

May 5, 2016

Nicole Elling
Corporate Compliance BRM
Sales & Marketing
Delicato Family Vineyards
12001 S. Highway 99
Manteca, CA 95336
VIA E-MAIL

RE: Bota Box Botahacks/DIY Contest

Dear Ms. Elling:

ISSUE: This correspondence is in response to your e-mail and letter sent on April 26, 2016, wherein you seek legal review of a promotion that Delicato Family Vineyards would like to offer to consumers in Pennsylvania—the “Bota Box Botahacks/DIY Contest.”

According to the “Official Rules” that you provided, the contest promotion is scheduled to begin on April 29, 2016, and runs until May 31, 2016. Interested individuals may enter the contest by uploading a photo or video showing how they reuse a Bota box via Facebook, Instagram or Twitter with the hashtag #Botahacks and completing and submitting the entry form at www.gobotacontest.com. Each contestant is permitted to submit a maximum of one entry per day into the contest, and each entry must contain a different submission.

On or about June 5, 2016, a panel of judges selected by the sponsor will choose up to ten winners based on the following criteria: brand essence—50%; and creativity—50%. Each winner will receive a Bota Box Leatherman and a cash award of \$100.00. The approximate retail value of each prize is \$140.00. The prizes do not include alcoholic beverages.

The contest is open only to individuals who are legal residents of the fifty United States or the District of Columbia who are twenty-one years of age or older. No purchase is necessary to enter 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-of 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 based on the "Official Rules" that you provided, as described above, 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 a 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.
- the Board's wine and spirits 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.

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. 16-173