

August 17, 2015

Nicole Elling
Sales & Marketing
Delicato Vineyards

RE: HandCraft and Noble Vines Promotions

Dear Ms. Elling:

ISSUE: This correspondence is in response to your letter of August 6, 2015, in which you request legal review of a pair of proposed giveaway promotions to be conducted in Pennsylvania.

According to the official rules you provided, the first promotion, the “HandCraft Tee Shirt Contest” promotion is scheduled to begin on August 7 and will run until one hundred fifty (150) entries have been received. Consumers may participate online via the promotional website. One hundred fifty (150) entrants will each receive a branded t-shirt with an approximate retail value of ten dollars (\$10.00). The second promotion, the “Noble Vines Corkscrew Contest,” is scheduled to begin on August 8, 2015, and will run until two hundred fifty (250) entries have been received. Consumers may participate online via the promotional website. Two hundred fifty (250) entrants will each receive a branded t-shirt with an approximate retail value of ten dollars (\$10.00). No purchase is necessary to enter, and the promotions are open only to adults of legal drinking age.

OPINION: Generally, the Liquor Code prohibits providing anything of value as an inducement to purchase alcohol. [47 P.S. § 4-493(24)]. However, there is an exception to this general prohibition which allows the offering of advertising novelties, such as t-shirts, of nominal value. [Id.] The Board has defined advertising novelties of nominal value as items that have a wholesale cost of fifteen dollars (\$15.00) or less and contain advertising material. [40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision)]. Such advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage.

This office has reviewed the proposed promotions and has determined that they comport 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)].

Therefore, it would be permissible to conduct the promotions 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 Management.
- 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, Bureau of Product Selection

LCB Advisory Opinion No. 15-345