

August 28, 2013

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April E. Pyatt
Manager, Intellectual Property Compliance
Pernod Ricard USA
100 Manhattanville Road, 4th Floor
Purchase, NY 10577

RE: Graffigna® Ultimate Malbec Experience Sweepstakes

Dear Ms. Pyatt:

ISSUE: This correspondence is in response to your e-mail and attached letter dated August 20, 2013, which was forwarded to this office on August 22, 2013, wherein you request approval to conduct the Graffigna® Ultimate Malbec Experience Sweepstakes in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on September 1, 2013, and runs until October 31, 2013. 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 enter or win the sweepstakes.

Interested individuals may enter the sweepstakes by visiting www.facebook.com/graffignawines during the sweepstakes period and following the instructions to submit an online entry. Alternatively, interested individuals may enter the sweepstakes by printing their first and last name, date of birth, e-mail address, and daytime phone number on a three (3)-inch by five (5)-inch postcard and mailing it to the address specified in the “Official Rules.” There is a limit of one (1) entry per person per e-mail address per week, regardless of the method of entry.

One (1) prize will be awarded for the sweepstakes. The prize winner will be selected in a random drawing, to be conducted on or about November 11, 2013, from among all eligible entries received. The prize winner will receive a trip for the winner and one (1) guest to New York City for four (4) days and three (3) nights. The trip includes the following: round-trip coach class air transportation from a major U.S.

gateway airport nearest the winner's residence to New York, New York; three (3) nights' standard hotel accommodations (one (1) double occupancy room); round-trip ground transportation to/from the airport/hotel; and two (2) tickets to a World Malbec Day event in New York City. The approximate retail value of the prize is three thousand dollars (\$3,000.00). Alcohol is not a part of the prize. The winner's guest must be twenty-one (21) years of age or older at the time travel is booked.

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 indicate that alcohol will not be part of the prize, it is important to point out, in case you are unaware, that to the extent that any part of the trip being awarded as the prize will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guest, 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. 13-401