

March 8, 2016

Janis A. Carlow
Assistant to Lou Giordano
Vice President, Off Premise
Lantern Division
Southern Wine & Spirits
VIA E-MAIL

RE: Robert Mondavi Heritage Month Sweepstakes

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail sent March 1, 2016, wherein you request legal review of a promotion, the “Robert Mondavi Heritage Month Sweepstakes,” that will be offered to consumers in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes promotion is scheduled to begin on June 1, 2016, and runs until June 30, 2016. Interested individuals may enter the sweepstakes by completing and submitting the online entry form found at wine.social/RobertMondaviHeritageSweeps. Entrants can earn additional entries by inviting friends to enter the sweepstakes.

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 July 1, 2016. The grand prize winner will receive a trip for the winner and three guests to wine country in California. The trip includes the following: roundtrip coach air transportation for four people from the major U.S. airport closest to the winner’s residence to the winner’s choice of Sacramento or San Francisco; three nights double-occupancy hotel accommodations; and \$1,000.00 in spending money. The approximate retail value of the prize is \$6,600.00. The prize does not include alcoholic beverages.

The sweepstakes is only open to legal residents of the fifty United States or the District of Columbia who are twenty-one years of age or older as of the date 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), and is acceptable for use in this Commonwealth, as long as alcoholic beverages are not awarded as part of the prize.

Although the "Official Rules" that you provided indicate that the prize does not include alcoholic beverages, please be advised that to the extent that any part of the trip being awarded as the grand prize will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guests, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Furthermore, 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, as long as no alcoholic beverages are awarded as part of the prize, 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, Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-065