

March 31, 2015

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

**E: El Jimador Cinco de Mayo Sweepstakes**

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail of March 13, 2015, which was forwarded to this office for response on March 16, 2015, wherein you request approval on behalf of Brown Forman Corporation to conduct the “El Jimador Cinco de Mayo” Sweepstakes in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the sweepstakes is scheduled to begin on April 1, 2015, and runs until May 10, 2015. Interested individuals may enter the sweepstakes via text message by texting “CINCO” to 68405 during the sweepstakes period. Alternatively, interested individuals may enter the sweepstakes by visiting <http://bit.ly/ejCINCO> and completing and submitting the online entry form. There is a limit of one (1) entry per person, per day, regardless of the method of entry.

Two hundred (200) prizes will be awarded for the sweepstakes, with forty (40) prizes being awarded per week over a five (5) week period. The winners will be selected in random drawings to be conducted on the following dates: April 13, 2015; April 20, 2015; April 27, 2015; May 4, 2015; and May 11, 2015. Each prize winner will receive one (1) El Jimador pitcher having an estimated retail value of five dollars (\$5.00). Alcoholic beverages are not part of the prize.

No purchase is necessary to enter or win the sweepstakes. The sweepstakes is open only to legal residents of the United States who are twenty-one (21) years of age or older.

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 sweepstakes 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 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 spirit stores, subject to approval of the Bureau of Product Selection (POS only).

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X 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. 15-127