

August 15, 2016

Patty Voight
Marketing Coordinator
129 Hartman Road
North Wales, PA 19454
VIA E-MAIL

RE: Vin Vault Luxury Box, Vodka for Dog People, and Huddle Up for Hope Promotions

Dear Ms. Voight:

ISSUE: This correspondence is in response to your e-mail sent August 4, 2016, in which you seek legal review of three “sweepstakes” promotions to be conducted in Pennsylvania.

Initially, please be advised the “Vodka for Dog People” and “Huddle Up for Hope” promotions are not sweepstakes. Given the information you provided with regard to the “Vodka for Dog People” promotion, it appears that consumers must text “VodkaDog” to 55678 to donate to the “Vodka for Dogs Charity.” Similarly, you submitted a “Letter of Agreement” with regard to the “Huddle Up for Hope” promotion in which Trincherro Family Estates agrees to donate \$5.00 to the Pennsylvania Breast Cancer Coalition each time a consumer texts “HOPEPA” to the designated phone number. There is nothing in the Liquor Code that requires prior approval of donation-based promotions; however, if you anticipate advertising such promotions at the PLCB’s Fine Wine and Good Spirits stores, prior approval of all point of sale (“POS”) material is required (details regarding POS material will be further discussed in the “Opinion” portion of this correspondence).

With regard to the “Vin Vault Luxury Box” sweepstakes promotion, according to the official rules you provided, the promotion is scheduled to begin on August 29 and runs until October 2, 2016. To enter the sweepstakes, entrants must text “LUXURYBOX” to 44333. Entrants will then be prompted to fill out the required sweepstakes information. One entrant will be randomly selected to receive the grand prize of a “fully catered luxury box” for a Philadelphia Eagles or Pittsburgh Steelers football game. The approximate retail value of grand prize is \$20,000.00. The

sweepstakes is open to Pennsylvania residents who are at least twenty-one years of 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, 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 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), and is acceptable for use in this Commonwealth.

The official sweepstakes rules you have provided do not indicate whether alcoholic beverages are part of the grand prize, but 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.

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 Sprints 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 sweepstakes promotion 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 (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
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. 16-298