August 16, 2013

Telephone: (717) 783-9454
FAX: (717) 787-8820

Fran Kratz
The Vineyard at Grandview
1489 Grandview Road
Mount Joy, PA 17552

Re: Discount Pricing for Tastings

Dear Ms. Kratz:

ISSUE: This is in response to your e-mail sent on July 25, 2013, wherein you advise that you provide a wine, cheese, and chocolate tasting at your winery that includes six (6) one (1)-ounce wine tastings, paired with cheese and chocolate, for ten dollars ($10.00). You ask if the winery would be able to participate in a "double take deal," whereby customers could purchase a twenty dollar ($20.00) voucher for ten dollars ($10.00) through a coupon published in the Clipper magazine.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that The Vineyard at Grandview holds Limited Winery License No. LK-366 (LID 67182) for the premises located at 1489 Grandview Road, Mount Joy, Pennsylvania.

OPINION: You describe this particular promotion as a "tasting." Please note that section 11.111 of the Board's Regulations provide that "Visitors on the licensed premises may be provided **without charge** with samples of wine produced by the limited winery for tasting and with crackers, nuts, cheese, bread sticks and bread cubes to be used in conjunction with tastings." [40 Pa. Code § 11.111(a)(6) (emphasis added)]. In addition, section 13.211(b)(2) of the Board's Regulations provides that there may not be a purchase requirement associated with a tasting. [40 Pa. Code § 13.211(b)(2)].

However, in 2011, the Liquor Code was amended to allow limited wineries to:

> Sell food for consumption on or off the licensed premises and at the limited winery's additional board-approved locations and sell by the glass, at the licensed premises and at the limited winery's additional

> board-approved locations, only wine and alcoholic ciders that may otherwise be sold by the bottle.

[47 P.S. § 5.505.2(a)(6.1)]. As a result, a limited winery may now sell food for consumption on the licensed premises, as well as wine for consumption by the glass, but may not charge for tastings. In order to comply with the law, you may wish to call this promotion something other than a tasting. Please note that the word "sample" also has legal implications, therefore it is suggested that you avoid that word as well. In the alternative, you may indicate clearly that the ten dollar ($10.00) charge is for the cheese and chocolate, and not for the wine tastings.

As for the "double take deal," such a promotion is not permissible, as it could be considered an unlawful inducement to purchase alcohol, in violation of section 493(24)(i) of the Liquor Code. [47 P.S. § 4-493(24)(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
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-383