

February 22, 2016

Marianne Kambel
Compliance Analyst
E. & J. Gallo Winery
VIA E-MAIL

RE: Dark Horse Race Season Text-to-Win Sweepstakes

Dear Ms. Kambel:

ISSUE: This correspondence is in response to your e-mail of February 5, 2016, in which you request legal review of a sweepstakes promotion being conducted in Pennsylvania.

According to the official rules you provided, the “Dark Horse Race Season Text-to-Win Sweepstakes” promotion is scheduled to run from February 15 through April 10, 2016. Consumers may participate via text message or e-mail. Two entrants will be randomly selected to each receive a prize package including a \$500.00 American Express gift card for a “Dark Horse Party” and a \$2,000.00 gift card to be used for the purchase of a television. The sweepstakes is open only to adults of legal drinking age, and no purchase is necessary to enter.

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 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 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)].

Accordingly, it would be permissible to conduct the 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.
- 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, Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-028