposed to other brands or
2 wineries that may be purchasing on the bulk market or
3 blending or not having this kind of control over the
4 majority of the product, the grapes that go into
5 their wines.

6 Q. Now, do you do anything as far as further
7 education of distributors as far as bringing them to
8 the actual winery?

9 A. Absolutely.

10 Q. Can you tell us what the signage at the
11 winery looks like in connection with these visits and
12 the promotion of the Pinnacles trademark?

13 A. Yes. Absolutely. So one of the key
14 educational endeavors over the years as long as I've
15 been with Estancia or was with Estancia and
16 Franciscan was to try to have proactive hospitality
17 where they would either have incentives or trips or
18 actually invite retailers, distributors and others to
19 the property. They would take them to the Estancia
20 Pinnacles Vineyard before there was actually even a
21 full-functioning hospitality winery there.

22 There were signs out front that said
23 Pinnacles Vineyards so you knew where you were. When
24 you arrived you would drive in through the gates. You
25 would get a tour. You would go up to the top of what

1 they called Burrito Hill, which allowed you to look
2 over the entire property and see the various growing
3 areas.

4 They would talk about the importance of
5 climate and the elements of what is going on, so the
6 wind coming in, tunneling down the Salinas Valley and
7 where we sit or where Estancia Pinnacles Vineyard
8 sits is actually a funnel where it squeezes in a
9 little bit so actually the wind, the momentum picks
10 up even faster, so there were even attempts to do
11 kite flying and other things with activities. We had
12 a wind meter out there so you could see what was
13 going on in the vineyard and the climate and it was
14 very specific to that spot in the universe.

15 And the same was done at Keyes Canyon in
16 Paso Robles where we'd take them out to the vineyard
17 and have them see the three benches rising up from
18 the rivers and the three different properties and
19 they would also get to see row orientation and
20 pruning and even hedging so that they could
21 understand how important it was to really manage and
22 own the property. That was a key part of it. As you
23 entered the property there it said Keyes Canyon
24 Ranches.

25 They would also sometimes take people over

1 to the smaller vineyard holding in Santa Lucia
2 Highlands called Stonewall Vineyards and they would
3 take them on a tour there as well and show them that
4 property.

5 Q. I am going to turn you back for a moment
6 now just to Exhibit G. Looking at the various items
7 within here, can you explain to us what these items
8 are?

9 A. On page 3 from the front, these are
10 consumer value offers as well as accolade neckers.
11 So these would be applied either on the bottle over
12 the top of the neck up high so it wouldn't cover the
13 label or the branding on the bottle or they could be
14 tucked into a shelf to sit right below the bottle as
15 it was sitting on a shelf, depending on a state's
16 regulations. In some states they don't allow you to
17 put them on the bottle and in others they don't allow
18 you to put them on the shelf. So they can
19 cross-function either way.

20 You can see that there were savings offers
21 here for items outside of just our wines, but also
22 for cross-promotional opportunities like a great
23 spring salad and other things like that, including
24 some cause marketing for breast cancer.

25 Q. These various items that are within this

1 exhibit, are these examples of the promotion
2 materials that were utilized by Franciscan while you
3 were employed by the company?

4 A. Yes.

5 MR. FRIENDMAN: You mentioned a moment ago
6 some of the accolades that appeared on these various
7 point-of-sale advertising items. I am going to show
8 you now what I would like to have marked as
9 Exhibit H.

10 (Exhibit H marked for identification.)

11 Q. BY MR. FRIEDMAN: Do you recognize what is
12 contained within this exhibit?

13 A. Yes, I do.

14 Q. What do you recognize it to be?

15 A. Accolade sell sheets and case talkers and
16 shelf talkers and accolade reprints.

17 Q. Now, these accolade mentionings that appear
18 on these documents, how were these obtained, these
19 accolades or clippings?

20 A. So wines would be submitted by our public
21 relations department into various periodicals, sent
22 to wine writers, and then those wines would be tasted
23 and reviewed and then published, and then following
24 the publication of a review we would obtain
25 permission to reprint or use portions of that for

1 promotional reasons. And they were used as a
2 third-party endorsement for the product in a sense
3 and to help give consumers confidence in a busy wine
4 section to make an Estancia purchase.

5 Q. Now, in addition to makers, case cards and
6 tasting notes, what other advertising was done for
7 the Pinnacles line of wines?

8 A. They were also advertised in some
9 publications, although limited, mostly wine or wine
10 and food publications. There was a small TV campaign
11 on the Food Network for I believe two years which was
12 run during the Rachel Ray show and then they are also
13 advertised in what you would call trade publications
14 like Market Watch or distributor pricing books or
15 regional market-specific trade publications such as
16 Wine Buzz.

17 Q. And how about radio, was it advertised on
18 radio as well?

19 A. Yes, there was some limited advertising on
20 radio. I can't recall what year that was. It was
21 very small.

22 Q. And you mentioned a moment ago about
23 sending out the wines to the media.

24 Can you tell us a little bit about how the
25 Pinnacles line of wines was sent out?

1 A. Certainly. Depending on the year or a new
2 release or in some cases a new package or a new
3 offering, it would have been sent to the publication
4 with a technical note talking about what the wine
5 was, where it was from. So the source of it.

6 So it would say Estancia Pinnacles and it
7 would talk about Pinnacles and the vineyard and the
8 ranches involved in that as part of our quality
9 statement, and it would have also been accompanied by
10 what they would call a pitch letter, so a reason to
11 position it, and contact information for additional
12 information. So the reviewer would get not only wine
13 but technical information on the wine, a brief
14 overview and some kind of contact of who to contact
15 for more information.

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MR. FRIEDMAN: I am going to show you now what I would like to mark as Exhibit J.

(Exhibit J marked for identification.)

Q. BY MR. FRIEDMAN: I would ask you to turn to page 5.

Actually, before we go there, just turning to the first page, the title of the document, if you could just read that for the record.

A. "Opposer's Responses and Objections to Applicant's First Set of Interrogatories to Opposer."

Q. Now, when you were at Franciscan did there come a time that you assisted in preparing or

1 gathering information to respond to interrogatories
2 that were directed to Franciscan by White Rock
3 Distilleries?

4 A. Yes.

5 Q. I am going to draw your attention now
6 specifically to interrogatory 3 on page number 5.

7 A. Okay.

8 Q. And at the bottom of the page you will note
9 annual volume of sales in dollars of wine bearing
10 opposer's marks, and then it carries over to the next
11 page where there is a summary table of wholesale
12 annual sales in dollars.

13 Do you see that?

14 A. Yes, I do.

15 Q. Did you assist Franciscan in gathering this
16 information?

17 A. Yes, I did.

18 Q. And how did you go about gathering this
19 information?

20 A. It was actually a complicated task because
21 they had gone to a new reporting system, so the
22 historical information wasn't in one data set, so we
23 did a search on our server, and our server is a
24 shared-file storage capacity, and brought up brand
25 plans and presentations, and as part of brand

1 planning and presentation it usually would include
2 performance, so it would by brand and item within the
3 brand talk about last year, the prior year and the
4 year ahead's performance and goals and objectives as
5 part of the metrics.

