

February 12, 2014

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Dijana Kristo
The Wine Group – Compliance & Trademark Specialist
4569 South Tracy Blvd.
Tracy, CA 95377

RE: Cupcake® Vineyards “Share the Love” Contest

Dear Ms. Kristo:

ISSUE: This correspondence is in response to your e-mail sent January 16, 2014, which was forwarded to this office on January 29, 2014, wherein you request approval to conduct the Cupcake® Vineyards “Share the Love” contest promotion in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the contest, which was scheduled to begin on February 1, 2014, and runs until February 28, 2014, is open only to legal residents of the United States who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to enter or win the contest.

Interested individuals may enter the contest by visiting the Cupcake Vineyards Instagram page or Twitter feed, following “@CupcakeVineyards” on either Instagram or Twitter, uploading a photo inspired by Cupcake’s “Share the Love” program, and tagging “@CupcakeVineyards” and including “#sharethelove” hashtag. There is a limit of one (1) entry per person or e-mail address per day.

One (1) grand prize will be awarded for the contest. The grand prize winner will be selected by Cupcake Vineyards based on the following judging criteria: incorporation and depiction of the “Share the Love” theme—fifty percent (50%); quality—fifteen percent (15%); originality—fifteen percent (15%); and creativity—twenty percent (20%). The grand prize winner will receive a four (4)-day/three (3) night trip for the winner and one (1) guest to attend the Cupcake Truck Tour Kick-Off Party at the Austin Food and Wine Festival on April 24, 2014, in Austin Texas. The trip consists of the following: round-trip coach class air transportation for two (2) to a major city near Austin, Texas, from a major airport near the winner’s residence; hotel accommodations (one (1) standard room, double occupancy) for three (3) nights; two (2) VIP tickets to the Austin Food and Wine Festival on April 25 – 27, 2014; and round-trip ground transportation between the airport, hotel, and the festival for each

day of the trip. The approximate retail value of the grand prize is six thousand dollars (\$6,000.00). The grand prize winner's guest must be twenty-one (21) years of age or older.

OPINION: Section 5.32(h) of the Board's 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 promotion as described above 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 grand 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 grand prize, including the Cupcake Truck Tour Kick-Off Party or the VIP tickets to the Austin Food and Wine Festival, 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.

Additionally, 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 grand 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 and Merchandising
Michelle Bonsick, Director, Bureau of Marketing Communications,
Branding & Design
Pamela Bernd, Bureau of Product Selection

LCB Advisory Opinion No. 14-028