

April 22, 2016

Iris Corona
Administrative Assistant
Trincherro Family Estates
VIA E-MAIL

RE: Sutter Home “Build a Better Burger® Recipe Contest 2016”

Dear Ms. Corona:

ISSUE: This correspondence is in response to your e-mail sent April 4, 2016, wherein you request legal review of a contest promotion to be offered to consumers in Pennsylvania—the “Sutter Home Build a Better® Burger Recipe Contest 2016.”

According to the “Official Rules” that you provided, the contest entry period was scheduled to begin on March 31, 2016, and will run until July 31, 2016. In order to participate, interested individuals must create an original burger recipe that is 600 words or less in length and register the same on the Sutter Home website at www.sutterhome.com. There is no limit to the number of approved entries that an individual can submit for the contest; however, the same recipe may not be registered more than once.

A panel of judges will select five potential finalist recipes from among all eligible entries received, based on the following criteria: perceived taste appeal—40%; creativity—25%; ease of preparation—25%; and perceived wine pairing—10%. The finalists’ recipes will then be prepared by a team of qualified chefs at a live tasting event during the week of September 6, 2016. Another panel of judges will select one grand prize winner from among the finalists based on the following criteria: taste—40%; creativity—25%; ease of preparation—25%; and perceived wine pairing—10%.

The grand prize winner will receive a \$25,000.00 cash prize, which will be awarded in the form of a check payable to the winner. The other four top finalists will each receive a \$1,000.00 cash prize, which will be awarded in the form of a check payable to each finalist.

The contest is open only to legal residents of the fifty United States or the District of Columbia who are twenty-one years of age or older at the time of entry. No purchase is necessary to participate in or win the contest.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("PLCB") 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 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 PLCB's Regulations, 40 Pa. Code § 5.32(h), and is acceptable for use in this Commonwealth.

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 and 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 retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, it is permissible to conduct the proposed promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.

- X the PLCB's Fine Wine and Good Spirits stores,
subject to approval of the Bureau of Product
Selection (POS only).
- X 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. 16-126