6 So we went back as far as we could find
7 that and used the data out of that to show historical
8 information up to the more current period where we
9 had hard data.

10 Q. The particular sales volume that is
11 recorded here in this interrogatory for 2001 through
12 2009, when you did these searches of the corporate
13 records did you limit your search specifically to
14 wines that contained the Pinnacles or
15 Pinnacles Ranches trademarks?

16 A. Yes, we did. We had -- the brand plans and
17 the history were by sku level so it wasn't at a brand
18 level, so we were able to isolate the sku that bore
19 the Pinnacles mark.

20 Q. Are these numbers fair and accurate
21 representations from the corporate records of
22 Franciscan?

23 A. Yes, they are.

24 Q. Looking at number 4, which speaks of the
25 annual volume of sales of units, is this similarly

1 something that you obtained from the corporate books
2 and records of Franciscan?

3 A. Yes.

4 Q. And were these sales and, in interrogatory
5 number 4, the response, based similarly as well
6 solely on Pinnacles, Pinnacles Ranches-branded
7 products?

8 A. And Pinnacles Vineyard as well.

9 Q. Okay. Thank you.

10 Turning now to interrogatory number 9,
11 which speaks of the advertising dollars that were
12 spent by Franciscan in connection with
13 Pinnacles-branded products, did you similarly work to
14 gather that information?

15 A. We looked at the percentage of the total
16 sales business and the percentage of the dollars
17 spent, and so although we didn't have accurate
18 records saying so much was spent only on Pinnacles
19 versus the Keyes Canyon products, we did have
20 percentage of mix of volume and total dollars spent
21 and took those dollars out accordingly.

22 Q. Now, in connection with a lot of the
23 advertising dollars that is behind your full
24 calculation, in other words, to get to the
25 extrapolation that we see here in interrogatory 9,

1 the total advertising budget, so to speak, that was
2 for the Estancia umbrella; is that correct?

3 A. That would be for the Estancia brand, not
4 just solely Estancia Pinnacles.

5 Q. And within that advertising budget we
6 talked earlier about all the various point-of-sale
7 materials that were within our exhibits and what were
8 utilized by Franciscan in connection with the
9 promotion and sale of products.

10 Was Pinnacles a big part of the way the
11 advertising was directed? In other words, the
12 advertising budget towards the Pinnacles brand?

13 A. Yes.

14 MR. SCHLOSS: Objection. Vague.

15 THE WITNESS: Estancia Pinnacles included
16 the number 1 volume driver for the brand, which was
17 Estancia chardonnay which for many, many years drove
18 the brand and is still a very large-volume player
19 within the mix. The second and the fastest-growing
20 SKU within the brand was Estancia Pinnacles
21 pinot noir.

22 Q. BY MR. FRIEDMAN: Going back to Exhibit G,
23 the third page, I am going to show you an example of
24 a necker on the bottom right corner. Can you take a
25 look at that and in connection with the advertising

1 budget explain to us how something like that came
2 about and how advertising dollars really went behind
3 the brand.

4 A. So on something like this, you would be
5 promoting Estancia as a brand, not just Estancia
6 Pinnacles or Estancia Keyes Canyon. So what you
7 would be looking for is in this case you could save
8 up to \$4. That \$4 could be on a mix and match across
9 Pinnacles or Keyes Canyon, even more than what is
10 shown here, but we do show a Pinnacles and
11 Keyes Canyon image in there.

12 Up above, for this Estancia for a great
13 spring salad recipe, this was part of a whole suite
14 of materials that featured each and every brand.
15 This was overarching Estancia. There was a version
16 for all of the lead varietals within Estancia at that
17 point in time.

18 The same is true in the upper left-hand
19 corner, which is to save up to \$4 on Estancia wines,
20 was not for Estancia Pinnacles solely, it was for
21 Estancia brands, so they could mix and match.

22 Down at the bottom it is an accolade for
23 the chardonnay specifically, so that would be an
24 accolade-based necker.

25 MR. FRIEDMAN: Thank you.

1 If I could just take a five-minute break.

2 (Whereupon, a recess was taken from
3 10:35 a.m. until 10:52 a.m.)

4 Q. BY MR. FRIEDMAN: For the record, now I am
5 going to show you an actual bottle of Franciscan's
6 Estancia wine. A photo of this is going to be marked
7 as Exhibit K.

8 (Exhibit K marked for identification.)

9 Q. BY MR. FRIEDMAN: Taking a look at this
10 bottle, Ms. Lilienthal, do you recognize it?

11 A. Yes, I do.

12 Q. And is this a bottle of wine that within
13 your position as brand manager you worked on?

14 A. Yes.

15 Q. Can you tell us what, if anything, you did
16 in connection with this specific bottle of wine and
17 the imagery that appears on it?

18 A. Would this be in my role as director of
19 creative services or as the brand manager?

20 Q. As the brand manager.

21 A. As the brand manager this package came to
22 me already completed, so this was a packaging change
23 that took place under Riccardo. It has Pinnacles on
24 the closure. It has Pinnacles Ranches clearly
25 positioned on the front label in very beautiful Roman

1 typeface so it's easy to read. On the back it also
2 calls out the Pinnacles Ranches as part of the header
3 and then again as a locator showing where it is in
4 conjunction to California and there is an illustrated
5 map showing it, and then there is also information on
6 the back that discusses Pinnacles Ranches. The label
7 has foil embossing and high-built treatments to give
8 it a sense of luxury and enhance the overall imagery.
9 At the top of the closure is an embossed E in gold.

10 Q. And earlier when we discussed the foil
11 closure with the Pinnacles trademark on it, that is
12 what we see here on this actual bottle; is that
13 right?

14 A. That is correct.

15 MR. RANNELLS: Just for the sake of
16 clarity, you had mentioned Riccardo, so everything is
17 clear, could you please identify who Riccardo is.

18 THE WITNESS: Riccardo Mora was an employee
19 of Franciscan Vineyards and he had responsibility as
20 a brand director for Estancia for a short period of
21 time.

22 Q. BY MR. FRIEDMAN: Now, in connection with
23 being the brand manager for Estancia and the
24 Pinnacles lines of wines, as a brand manager did you
25 get information or did you have access to information

1 on a regular basis concerning the sales -- ongoing
2 sales in connection with Estancia Pinnacles products?

3 A. Yes, I did. We had a sales operations team
4 which provided monthly management and brand
5 performance showing brand performance as well as SKU
6 performance and it was specific down to the detail of
7 channel and also included competitive set overview.

8 Q. Now, as you had this information as a brand
9 manager, is this similarly the type of information
10 that was included in the reports that you reviewed in
11 connection with gathering the information in the
12 interrogatory answers we reviewed earlier in
13 Exhibit J?

