

January 14, 2015

Jessica Fenstermaker  
Administrative Assistant for Marketing & Retail Sales  
Capital Wine & Spirits LLC  
129 Hartman Road  
North Wales, PA 19454

**E: Tuaca Cocktail Napkin Design Contest**

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail sent December 29, 2014, which was forwarded to this office on December 30, 2014, wherein you request approval on behalf of Brown-Forman Corporation to conduct the “Tuaca Cocktail Napkin Design Contest” in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the contest is scheduled to begin on January 15, 2015, and runs until April 15, 2015. Interested individuals may enter the contest by visiting [www.TuacaArt.com](http://www.TuacaArt.com) and following the directions to complete and submit the entry form along with a digital photo of their original cocktail napkin design. Entrants are permitted to submit multiple entries; however, each entry must be different and must comply with the “Official Rules.”

On or before May 30, 2015, a panel of judges will judge all eligible entries received according to the following criteria: creativity/originality—fifty percent (50%); and appeal—fifty percent (50%). The entrant whose entry receives the highest overall score will be deemed the grand prize winner. The grand prize winner will receive five thousand dollars (\$5,000.00) awarded in the form of a check made payable to the winner and will also have his or her cocktail napkin design reproduced on a sponsor-selected quantity of cocktail napkins.

Additionally, the first one thousand (1,000) persons who submit eligible entries will receive an entry premium having an approximate retail value of two dollars (\$2.00) each. There is a limit of one (1) entry premium per person and per e-mail address.

No purchase is necessary to enter or win the contest. The contest 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 as of the date of entry.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer, a manufacturer's representative, or a 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 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)], 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 prior approval of 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 is permissible to conduct the proposed 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 spirit 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  
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 14-659