

August 5, 2015

Nicole Elling
Corporate Compliance Administrator
Delicato Family Vineyards
12001 South Highway 99
Manteca, CA 95336

RE: Bota Box Name the Owl Contest

Dear Ms. Elling:

ISSUE: This correspondence is in response to your e-mail of July 31, 2015, wherein you request approval to run the “Bota Box Name the Owl Contest” in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the contest is scheduled to begin on August 1, 2015, and ends on August 15, 2015. Interested individuals may enter the contest by visiting the Facebook page at www.facebook.com/botabox, locating the “Name the Owl” post, and submitting their name for the owl by posting it in the comments section. There is a limit of one (1) entry per Facebook user account for the duration of the promotion period. Registration with Facebook is required to enter the contest.

One (1) prize will be awarded for the contest. The prize winner will be determined by a panel of judges, which will make its selection based on the following criteria: brand essence—fifty percent (50%); and creativity—fifty percent (50%). The prize winner will receive a one hundred dollar (\$100.00) gift card from the sponsor.

The contest is open only to legal residents of the United States who are twenty-one (21) years of age or older. 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, a manufacturer’s representative, or a licensee may sponsor sweepstakes promotions subject to the following conditions:

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- 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, 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.

Please be advised that unless the gift card being awarded as the prize can be redeemed for cash or non-alcoholic beverage items, the provision of the gift card would be construed as awarding alcohol as part of the prize and is not permitted.

Further, 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 promotion in the Commonwealth in reference to the areas checked below:

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___ retail licensed premises. ___ distributor
licensed premises.

___ both retail and distributor licensed premises.

X the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection (POS only).

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
Joseph Puhalla, Director of Product Selection

LCB Advisory Opinion No. 15-325