14 A. That would have been part of the data for
15 that information that was used to grab the figures
16 for the interrogatory.

17 Q. So that is essentially how we know that
18 these figures are accurate figures as far as the
19 sales for Pinnacles-branded wines?

20 A. That is correct.

21 Q. Now, can you tell us a little bit about the
22 breakdown for the promotional expenditures that
23 appear in Exhibit J in response to interrogatory
24 number 9?

25 A. Certainly. So promotional expenditures.

1 Q. Specifically when I am saying that, where
2 these numbers were placed as far as what type of
3 promotional products or pieces were used and how this
4 money would have been dedicated to those promotional
5 or advertising devices.

6 A. So promotional items include many of the
7 things that we've seen in some of the other exhibits
8 including shelf talkers, neckers, case cards, racks
9 and permanent display pieces, pull tabs that are
10 branded with the name, logo'd merchandise and
11 wearables, print media, television, radio, stationery
12 and identity systems, and in some of the other years
13 that would include photography and some Web work in a
14 few of the years.

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Q. During your tenure at Franciscan, I think you mentioned that you were involved with a packaging redesign with respect to Pinnacles Ranches.

Do you recall that?

A. Yes.

Q. Can you describe the reasons behind the most recent change that you were involved with?

A. The most recent change that I was involved with took a smaller label with a die cut E at the top and Pinnacles Ranches in hard-to-read script, almost art form, and took it to a larger label size, so more real estate. Took the E out of the die cut and into the label to give it a more classical appearance, and Pinnacles Ranches was put in a more legible classic

1 style of type font so it would be easier to read and
2 more visible.

3 Q. So how would you describe the --

4 A. In addition to that, Pinnacles Ranches was
5 also added to a map on the box, a title on the back
6 and in the copy on the back label.

7 Q. What were some of the reasons that those
8 changes were made?

9 A. To reinforce the Pinnacles mark and the
10 importance of source as part of quality wine making.

11 Q. How did these changes reinforce the
12 Pinnacles mark?

13 A. They made it more legible and easier to
14 read so that a consumer could clearly see the word
15 Pinnacles Ranches.

16 Q. Okay. I think you just used Pinnacles and
17 Pinnacles Ranches interchangeably in that response.

18 MR. RANNELLS: Objection as to the
19 characterization of the witness' testimony.

20 Q. BY MR. SCHLOSS: With respect to the label
21 portion of the packaging, the usage was
22 Pinnacles Ranches, correct?

23 A. Correct. That would be for the label only,
24 but as part of the total package it also says
25 Pinnacles only on the closure.

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Q. Ms. Lilienthal, you mentioned earlier that
you weren't aware of the reason for the change from

1 Pinnacle singular to Pinnacles plural.

2 What do you think is conveyed to consumers
3 by the mark Pinnacles plural?

4 A. I believe the term Pinnacles conveys
5 quality, the top, the best of something, the peak,
6 reaching the pinnacle of something.

7 Q. Right. But you just said "the pinnacle,"
8 and this is plural Pinnacles. So I'm curious how
9 Pinnacles plural would convey that.

10 You are saying it conveys the same
11 impression?

12 A. To me it does.

13 Q. So it's multiple peaks?

14 A. Whether it says Pinnacle or Pinnacles, the
15 impression that you take away is the same, having a
16 quality or an elite status.

17 Q. And what about Pinnacles Ranches?

18 A. I believe that also does the same, it
19 communicates a genuineness, an authenticity, a sense
20 of quality and a sense of source that there is a
21 Pinnacles ranch, that there is a place where
22 something comes from.

23 Q. There is a physical place?

24 A. Yes.

25 Q. And would you say that Pinnacles Ranches

1 gives a separate impression than just Pinnacles
2 alone?

3 A. I'd say it is a variation of Pinnacles.
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MR. FRIEDMAN: Thank you.

I am going to show you now what I would like to mark as Exhibit O which is, again, a bottle. I have pictures of those bottles for you gentlemen.

(Exhibit O marked for identification.)

Q. BY MR. FRIEDMAN: Looking at the bottle, Exhibit O, do you recognize what that bottle is of?

A. Yes. It is a Fetzer chardonnay.

Q. Is this the Fetzer brand that you were referring to earlier during your testimony?

A. This is the Fetzer brand. This isn't the Sun Dial mark, but Sun Dial may have gone away. This looks as if it is their Valley Oaks sub-brand.

Q. And looking at the packaging, you mentioned that Fetzer and the sub-brand you mentioned was

1 Valley Oaks, do you see how those are being displayed
2 on the product packaging?

3 A. Yes. They are displayed both on the label
4 and also on the bottle closure.

5 Q. And that is the capsule or the foil that we
6 talked about --

7 A. That is the capsule, and it is on the skirt
8 of that capsule.

9 MR. FRIEDMAN: I am going to show you now
10 what I am going to mark as Exhibit P.

11 (Exhibit P marked for identification.)

12 Q. BY MR. FRIEDMAN: Looking at this document,
13 this is a United States Patent and Trademark Office
14 printout for the trademark Valley Oaks.

15 Is that the same Valley Oaks that you see
16 referenced on Exhibit O?

17 A. It is.

18 Q. And do you see who the owner of the
19 Valley Oaks trademark is?

20 A. Yes, I do.

21 Q. Who is that?

22 A. That is Fetzer Vineyards Corporation.

23 Q. And that is the same Fetzer that you were
24 referring to earlier?

25 A. That is correct.

1 Q. And the way that the Valley Oaks appears on
2 the capsule, is that the same type of way that
3 Franciscan places the Pinnacles trademark on their
4 bottles?

5 MR. SCHLOSS: Objection. What is the "same
6 type of way"?

7 MR. FRIEDMAN: Withdrawn.

8 Q. Is the Valley Oaks trademark being applied
9 to the capsule just as the Pinnacles trademark is
10 being applied to the Franciscan capsule on the
11 Pinnacles bottle of wine?

12 MR. SCHLOSS: Same objection.

13 Q. BY MR. FRIEDMAN: You can answer.

14 A. Yes. It appears in gold, and it appears on
15 the skirt of the closure, and it appears as a
16 repeating word mark so if that closure gets turned,
17 you are always seeing a portion of it.

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EXAMINATION

Q. BY MR. RANNELLS: Ms. Lilienthal, with regard to Pinnacles Ranches, you had mentioned that one of the things -- one of its attributes is that it gives a sense of place. You had also said later on in your testimony that one of the characteristics of Monterey -- of the term "Monterey County" is that it

1 gives a sense of place.

2 When you used the term "sense of place" for
3 both of those, did you mean it in the identical
4 manner?

5 A. Oh, no. I mean nobody owns Monterey. We
6 are not laying claim to that. But Estancia owned
7 Pinnacles Ranches Vineyard and it was a fanciful name
8 that was both aspirational but also referred to a
9 physical place where the winery and vineyards were.

