

August 20, 2013

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Rebecca Forbes
Capital Wine & Spirits
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129 Hartman Road
North Wales, PA 19454

RE: Discover Italy and Tailg8 with Cellar No. 8 Sweepstakes

Dear Ms. Forbes:

ISSUE: This correspondence is in response to your e-mail of August 9, 2013, which was forwarded to this office on August 14, 2013, wherein you seek approval to conduct two (2) sweepstakes, the “Discover Italy Sweepstakes” and the “Tailg8 with Cellar No. 8 Sweepstakes,” in Pennsylvania.

The “Discover Italy Sweepstakes” is scheduled to begin on October 1, 2013, and will run until November 11, 2013. Interested individuals may enter this sweepstakes by completing an official entry form and mailing it to the address specified on the form. There is a limit of one (1) entry per household. On or about November 18, 2013, one (1) prize winner will be randomly selected from among all eligible entries received. The prize winner will receive a trip for two (2) to Italy in Spring 2014. The trip includes the following: airfare; accommodations for four (4) nights at two (2) wineries (two (2) nights at Pio Cesare Winery and two (2) nights at Mionetto Winery); winery tours; and hosted dinners. The sweepstakes is open only to residents of Pennsylvania who are twenty-one (21) years of age or older. No purchase is necessary to participate or win.

The “Tailg8 with Cellar No. 8 Sweepstakes” is also scheduled to begin on October 1, 2013, and will run until November 11, 2013. Interested individuals may enter this sweepstakes by completing an official entry form and mailing it to the address specified on the form. There is a limit of one (1) entry per household. On or about November 18, 2013, ten (10) prize winners will be randomly selected from among all eligible entries received. Each prize winner will receive one (1) Char-Broil Grill2Go grill. The sweepstakes is open only to residents of Pennsylvania who are twenty-one (21) years of age or older. No purchase is necessary to enter or win.

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 promotions and has determined that they comport with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)], and are acceptable for use in this Commonwealth, as long as alcoholic beverages will not be included as any part of the prizes.

Please be advised that to the extent that any part of the trip to Italy being awarded as the prize for the "Discover Italy Sweepstakes," including the winery tours or hosted dinners, includes taste testing, sampling or the provision of alcohol at no additional cost to the winner and/or his or guest, this would be construed as the awarding of alcohol as a prize and is not permitted.

Furthermore, 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. § 4-493(20) (i)].

Therefore, as long as alcoholic beverages are not awarded as any part of the prizes, it is permissible to conduct the proposed sweepstakes promotions in the Commonwealth, as indicated above, 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. 13-388