

September 22, 2015

Capricia Borrero  
Coupon Specialist  
Insight Resource Group  
VIA E-MAIL: [cborrero@insightresourcegroup.com](mailto:cborrero@insightresourcegroup.com)

RE: Zonin USA Mail-in Rebate Offers

Dear Ms. Borrero:

**ISSUE:** This correspondence is in response to your e-mail of August 21, 2015 wherein you request legal review of three (3) proposed mail-in rebate promotions to be conducted in Pennsylvania by your client, Zonin USA.

Through the first promotion, consumers can save in the following amounts on the purchase of seven hundred fifty milliliter (750ml) bottles of Castello del Poggio wine: one dollar and fifty cents (\$1.50) on one (1) bottle; six dollars (\$6.00) on three (3) bottles; and eighteen dollars (\$18.00) on six (6) bottles. In order to receive the rebate, consumers must mail a completed rebate form along with a cash register receipt with the qualifying purchases circled to the designated address. The rebate promotion expires on March 31, 2016. The rebate offer is limited to persons of legal drinking age, and there is a limit of one (1) rebate per household.

Through the second promotion, consumers can save in the following amounts on the purchase of seven hundred fifty milliliter (750ml) bottles of Zonin Processo wine: one dollar and fifty cents (\$1.50) on one (1) bottle; six dollars (\$6.00) on three (3) bottles; and eighteen dollars (\$18.00) on six (6) bottles. In order to receive the rebate, consumers must mail a completed rebate form along with a cash register receipt with the qualifying purchases circled to the designated address. The rebate promotion expires on March 31, 2016. The rebate offer is limited to persons of legal drinking age, and there is a limit of one (1) rebate per household.

Through the third promotion, consumers can save in the following amounts on the purchase of seven hundred fifty milliliter (750ml) bottles of Primo Amore Riesling or Moscato wine: one dollar and fifty cents (\$1.50) on one (1) bottle; six dollars (\$6.00) on three (3) bottles; and eighteen dollars (\$18.00) on six (6) bottles. In order to

receive the rebate, consumers must mail a completed rebate form along with a cash register receipt with the qualifying purchases circled to the designated address. The rebate promotion expires on March 31, 2016. The rebate offer is limited to persons of legal drinking age, and there is a limit of one (1) rebate per household.

Each of the above-described rebate promotions will be offered as part of a bottle necker. In the same bottle necker, consumers can receive a coupon for five dollars (\$5.00) off the purchase of two (2) adult dinner entrées at Olive Garden. The coupon states “no wine purchase necessary.”

OPINION: This office has reviewed the proposed rebate offers and has determined that they comport with applicable liquor laws and regulations, specifically subsection 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)], and are acceptable for use in this Commonwealth. Notably, since the food coupon included with each rebate promotion indicates that “no wine purchase is necessary” and this is construed to mean no wine purchase is necessary to obtain or redeem the coupon, such coupon is not subject to section 493(24)(i) of the Liquor Code.

Therefore, it is permissible to conduct the proposed promotions in the Commonwealth in reference to the area 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.
- other – Internet, text messaging.

With that being said, however, since the proposed promotions involve both Zonin USA and Olive Garden, it is also important to point out that the Liquor Code’s provisions on interlocking business practices generally prohibit licensees of one (1) class, such as manufacturers, from providing money or other things of value to equip or otherwise help the operation of a licensee of a different class, such as retail licensees. [47 P.S. §§ 4-411, 4-443]. Similarly, section 13.51 of the Pennsylvania Liquor Control Board’s (“Board”) Regulations prohibits a licensee of one (1) class from providing anything of value, including advertising, to a licensee of another class. [40 Pa. Code § 13.51]. Nevertheless, the Office of Chief Counsel has historically

opined that cooperative advertising between licensees of different classes would not violate these provisions, so long as each party pays its proportionate share for the cost of the advertisement. Thus, in order to avoid violating the provisions of the Liquor Code and the Board's Regulations mentioned above, each party involved in the proposed promotions would need to pay for its proportionate share of the costs of the same. Additionally, each party would be required to pay fair market value for any other benefits being exchanged between the parties as part of this advertising arrangement.

Finally, 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 Fine Wine & Good 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)].

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  
Stacy Kriedeman, Director, Marketing Communications  
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-410