10 Q. And "Monterey," what would that be a
11 reference to?

12 A. "Monterey" refers to an AVA, a growing area
13 within California. There are many sub-appellations,
14 and then within Monterey there are sub-appellations
15 even reduced down. And Monterey refers to an area
16 where grapes are grown.

17 Q. Would Chalone be a sub-appellation?

18 A. Yes, of Monterey.

19 Q. Do you know where Chalone is located?

20 A. Yes. Chalone is located just to the east
21 of Pinnacles Vineyards in Salinas Valley.

22 Q. And is Pinnacles Vineyard within a
23 particular sub-AVA?

24 A. It is not. It is in the larger
25 Monterey County AVA.



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jan 4 04:05:47 EST 2011

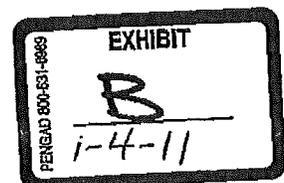
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List At: OR to record: **Record 3 out of 3**

(Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark PINNACLES
Goods and Services IC 033. US 047. G & S: WINE. FIRST USE: 19710512. FIRST USE IN COMMERCE: 19710512
Mark Drawing Code (1) TYPED DRAWING
Serial Number 73006890
Filing Date November 20, 1973
Current Filing Basis 1A
Original Filing Basis 1A
Change In Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 0997378
Registration Date November 5, 1974
Owner (REGISTRANT) PAUL MASSON, INC. DBA PAUL MASSON VINEYARDS CORPORATION CALIFORNIA 13150 SARATOGA AVE. SARATOGA CALIFORNIA 95070
 (LAST LISTED OWNER) FRANCISCAN VINEYARDS, INC. CORPORATION ASSIGNEE OF DELAWARE 1178 GALLERON ROAD ST. HELENA CALIFORNIA 94574
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record STEPHEN L. BAKER
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 8 (6-YR). SECTION 8(10-YR) 20040525.



Renewal 2ND RENEWAL 20040625
Live/Dead Indicator LIVE

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...	FIRST DOC	PREV DOC

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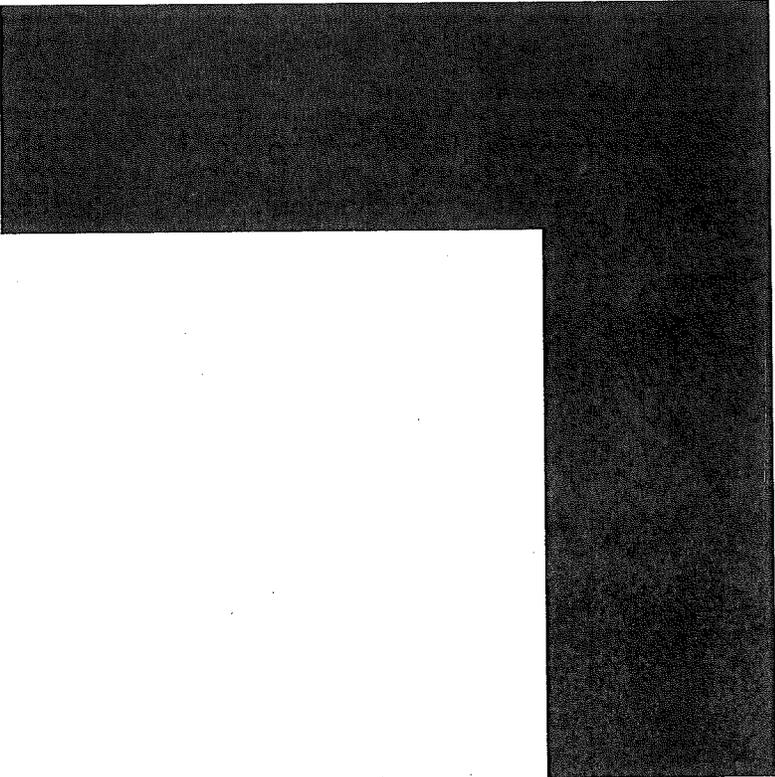


Exhibit Separator

TR 353244

THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:
UNITED STATES DEPARTMENT OF COMMERCE**

United States Patent and Trademark Office

January 17, 2001

THE ATTACHED U.S. TRADEMARK REGISTRATION 997,378 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *November 05, 1974*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *November 05, 1994*
SECTION 8

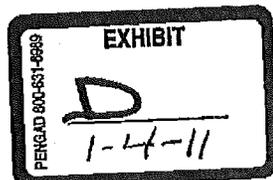
AMENDMENT/CORRECTION/NEW CERT(SEC7) ISSUED
SAID RECORDS SHOW TITLE TO BE IN:

FRANCISCAN VINEYARDS, INC.
A DELAWARE CORP



By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

H. L. Jackson
H. L. JACKSON
Certifying Officer



33

U.S. Cl.: 47

United States Patent and Trademark Office
10 Year Renewal

Reg. No. 997,378
Registered Nov. 5, 1974
Renewal Term Begins Nov. 5, 1994

TRADEMARK
PRINCIPAL REGISTER

PINNACLE

FRANCISCAN VINEYARDS, INC.
(DELAWARE CORPORATION)
P.O. BOX 407
RUTHERFORD NAPA VALLEY, CA
94573, BY MERGER AND ASSIGN-
MENT FROM PAUL MASSON, INC.
(CALIFORNIA CORPORATION), DBA
PAUL MASSON VINEYARDS, SARA-
TOGA, CA.

FOR: WINE, IN CLASS 33 (U.S. CL. 47).
FIRST USE 5-12-1971; IN COMMERCE
5-12-1971.

SER. NO. 73-006,890, FILED 11-20-1973.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Nov. 22, 1994.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 33

Prior U.S. Cl.: 47

United States Patent Office

Reg. No. 997,378
Registered Nov. 5, 1974

TRADEMARK
Principal Register

Paul Masson
neca as Pr
13150 Sarat
Saratoga, C

Int. Cl.: 33

Prior U.S. Cl.: 47

United States Patent and Trademark Office

Amended

Reg. No. 997,378

Registered Nov. 5, 1974

OG Date Apr. 10, 2001

TRADEMARK
PRINCIPAL REGISTER

PINNACLES

FRANCISCAN VINEYARDS, INC. (DELA-
WARE CORPORATION)
P.O. BOX 407
RUTHERFORD NAPA VALLEY, CA
94573, ASSIGNEE OF PAUL MASSON,
INC. (CALIFORNIA CORPORATION),
DBA PAUL MASSON VINEYARDS,
SARATOGA, CA

FOR: WINE, IN CLASS 33 (U.S. CL.
47).

FIRST USE 5-12-1971; IN COMMERCE
5-12-1971.

SER. NO. 73-006,890, FILED 11-20-1973.



