

October 1, 2015

Nicole Elling  
Corporate Compliance BRM  
Sales & Marketing  
Delicato Family Vineyards  
12001 S. Highway 99  
Manteca, CA 95336  
**VIA E-MAIL:** [nicole.elling@delicato.com](mailto:nicole.elling@delicato.com)

**RE: Gnarly Head Holiday Gift Sweepstakes**

Dear Ms. Elling:

ISSUE: This correspondence is in response to your letter dated September 22, 2015, which was sent via e-mail, wherein you request approval on behalf of Delicato Family Vineyards to conduct the “Gnarly Head Holiday Gift Sweepstakes” in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on November 1, 2015, and runs until December 15, 2015. Interested individuals may enter the sweepstakes by texting “GNARLYGIFT” to “31279.” Alternatively, interested individuals may enter by hand printing their name, complete address, telephone number, e-mail address and date of birth on a plain three (3)-inch by five (5)-inch card and mailing it to the designated address. There is a limit of one (1) entry per e-mail address per day.

Ten (10) grand prizes will be awarded for the sweepstakes. The grand prize winners will be selected in a random drawing to be conducted on or about December 18, 2015. Each grand prize winner will receive one (1) two hundred fifty dollar (\$250.00) pre-paid debit card to be used for a holiday gift (not to be used for the purchase of alcoholic beverages).

The sweepstakes is open only to legal residents of the fifty (50) United States or the District of Columbia 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 based on the "Official Rules" that you provided, 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)].

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

LCB Advisory Opinion No. 15-428