

March 24, 2016

Yolanda Cazessus
Coupon Specialist
Insight Resource Group
VIA E-MAIL

RE: Guarachi Wine Partners Mail-in and Instant Rebates

Dear Ms. Cazessus:

ISSUE: This correspondence is in response to your e-mails of March 6 and March 7, 2016, wherein you request legal review of eleven mail-in rebate coupon promotions and fourteen instant rebate promotions to be offered in Pennsylvania by your client, Guarachi Wine Partners.

Through the mail-in rebate promotions, consumers can save \$2.00 off per bottle on the purchase of Black Ink wine, Bodega Norton wine, Castillo de Monseran Senior wine, Castillo de Monseran Seniorita wine, Kaiken wine, King Malbec wine, Montes wine, Nobilissima wine, Pascual Toso wine, Santa Ema wine, and Surf Swim wine. The mail-in rebate promotions impose varying limits on the maximum number of bottles for which a rebate may be claimed. In order to receive the rebates, consumers must mail a completed rebate form along with a cash register receipt with the qualifying purchases circled to the designated address. The mail-in rebate promotions are valid on purchases made between January 1, 2016, and December 31, 2016. The mail-in rebate offers are limited to persons who are at least twenty-one years of age, and there is a limit of one offer per envelope/per household/address relative to each promotion.

Through twelve of the instant rebate promotions, consumers can save \$1.00 off instantly on the purchase of any one bottle of Montes Alpha wine, Bodega Norton wine, Surf Swim wine, Nobilissima Wine, Castillo de Monseran Seniorita wine, Kaiken wine, Pascual Toso wine, Black Ink wine, Castillo de Monseran Senior wine, Che Gaucho wine, Santa Ema wine, or King Malbec wine. Through another of the instant rebate promotions, consumers can save \$2.00 off instantly on the purchase of one bottle of Black Ink "Tax Refund Ahead" wine. Through another of the instant rebate coupon promotions, consumers can save \$1.00 off instantly on the purchase of barbeque sauce with the purchase of one bottle of King Malbec wine. The rebate coupons must be

redeemed at the time of purchase. The instant rebate promotions expire on December 31, 2016. The instant rebate offers are limited to persons twenty-one years of age or older, and there is a limit of one coupon per item purchased relative to each promotion.

OPINION: This office has reviewed the proposed promotions and has determined that all of the proposed promotions comport with applicable liquor laws and regulations, specifically subsection 493(24)(i) of the Liquor Code, 47 P.S. § 4-493(24)(i), and are acceptable for use in this Commonwealth, except for the promotion wherein consumers can save \$1.00 instantly on the purchase of barbeque sauce with the purchase of one bottle of King Malbec wine.

Section 493(24)(i) of the Liquor Code generally prohibits licensees, manufacturers, and the Pennsylvania Liquor Control Board (“PLCB”), or any employee or agent of a licensee, manufacturer or the PLCB, from offering or giving anything of value or from soliciting or receiving anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverages. 47 P.S. § 4-493(24)(i). Similarly, section 493(24)(i) generally prohibits licensees, manufacturers, and other persons from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages. Id. However, section 493(24)(i) includes an exception allowing manufacturers or their agents to offer monetary rebates on purchases of wine or spirits from the PLCB or purchases of malt or brewed beverages from importing distributors or distributors. Id.

In order for a cross-promotion requiring the purchase of both an alcoholic beverage product and a non-alcoholic beverage product to fall within the exception for monetary rebates, the promotion must make clear that the monetary rebate is being offered on the alcoholic beverage product, as opposed to the non-alcoholic beverage product. Alternatively, if the promotion makes it clear that no alcohol purchase is required to receive a rebate on the purchase of a non-alcoholic beverage product, then such promotion would not be subject to section 493(24)(i).

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 PLCB’s Fine Wine & Good 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, subject to the limitations discussed above, it is permissible to conduct the proposed promotions in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the PLCB's Fine Wine and Good 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.

Sincerely,



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. 16-092