

February 3, 2015

Janis A. Carlow
Assistant to Lou Giordano
Vice President, Off Premise
Lantern Division
Southern Wine & Spirits

RE: Pop Crush – “Experience Your California Sweepstakes”

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail sent January 23, 2015, in which you seek approval to conduct the Pop Crush – “Experience Your California Sweepstakes” in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on April 1, 2015, and runs until May 31, 2015. Interested individuals may enter the sweepstakes online by visiting <http://winesocial/PopCrushLoveCA> and completing the entry form. Alternatively, interested individual may enter via text message by texting “POPCRUSH” to 47464. There is a limit of one (1) entry per person or e-mail address per day, regardless of the method of entry.

One (1) prize will be awarded for the sweepstakes. The prize winner will be selected in a random drawing to be conducted on or about June 5, 2015. The prize winner will receive a trip for the winner and one (1) guest to Palm Springs, San Diego, or Lake Tahoe, California. The trip consists of the following: round-trip coach air transportation for two (2) people from the major U.S. airport closest to the winner’s residence to the selected destination; double-occupancy hotel accommodations for three (3) nights at the selected destination; and two thousand, five hundred dollars (\$2,500.00) in spending money. The approximate retail value of the prize is four thousand, seven hundred fifty dollars (\$4,750.00). The prize does not include alcoholic beverages.

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

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 sweepstakes 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 no alcoholic beverages are awarded as part of the prize.

Although the "Official Rules" that you provided indicate that the prize does not include alcoholic beverages, 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 prize 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.

Furthermore, 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 no alcoholic beverages are awarded as part of the prize, it is permissible to conduct the proposed sweepstakes 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
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-023