

Alcohol Advertising: Brand & Price

Judge Kaufman enters Final Order in *Fiesta Bravo v. Thomas Keeley, Commissioner, Alcoholic Beverage Control Commission*

On August 21, 2002, Judge Kaufman entered the final Order in litigation against Thomas Keeley, Commissioner of the West Virginia Alcoholic Beverage Control Commission brought by Fiesta Bravo, Inc. and supported by the West Virginia Broadcasters Association. In the final Order, the Court found that the State of West Virginia may no longer prohibit brand and price advertising of alcohol and non-intoxicating beer. The Court ordered that private clubs, retail establishments and other entities licensed by the State of West Virginia for the sale of alcoholic beverages and non-intoxicating beer may advertise on radio and television. To the extent that there are existing rules and regulations of the ABCC which conflict with the Order,

those regulations are now deemed to be unenforceable. A copy of the Court's decision is available from your Association or from Jackson & Kelly. You should instruct your sales staff that there is no longer any prohibition on the advertising of the sale of alcoholic beverages or non-intoxicating beer by private clubs, retail establishments, convenience stores, supermarkets or any other licensed entity.

The Association and its counsel would encourage you as Broadcasters to make sure that advertising of alcoholic beverages is tasteful, does not encourage excessive consumption or consumption by minors, and promotes safe driving. The best way to forestall further legislation or further negative rules is to act responsibly. If you have any questions regarding this, please feel free to contact Dave Barnette at (304) 340-1327.