

August 26, 2015

Carlie Speelman
Associate Regulatory Affairs Administrator
Trincherro Family Estates
St. Helena, CA 94574

RE: Tres Agaves® - Margaritas in the Mountains Sweepstakes

Dear Ms. Speelman:

ISSUE: This correspondence is in response to your e-mail sent August 20, 2015, which was forwarded to this office on August 21, 2015, wherein you seek approval to run the “Tres Agaves® - Margaritas in the Mountains Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on September 1, 2015, and runs until December 1, 2015. Interested individuals may enter the sweepstakes by visiting www.tresagaves.com/sweeps, looking for the sweepstakes icon, and following the instructions to submit an entry. There is a limit of one (1) entry per e-mail, per person, per day.

One (1) prize will be awarded for the sweepstakes. The prize winner will be selected from among all eligible entries received in a random drawing to be conducted on or about December 15, 2015. The prize winner will receive a trip for two (2) people to Lake Tahoe, California. The trip includes the following: round-trip coach airfare for the winner and one (1) guest from the gateway city nearest the winner’s home to a major airport near Lake Tahoe, California; five hundred dollars (\$500.00) to be used for rental car/ground transportation; a two hundred fifty dollar (\$250.00) Visa debit card for meals and incidental expenses, excluding alcoholic beverages; double occupancy accommodations for a three (3)-night stay at a hotel selected by the sponsor; and two (2) three (3)-day passes to the 2016 Lake Tahoe Wanderlust Festival. The approximate retail value of the prize is three thousand dollars (\$3,000.00). No alcoholic beverages are included in the prize.

The sweepstakes is open only to legal residents of the forty-eight (48) contiguous United States who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to enter or win the sweepstakes.

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, as long as alcoholic beverages are not awarded as part of the prize.

Although the "Official Rules" that you provided indicate that no alcoholic beverages are included in the prize, 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, including admission to the 2016 Lake Tahoe Wanderlust Festival, will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winners and/or their guests, 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 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
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-368