

February 3, 2016

Lauren Jobmann  
Account Coordinator  
Avid Marketing Group  
100 Corporate Place, Suite 200  
Rocky Hill, CT 06067  
**VIA E-MAIL**

**RE: “Hess Select Elevate the Everyday Sweepstakes”**

Dear Ms. Jobmann:

ISSUE: This correspondence is in response to your e-mail sent January 18, 2016, wherein you request that this office conduct a legal review of the “Hess Select Elevate the Everyday Sweepstakes,” which is a promotion that your client, Hess Collection Winery, Inc., would like to run in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes promotion is scheduled to begin on April 1, 2016, and runs until September 30, 2016. Interested individuals may enter the sweepstakes by visiting [www.hessselectsweeps.com](http://www.hessselectsweeps.com) and following the on-screen instructions to complete and submit an entry. Alternatively, interested individuals may enter by texting the word “HESS” to “55755,” at which point they will be directed to the above-listed website to complete and submit an entry. There is a limit of one entry per person/household/e-mail address/mobile device number.

One grand prize will be awarded for the sweepstakes. The grand prize winner will be selected in a random drawing to be conducted on or about October 3, 2016. The grand prize winner will receive a check for \$5,000.00 to be used toward ultimate outdoor entertaining. Alcoholic beverages are not part of the prize.

The sweepstakes is open only to legal residents of the United States who are twenty-one 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, manufacturer's representative, or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one 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 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 brand of any one manufacturer at any one time may not exceed \$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).
- 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,

RODRIGO J. DIAZ  
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. 16-007