

October 16, 2014

Janis A. Carlow
Assistant to Lou Giordano
Vice President, Off Premise
Lantern Division
Southern Wine & Spirits
1600 Northwest 163rd Street
Miami, FL 33169

RE: Mark West Wines November Giveaway Sweepstakes

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail sent October 3, 2014, wherein you seek approval to conduct the “Mark West Wines November Giveaway Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on November 3, 2014, and runs until November 5, 2014. Interested individuals may enter the sweepstakes at <https://www.facebook.com/MarkWestWines> by posting a comment to the sweepstakes post during the sweepstakes period.

Five (5) prize winners will be selected for the sweepstakes. The winners will be selected in a random drawing to be conducted on or about November 6, 2014. Each prize winner will receive a prize pack that includes the following: one (1) t-shirt; four (4) GoVino glasses; and four (4) mustache sticks. Each prize package has an approximate retail value of twenty-two dollars (\$22.00). There is a limit of one (1) prize per household. The prizes do not include alcoholic beverages.

The sweepstakes is open only to legal residents of the fifty (50) United States or 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.

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 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, it would be 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
Dale Horst, Director of Marketing and Merchandising
Michelle Bonsick, Director, Bureau of Marketing Communications,
Branding & Design
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 14-542