

April 23, 2014

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Laura Koistinen
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260 California Street
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RE: Rodney Strong Mail-in and Instant Rebate Promotions

Dear Ms. Koistinen:

ISSUE: This correspondence is in response to your e-mail of April 14, 2014, in which you request approval, on behalf of Rodney Strong Vineyards, to conduct two (2) different rebate promotions in Pennsylvania.

Through the first promotion, consumers can save three dollars (\$3.00) by mail on the purchase of any two (2) seven hundred fifty milliliter (750ml) bottles, ten dollars (\$10.00) on the purchase of any six (6) seven hundred fifty milliliter (750ml) bottles, or twenty-four dollars (\$24.00) on the purchase of any twelve (12) seven hundred fifty milliliter (750ml) bottles of Rodney Strong Sonoma County and Estate Vineyard Wine. To receive the rebate, consumers must mail the completed mail-in rebate offer form, along with the original cash register receipt, to the address specified on the form. The rebate is available only to persons who are twenty-one (21) years of age or older, and there is a limit of one (1) rebate per household. The offer is valid only on purchases made between June 1, 2014 and September 1, 2014.

Through the second promotion, consumers can save two dollars (\$2.00) instantly on their grocery purchase of ten dollars (\$10.00) or more with the purchase of any Rodney Strong Wine. The rebate coupon must be redeemed at the time of purchase. The rebate is available only to persons who are twenty-one (21) years of age or older, and there is a limit of one (1) rebate per person. The offer expires on September 1, 2014.

OPINION: Section 493(24)(i) of the Liquor Code generally prohibits offering anything of value to induce directly the purchase of alcoholic beverages. [47 P.S.

§ 4-493(24)(i)]. However, section 493(24)(i) includes an exception which permits manufacturers or their agents to offer monetary rebates on purchases of wines and spirits through State Liquor Stores or purchases of malt or brewed beverages through distributors and importing distributors. [Id.].

In this instance, the first promotion falls squarely within the exception for monetary rebates on purchases of wines and spirits. However, the second promotion does not appear to satisfy the exception for monetary rebates on purchases of wines and spirits because the rebate is being offered on the grocery purchases as opposed to the wine purchases. In order for cross-promotional rebate offers to fall within the scope of the exception for monetary rebates on purchases of wine and spirits, the rebate must be offered on the alcoholic beverage product as opposed to the non-alcoholic beverage product. Cross-promotional rebate offers which offer a rebate on a non-alcoholic beverage product are only permissible if they make clear that no alcoholic beverage purchase is required. Also, please keep in mind that, in Pennsylvania, wine may generally only be sold for off-premises consumption by the Board through its wine and spirits stores, and there are a very limited number of non-alcoholic beverage items offered for sale at the Board's wine and spirits stores.

Please note 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, while it is not permissible to conduct the second rebate promotion as proposed, it is permissible to conduct the first rebate promotion in the Commonwealth in reference to the area 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.

_____ 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
Dale Horst, Interim Director of Marketing and Merchandising
Michelle Bonsick, Director, Bureau of Marketing Communications,
Branding & Design
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 14-166