

July 24, 2014

Telephone: (717) 783-9454  
FAX: (717) 787-8820

Mary A. Monahan  
Marketing Compliance Officer  
Excelsior Wines  
1111 Cedar Swamp Road  
Old Brookville, NY 11545

**RE: Casillero del Diablo “Legendary Halloween Costume” Contest**

Dear Ms. Monahan:

ISSUE: This correspondence is in response to your letter dated July 18, 2014, in which you seek approval, on behalf of Excelsior Wines, to run the Casillero del Diablo “Legendary Halloween Costume” Contest promotion in Pennsylvania.

According to the “Official Rules” that you provided, the contest is scheduled to begin on October 1, 2014, and runs until November 9, 2014. Interested individuals may enter the contest by visiting [www.Facebook.com/DiabloWine](http://www.Facebook.com/DiabloWine) and completing the online entry form. Entrants will be required to upload a photo of themselves wearing a Casillero del Diablo-themed costume and select which of the following three (3) elements are featured in their photo: (1) Devil or “Diablo”; (2) Wine; or (3) Casillero del Diablo. Entrants will also be given the option of including a written description of one hundred fifty (150) words or less briefly explaining why their costume fits the Casillero del Diablo theme. There is a limit of one (1) entry per person, per household.

During the entry submission period, all eligible photo entries received will be posted to the promotion website for public viewing. At the conclusion of the entry submission period, a panel of judges will select one (1) grand prize winning entry and one (1) second prize winning entry from among all eligible entries received based on the following criteria: up to fifty (50) points for adherence to the theme; up to forty (40) points for creativity and originality; and up to ten (10) points for technical merit. The highest scoring entry will be the grand prize winning entry, and the second highest scoring entry will be the second prize winning entry.

The grand prize winner will receive a Canon Rebel Digital SLR Camera or camera of equivalent price and quality. The approximate retail value of the grand prize is six hundred fifty dollars (\$650.00). The second prize winner will receive a Demented Animated Fog Creature, a fog machine, and one (1) bottle of fog machine fluid from Spirit Halloween. The approximate retail value of the second prize is one hundred thirteen dollars (\$113.00).

The contest is open only to legal U.S. residents 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.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer, manufacturer's representative, 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 and has determined that it comports 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 is acceptable for use in this Commonwealth.

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, it is permissible to conduct the proposed promotion 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 the 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  
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. 14-440