

February 25, 2016

Carlie Speelman
Associate Regulatory Affairs Administrator
Trincherro Family Estates
St. Helena, CA 94574
VIA E-MAIL

RE: Sutter Home's Built in PA Backyard Makeover Sweepstakes

Dear Ms. Speelman:

ISSUE: This correspondence is in response to your e-mail sent February 18, 2016, which was forwarded to this office the same day, wherein you seek legal review of the "Sutter Home's Built in PA Backyard Makeover Sweepstakes."

According to the "Office Rules" that you provided, the sweepstakes is scheduled to begin on May 2, 2016, and runs until May 26, 2016. Interested individuals may enter the sweepstakes by texting "PABurger or PA Burger" to "89800" and following the instructions to complete and submit an entry when prompted. There is a limit of one entry per e-mail, per person.

One grand prize will be awarded for this sweepstakes. The grand prize winner will be selected in a random drawing to be conducted on or about June 15, 2016. The grand prize winner will receive the following: one premium stainless steel grill from Premium Grills of PA; one backyard patio set from Fifth Room of PA; a one-year Deluxe Monthly Steak Club subscription to Omaha Steaks of PA; and \$500.00 to be used at a local PA home and garden center for any backyard improvements of the winner's choice. The approximate retail value of the grand prize is \$5,000.00.

The sweepstakes is open only to legal residents of Pennsylvania 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, 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 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)].

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 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 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,

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. 16-050