

August 1, 2013

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Janis A. Carlow
Assistant to Lou Giordano
Vice President, Off Premise Lantern Division
Southern Wine & Spirits
1600 Northwest 163rd Street
Miami, FL 33169

RE: Nobile Next Round Golf Sweepstakes

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail sent July 30, 2013, which was forwarded to this office on the same date, wherein, on behalf of Nobile Wines, you seek approval to run the Nobile Next Round Golf Sweepstakes in Pennsylvania.

According to the "Official Rules" that were provided with your e-mail, the sweepstakes is scheduled to begin on September 1, 2013, and runs until November 30, 2013. Interested individuals may enter the sweepstakes online between November 1, 2013 and November 30, 2013 by visiting www.facebook.com/NobileWines and completing an entry form. Alternatively, interested individuals may enter the sweepstakes by texting "GOLF" to 47464 between September 1, 2013 and November 30, 2013. As a third option, interested individuals may enter by writing their name, age, address, city, state, ZIP code, daytime phone number and e-mail address (optional) on a three (3)-inch by five (5)-inch piece of paper and mailing it to the address set forth in the "Official Rules" between September 1, 2013 and November 30, 2013. There is a limit of one (1) entry per person or e-mail address per day.

Five (5) prizes will be awarded for the sweepstakes. The prize winners will be selected in a random drawing to be conducted on or about December 6, 2013. One (1) winner will be selected from among all eligible online entries, and four (4) winners will be selected from among all eligible text and mail entries. Each prize winner will receive a trip for the winner and one (1) guest consisting of the following: roundtrip coach air transportation for two (2) people from the major U.S. airport closest to the winner's residence to West Palm Beach, Florida; three (3) nights double-occupancy hotel accommodations between February 24, 2014 and February 28, 2014; five hundred dollars (\$500.00) in spending money; a pair of golf event tickets for one (1) day's admission; and one (1) round of golf in West Palm Beach for the winner and guest with golf pro Frank Nobile. The approximate retail value of each trip is three

thousand nine hundred fifty dollars (\$3,950.00). The prize does not include alcoholic beverages. There is a limit of one (1) prize per household.

The sweepstakes is open only to legal residents of the United States and the District of Columbia who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to participate in or win the sweepstakes.

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 § 5.32(h)].

This office has reviewed the proposed sweepstakes promotion as described in the "Official Rules" and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)], as long as alcoholic beverages are not awarded as any part of the prize.

While the "Official Rules" that you provided appear to indicate that no alcoholic beverages will be awarded as any part of the prize, it is important to point out, in case you are unaware, that to the extent that any part of the prize package being awarded will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guests, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

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 Selection 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. § 4-493(20)(i)].

Therefore, as long as alcoholic beverages are not awarded as any part of the prize, it is 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 Selection (POS only).
- other – Internet, text messaging.

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. 13-354