

December 23, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

Mary A. Monahan
Marketing Assistant
Excelsior Wine & Spirits
1111 Cedar Swamp Road
Old Brookville, NY 11545

RE: Winning Combo and Red Carpet Sweepstakes

Dear Ms. Monahan:

ISSUE: This correspondence is in response to your e-mail and attached letters dated December 10, 2013, in which you seek approval to run a pair of sweepstakes promotions in Pennsylvania sponsored by Excelsior Wine and Spirits.

According to the official rules you provided, the “Little Black Dress ‘Red Carpet’ Sweepstakes” promotion is scheduled to run from January 17 through March 1, 2014. Consumers may participate by completing an online entry form at www.facebook.com/LittleBlackDressWines. On or about March 7, 2014, one (1) entrant will randomly be selected to receive a gift card worth one thousand dollars (\$1,000.00) at the clothing retailer of the winner’s choice. In addition, the “Frontera ‘Winning Combo’ Photo Contest” promotion is scheduled to run from January 1 through February 16, 2014. Consumers may participate by completing an online entry form at www.facebook.com/FronteraWine. A panel of judges will select one (1) entrant to receive the grand prize of a check for one thousand dollars (\$1,000.00). Ten (10) second prize winners will also each receive a branded t-shirt valued at approximately fifteen dollars (\$15.00). The sweepstakes are open only to legal U.S. residents who are 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 § 5.32(h)].

This office has reviewed the proposed promotions and has determined that they comport 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. § 4-493(24); 40 Pa. Code § 5.32(h)] and are acceptable for use in this Commonwealth.

Therefore, it would be permissible to conduct these promotions 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. § 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 and Merchandising
Michelle Bonsick, Director, Bureau of Marketing Communications,
Branding & Design
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 13-536