*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Apr. 10, 2001.*

Nicholas P. Galini

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

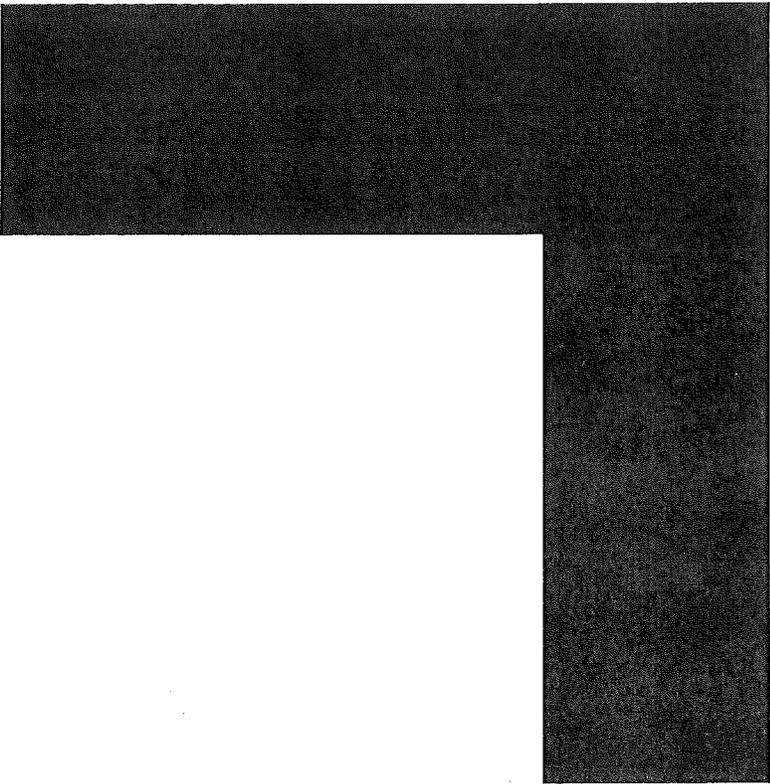


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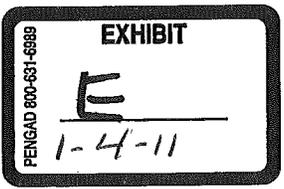
ESTANCIA MONTEREY PINOT NOIR
PINNACLES RANCHES



Our Pinnacles Ranches are near Monterey's Pacific coast where cool fog sweeps in each evening, giving way to warm, sunny days perfect for ripening world-class Pinot Noir. We employ artisan winemaking practices such as gentle pressing and small barrel aging to craft wines of exceptional character. Estancia Pinot Noir displays luscious berry flavors, spice and a rich, supple finish.

www.estanciawinery.com
VINIFIED & BOTTLED BY ESTANCIA ESTATES
SONOMA, CALIFORNIA - CONTAINS SULFITES - 3.0L

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



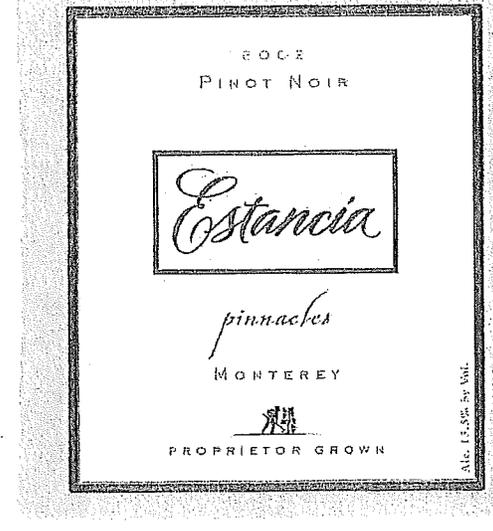
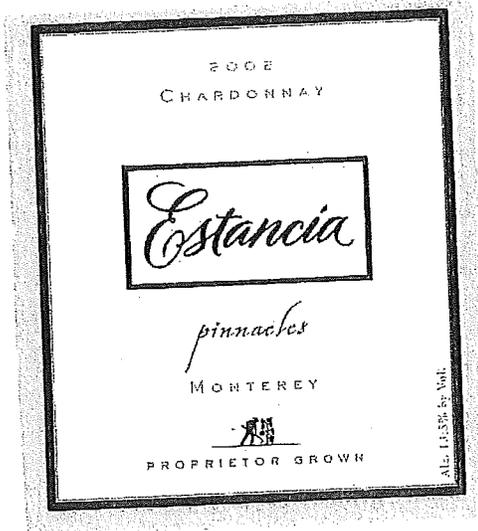
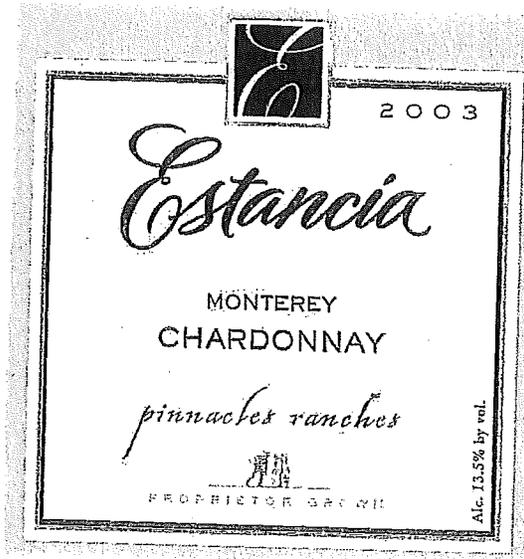
ESTANCIA PINOT NOIR
PINNACLES VINEYARD

Pinot Noir prospers in the cool, foggy mornings and vivid sunshine of Monterey's Salinas Valley. Estancia's Pinnacles Vineyard Pinot Noir enchants with rich fruity aromas and velvety tannins designed to pair with a variety of your favorite dishes. Uncork and unwind.

WWW.ESTANCIAWINERY.COM

PRODUCED & BOTTLED BY
ESTANCIA ESTATES
SOLEDAD, CA USA • CONTAINS SULFITES • 750ML

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



ESTANCIA

SYRAH, GRENACHE, MOURVEDRE

Just 625 cases of this estate-grown concentrated blend from Estancia's Pinnacles Vineyard in Monterey were produced. Expressive of the style of the legendary wines of France's Southern Rhone region, this Syrah, Grenache and Mourvedre blend captures the essence of Pinnacles Vineyard, with bright fruit, soft texture and haunting smoky notes.

Uncork & Unwind.

WWW.ESTANCIAWINERY.COM

ESTATE GROWN & BOTTLED BY
ESTANCIA ESTATES
SOLEDAD, CA USA • CONTAINS SULFITES • 750ML

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ESTANCIA MONTEREY PINOT NOIR
PINNACLES RANCHES



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www.estanciawinery.com

VINTED & BOTTLED BY ESTANCIA ESTATES
OAKVILLE, CALIFORNIA - CONTAINS SULFITES

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



Estancia

MONTEREY

2005
63% SYRAH
25% GRENACHE
12% MOURVEDRE

pinnacles vineyard

Alc. 14.5% by vol.



