

Mary A. Monahan  
Marketing Assistant  
Excelsior Wine & Spirits  
1111 Cedar Swamp Road  
Old Brookville, NY 11545  
VIA E-MAIL: [mmonahan@banfi.com](mailto:mmonahan@banfi.com)

**RE: Casillero del Diablo "Legendary Halloween Costume" Contest**

Dear Ms. Monahan:

ISSUE: This correspondence is in response to your e-mail and attached letter dated July 17, 2013, in which you seek approval to run a proposed contest promotion in Pennsylvania, sponsored by Excelsior Wine and Spirits.

According to the official rules you provided, the "Legendary Halloween Costume Contest" promotion is scheduled to run from October 1, 2013, through November 10, 2013. Consumers may participate by completing an online entry form at [www.facebook.com/DiabloWine](http://www.facebook.com/DiabloWine). The grand prize winner will receive a Canon Rebel Digital SLR Camera or the cash equivalent, which is approximately six hundred fifty dollars (\$650.00). In addition, one (1) second-prize winner will receive a Demented Animated Fog Creature, a fog machine, and one (1) bottle of fog machine fluid from Spirit Halloween, with a total approximate retail value of one hundred thirteen dollars (\$113.00). The contest is limited to entrants twenty-one (21) years of age or older, and no purchase is necessary to enter.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one (21) years of age or older.
- iii. Retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.
- iv. Alcoholic beverages may not be part of the prize.

[40 Pa. Code Section 5.32(h)].

This office has reviewed the proposed promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code and section 5.32(h) of the Board's Regulations [47 P.S. Section 4-493(24); 40 Pa. Code Section 5.32(h)] and is acceptable for use in this Commonwealth.

Therefore, it would be permissible to conduct this promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the Board's wine and spirits stores, subject to approval of the Bureau of Product Management.
- other – Internet, text messaging.

Please be advised that prior approval of malt or brewed beverages point-of-sale ("POS") material and retail licensed premises POS material is no longer required. However, the requirement for prior approval of POS material intended for use in the Board's wine and spirits stores from the Bureau of Product Management remains. The total cost of all POS advertising material relating to any one (1) brand of any one (1) manufacturer at any one (1) time may not exceed three hundred dollars (\$300.00) on a retail licensed premises. [47 P.S. Section 4-493(20) (i)].

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL  
CHIEF COUNSEL

cc: Pennsylvania State Police,  
Bureau of Liquor Control Enforcement  
James Short, Director of Marketing  
Timothy Fringer, Bureau of Product Selection

Michelle Bonsick, Bureau of Marketing Communications,  
Branding & Design

LCB Advisory Opinion No. 13-347