

May 31, 2016

Britt Benton
Strike & Techel
556 Commercial Street
San Francisco, CA 94111
VIA E-MAIL

RE: Babich Wines New Zealand Sweepstakes

Dear Ms. Benton:

ISSUE: This correspondence is in response to your e-mail dated May 18, 2016, in which you seek legal review, on behalf of Babich Wines, of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Win a Trip to New Zealand with Babich Wines” sweepstakes promotion is scheduled to run from June 1 through August 31, 2016. There are two entry methods available in which an individual can enter the sweepstakes. The first method of entry is via Twitter, Facebook, or Instagram. To enter the sweepstakes via Twitter or Instagram, an entrant must follow “@Babich” on either social media platform, “tag” and caption a photo, or tell a story of a best family summer moment, and share the photo, including the “#BabichWines” hashtag. To enter the sweepstakes via Facebook, an entrant must “like” Babich Wines, “tag” and caption a photo, or tell a story regarding a best family summer moment, and post the story or photo on Facebook, including the “#BabichWines” hashtag. The second method of entry is by visiting www.nzwineescape.com and following the provided online instructions.

One entrant will be randomly selected to receive the grand prize of a trip for two to New Zealand, including airfare, lodging for seven days, ground transportation, a tour of Babich Wineries, an adventure activity, and one Visa gift card valued at \$1,000.00. The approximate retail value of the grand prize is \$6,800.00 and it does not contain alcoholic beverages. The promotion is open only to adults of legal drinking age and no purchase is necessary to enter.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer, manufacturer’s representative, or 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 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 PLCB's Regulations, 40 Pa. Code § 5.32(h), so long as no alcoholic beverages are awarded as part of the grand prize.

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 guest, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Therefore, it would be permissible to conduct the sweepstakes 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 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

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BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL
BOARD.

Sincerely,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 16-197