Estancia

MONTEREY

2004
48% SYRAH
38% GRENACHE
14% MOURVEDRE

pinnacles vineyard

Alc. 14.5% by vol.

2001



ESTANCIA PINNACLES
CHARDONNAY

Monterey

ALL IN 100% VOL

ESTANCIA PINOT NOIR
PINNACLES VINEYARD

Pinot Noir prospers in the cool, foggy mornings and vivid sunshine of Monterey's Salinas Valley. Estancia's Pinnacles

Vineyard Pinot Noir enchants with rich fruity aromas and velvety tannins designed to pair with a variety of your favorite dishes.

Uncork and unwind.

WWW.ESTANCIAWINERY.COM

PRODUCED & BOTTLED BY
ESTANCIA ESTATES

SOLEDAD, CA USA - CONTAINS SULFITES - 750ML

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

2000



PEPPERIDGE GROWN
CHARDONNAY

Monterey

ALL IN 100% VOL

2000



PROPIETOR GROWN
PINOT NOIR

Monterey

ALL 14.5% BY VOL.

1999



PROPIETOR GROWN
PINOT NOIR

Monterey

ALL 14.5% BY VOL.

2002



PROPIETOR GROWN
CHARDONNAY

Monterey

ALL 14.5% BY VOL.



Estancia

2007
SAUVIGNON BLANC
MONTEREY COUNTY

PINNACLES RANCHES
HANDCRAFTED ARTISAN GROWN

Alc. 14.5% by vol.



2005

Estancia

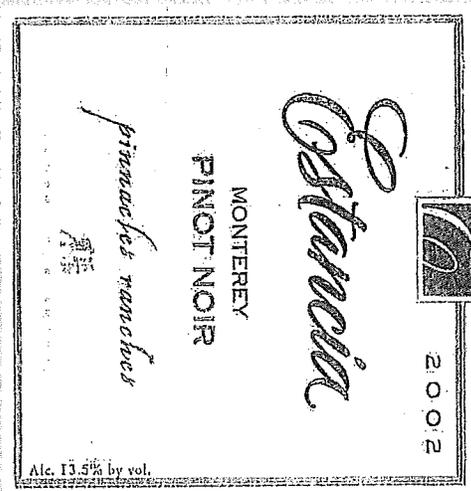
MONTEREY
PINOT NOIR

pinnacles ranches



Alc. 14.5% by vol.

ES 02 PINNACLES
PINOT NOIR



ESTANCIA® PINOT NOIR

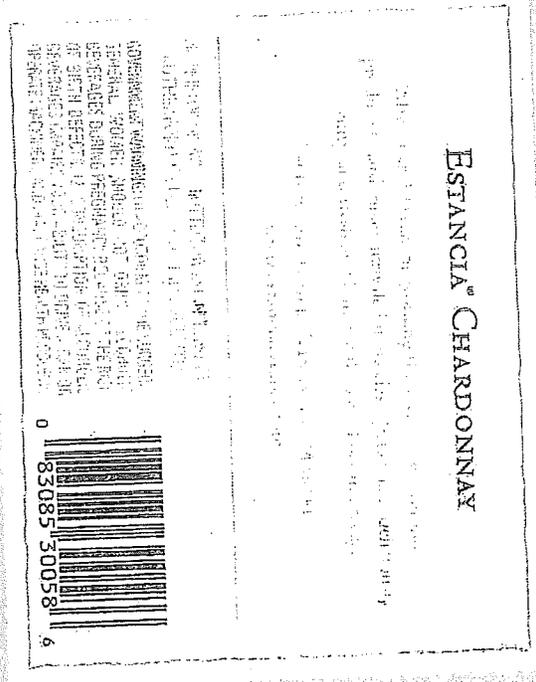
At Estancia, Pinot Noir is our passion. Our boutique winemaking approach and proprietor-grown grapes express Pinot Noir's opulent cherry and raspberry flavors and its luxurious, silky mouth feel. Estancia wines are made slowly to be enjoyed that way—so relax and savor a glass.

PROPRIETOR GROWN & BOTTLED BY
ESTANCIA ESTATES
GONZALES, CA USA • CONTAINS SULFITES

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



ES 99 Pinnacle
Chardonnay

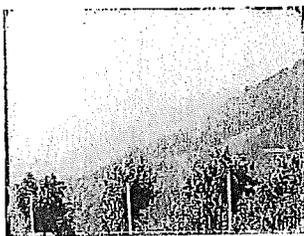


Estancia

INTRODUCING A NEW LOOK FOR 1999

<p>1998</p>  <p>PROPRIETOR GROWN <i>Ripened 160 days on the vine during this unusually long and cool growing season. Sur-lie aged for 7 months in French and American oak.</i></p> <p>CHARDONNAY Monterey</p>	<p>1998</p>  <p><i>Pumbed down in specially designed open-top fermenters three times daily to extract deep flavors and color. 100% aged in oak barrels for 7 months.</i></p> <p>PINOT NOIR Monterey</p>
<p>1997</p>  <p><i>Made from hand selected Alexander Valley grapes harvested September 6-22, 1997 for maximum ripeness and flavor. Aged in 100% American oak for 12 months.</i></p> <p>MERLOT Alexander Valley</p>	<p>1997</p>  <p><i>Made from hand selected grapes harvested September 13-27, 1997 for maximum ripeness and flavor. Aged in 100% American oak for 15 months.</i></p> <p>CABERNET SAUVIGNON California</p>

AN ELEGANT EXPRESSION OF HAND-CRAFTED QUALITY



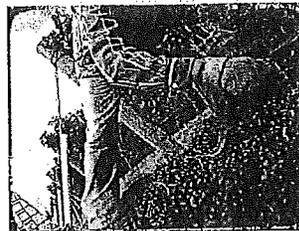
The Vineyards

The Pinnacles Vineyard, Monterey.
Home to Estancia's award-winning
Chardonnay and Pinot Noir.



The People

Howard Tugel, our Vineyard Master of
30 years, is an internationally recognized
leader in vineyard management.



The Quality

Each grape is hand selected to assure the
highest quality wine (and continued
"Best Buys" year after year!).



The Grapes

From our hands to yours...

1998



PROPRIETOR GROWN
Harvested October 7, 1998 from 36 year old vines.
450 cases produced. Residual sugar 1% by weight.

GEWÜRZTRAMINER
Monterey

ALC. 13.5% BY VOL.

1998



Punched down in specially designed open-top fermenters
three times daily to extract deep flavors and color.
100% aged in oak barrels for 7 months.

PINOT NOIR
Monterey

ALC. 13.5% BY VOL.



2002

Estancia

MONTEREY
CHARDONNAY

pinnacles ranches



PROPRIETOR GROWN

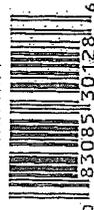
ALC. 13.5% BY VOL.

