

September 7, 2016

Carlie Speelman  
Legal Administrator  
Treasury Wine Estates  
555 Gateway Drive  
Napa, CA 94558  
**VIA E-MAIL**

**RE: Beringer Better Beckons Contest**

Dear Ms. Speelman:

ISSUE: This correspondence is in response to your e-mail sent August 1, 2016, in which you seek legal review of a sweepstakes promotion that Treasury Wine Estates would like to make available in Pennsylvania, the Beringer Better Beckons Contest.

According to the “Official Rules” that you provided, the promotion was scheduled to begin on August 1, 2016, and runs until June 30, 2017. The promotion is divided into three phases: the entry phase, the voting phase, and the judging phase.

Interested individuals may participate during the entry phase by logging into their Instagram accounts and posting an image related to the applicable theme (places, flavors, or people) and including the hashtags #BeringerUS and #Contest. Entries must be photographs taken and posted during the entry phase. There is a limit of one entry per person during the entry phase.

During the contest voting phase, all eligible entries will be posted for viewing in a gallery on the contest website. Interested individuals who otherwise meet the eligibility requirements for the contest may then visit the website and follow the on-screen prompts to view the gallery and vote for their favorite entry. There is a limit of one vote per person per hour.

During the judging phase, all eligible entries will be judged by a panel of qualified judges. The judges will score each entry based on the following weighted criteria:

public appeal—20%; creativity—23%; relevance to theme—23%; and brand appeal—34%. The entry that receives the highest score for each theme will be deemed the first prize winner for that theme, with a total of three first prize winners being selected for the contest. The entries of the three first prize winners will then be scored again by a new panel of judges based on the same criteria. The entry receiving the highest score from this second round of judging will be deemed the grand prize winner.

The grand prize winner will receive a three-day/two-night trip for two people to Napa Valley, California. The trip includes the following: round trip airfare for two people between a major commercial airport close to the grand prize winner's residence and a major commercial airport near Napa Valley; two nights standard hotel accommodations (single room, double occupancy) at a hotel selected by the sponsor in Napa Valley; round-trip private ground transportation for the grand prize winner and guest between the airport and hotel in Napa Valley; a tour of the Beringer Vineyards; and \$500.00 in spending money awarded in the form of a check. The approximate retail value of the grand prize is \$3,900.00. The grand prize winner's guest must be at least twenty-one years of age to participate. Each first prize winner will receive a \$500.00 pre-paid card.

The contest is open only to legal residents of the fifty United States or the District of Columbia who are at least twenty-one years of age or older at the time of entry. 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-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 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 PLCB’s Regulations, 40 Pa. Code § 5.32(h), as 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 grand prize 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 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 a retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, as long as no alcoholic beverages are awarded as part of the grand prize, 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. 16-344