

August 9, 2016

Veronica Suarez
Reporting and Compliance Administrator
The Wine Group
4596 South Tracy Blvd.
Tracy, CA 95377
VIA E-MAIL

RE: Cupcake® Vineyards Wine and REDD'S® Apple Ale Mail-In Rebate

Dear Ms. Suarez:

ISSUE: This correspondence is in response to your e-mail of July 26, 2016, wherein you request legal review of a proposed mail-in rebate promotion to be conducted in Pennsylvania.

Through the promotion, consumers can save \$2.00 on the purchase of “any apples.” To redeem the rebate coupon, consumers must submit the original rebate certificate and the original register receipt with the apple purchase circled. Consumers must purchase a minimum of \$4.00 in apples in order to receive the rebate. The rebate offer is scheduled to begin on October 1 and runs until October 31, 2016 and is limited to residents of certain states, including Pennsylvania, who are at least twenty-one years of age. No purchase of alcoholic beverages is necessary.

OPINION: Please be advised that mail-in rebate coupons must comport with the Liquor Code, specifically subsection 493(24)(i). For the reason that the above mentioned mail-in rebate offer does not require the purchase of alcohol, such promotion would not be subject to subsection 493(24)(i) of the Liquor Code. 47 P.S. § 4-493(24)(i). Therefore, the proposed mail-in rebate promotion is acceptable for use in this Commonwealth.

It is unclear if you anticipate offering the coupon at the PLCB’s Fine Wine and Good Spirits Stores or at a retail licensed premises such as a grocery store that sells wine and malt or brewed beverages. If you anticipate offering the coupon at a licensed premises that sells food products, wine, and/or malt or brewed beverages, please be advised that the PLCB’s Fine Wine and Good Spirits stores are statutorily limited in what non-alcoholic products it can sell to consumers. Apples are not on the list of items the PLCB can sell. 47 P.S. § 3-305(h).

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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 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, it would be permissible to conduct the rebate promotion in the Commonwealth in reference to the area checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the PLCB's wine and 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
Charles Mooney, Chief Operating Officer
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-292