ESTANCIA SAUVIGNON BLANC
PINNACLES RANCHES, MONTEREY

Estancia Sauvignon Blanc displays bright melon, pear, and crisp citrus flavors that make this wine an excellent match to seafood and spicy dishes, or to savor on its own. Our slow, boutique-style of winemaking translates to wines of exceptional flavor. Estancia wines are made slowly to be enjoyed that way—so relax and savor a glass. Uncork and unwind.

www.estanciawinery.com

VINTED & BOTTLED BY
ESTANCIA ESTATES
OAKVILLE, CA USA • CONTAINS SULFITES • 750ML
GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



2001

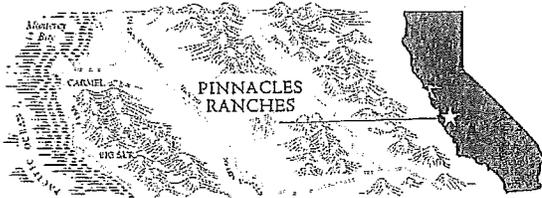


PINOT NOIR

Monterey

ALC. 13.5% BY VOL.

ESTANCIA MONTEREY COUNTY SAUVIGNON BLANC
PINNACLES RANCHES



Our Pinnacles Ranches are near Monterey's Pacific coast where cool fog sweeps in each evening giving way to warm, sunny days perfect for ripening world-class Sauvignon Blanc. We employ artisan winemaking practices such as native yeast fermentation and gentle pressing to craft wines of exceptional character. Estancia Sauvignon Blanc displays bright honeydew melon, pear, and crisp citrus flavors that make this wine an excellent match to seafood and spicy dishes, or to savor on its own.

Learn more about Estancia Winery at:
www.estanciawinery.com

VINTED & BOTTLED BY ESTANCIA
ESTATES, SONOMA, CALIFORNIA
CONTAINS SULFITES - 750ML

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



1998

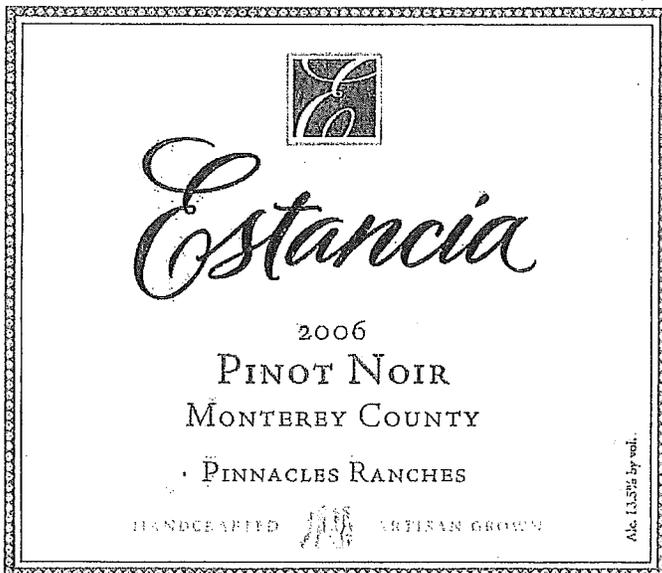
Estancia
PINNACLES

PROPRIETOR GROWN

Ripened 160 days on the vine during this unusually long and cool growing season. Sur-lie aged for 7 months in French and American oak.

CHARDONNAY
Monterey

ALC. 12.5% BY VOLUME, 750ML



ALC. 13.5% BY VOL.

2001

Estancia
PINNACLES®

PROPRIETOR GROWN
PINOT GRIS

Monterey

ALC. 13.5% BY VOL.

ESTANCIA MONTEREY PINOT NOIR
PINNACLES RANCHES



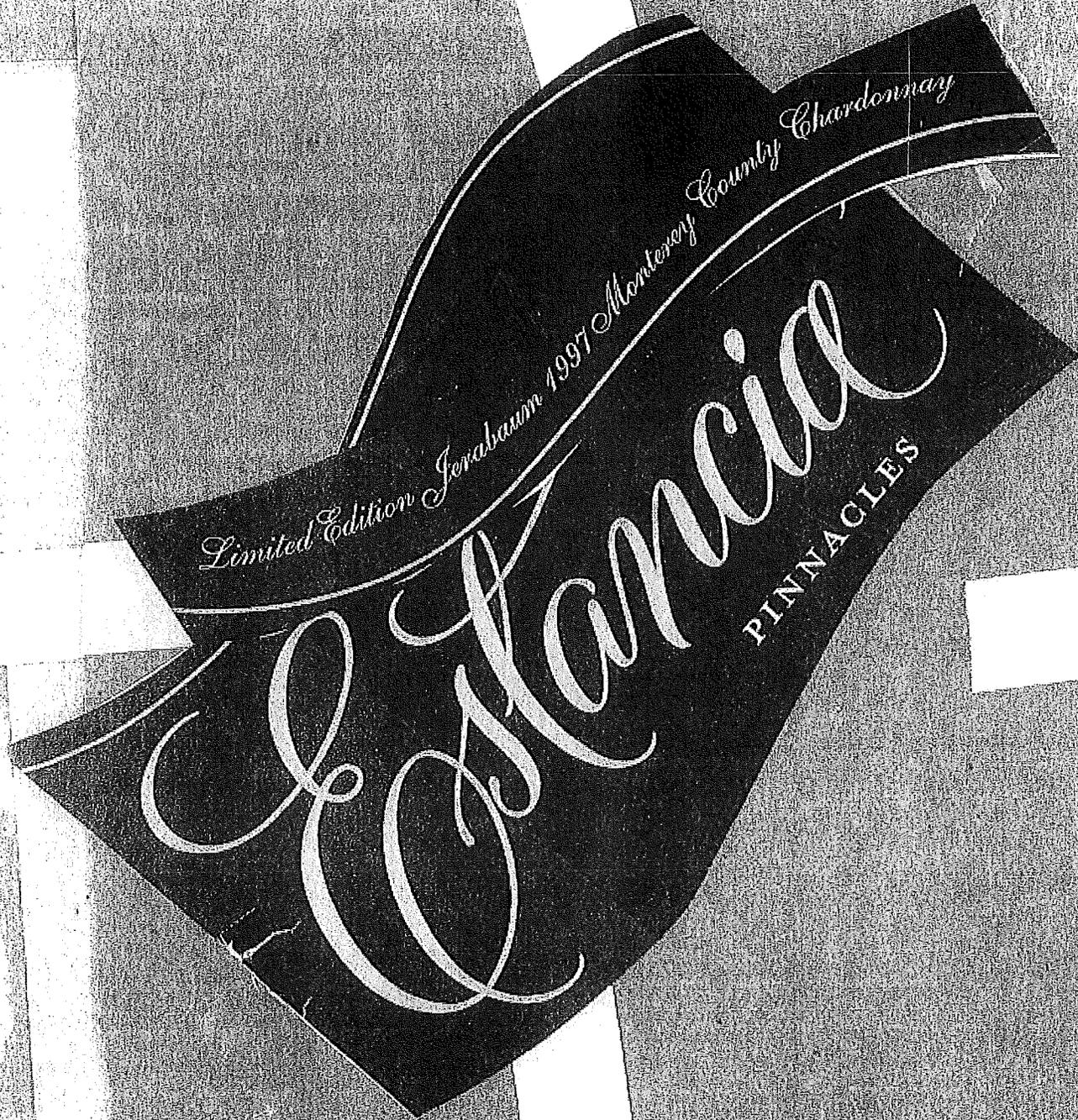
Our Pinnacles Ranches are near Monterey's Pacific coast where cool fog sweeps in each evening, giving way to warm, sunny days perfect for ripening world-class Pinot Noir. We employ artisan winemaking practices such as gentle pressing and small barrel aging to craft wines of exceptional character. Estancia Pinot Noir displays luscious berry flavors, spice and a rich, supple finish.

www.estanciawinery.com

VINTED & BOTTLED BY ESTANCIA ESTATES
SONOMA, CALIFORNIA - CONTAINS SULFITES

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.





Limited Edition Jerusalem 1997 Monterey County Chardonnay

Estancia

PINNACLES

St. James

1997

PINNACLES

MONTFERRI COURT
CHARDONNAE

*St. James
Pinnacles
Montferris Court
Chardonnae*

Please use PMS 282 for Dark Blue background and PMS 872 Gold for rules and logo

Estancia

Estancia

Estancia
PINNACLES



Estancia

Estancia

Estancia

Estancia

Estancia
PINNACLES



CHARDONNAY

CHARDONNAY

CHARDONNAY

CABERNET SAUVIGNON

CABERNET SAUVIGNON

CABERNET SAUVIGNON

RESERVE CHARDONNAY

RESERVE CHARDONNAY

RESERVE CHARDONNAY

PINOT NOIR

PINOT NOIR

PINOT NOIR

RED MERITAGE

RED MERITAGE

RED MERITAGE

MERLOT

MERLOT

MERLOT

DUO

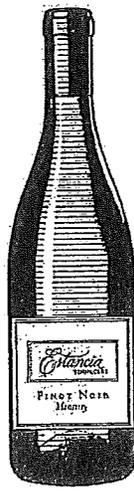
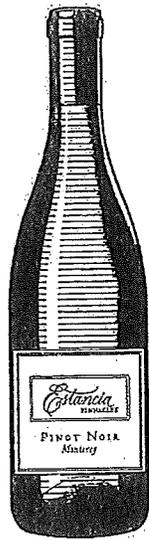
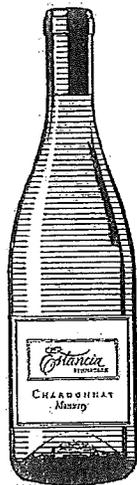
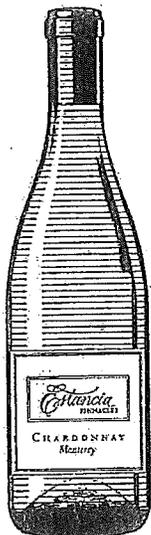
DUO

DUO

RESERVE PINOT NOIR

RESERVE PINOT NOIR

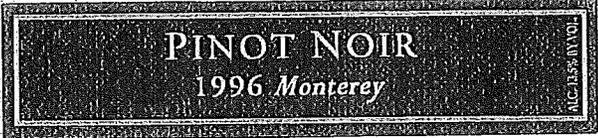
RESERVE PINOT NOIR



Estancia
PINNACLES

CHARDONNAY
1996 Monterey County

MCLEER BY VOL





1992

Pinnacles

MONTEREY CHARDONNAY

ALCOHOL 13.2% BY VOLUME

1991

Pinnacles

PINNACLES VINEYARD PINOT NOIR MONTEREY

ALC 13.5% BY VOL

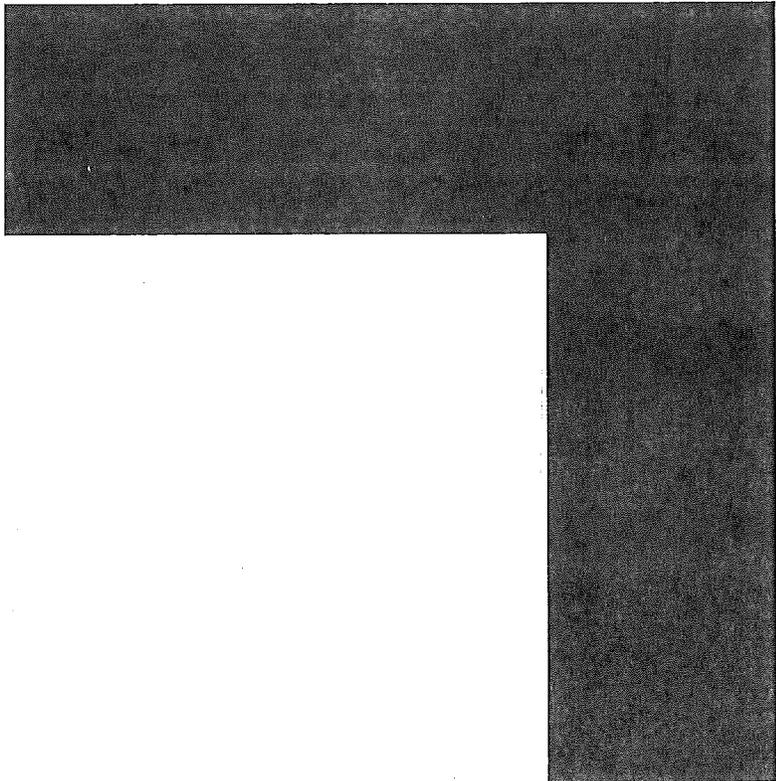


Exhibit Separator



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jan 4 04:05:47 EST 2011

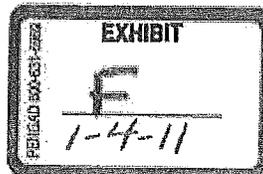
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OR to record: **Record 1 out of 2**

(Use the "Back" button of the Internet Browser to return to TESS)

KEYES CANYON RANCHES

Word Mark	KEYES CANYON RANCHES
Goods and Services	IC 033. US 047 049. G & S: Wines. FIRST USE: 20050604. FIRST USE IN COMMERCE: 20050604
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78713178
Filing Date	September 14, 2005
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	July 4, 2006
Registration Number	3148281
Registration Date	September 26, 2006
Owner	(REGISTRANT) Franciscan Vineyards, Inc. CORPORATION DELAWARE 1178 Galleron Road St. Helena CALIFORNIA 94574
Attorney of Record	Stephen L. Baker
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RANCHES" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
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