

September 20, 2016

Mary A. Monahan  
Marketing Compliance Officer  
Banfi Vintners  
1111 Cedar Swamp Road  
Old Brookville, New York 11545  
**VIA E-MAIL**

**RE: Casillero del Diablo “Hell’s Kitchen” Sweepstakes**

Dear Ms. Monahan:

ISSUE: This correspondence is in response to your e-mail dated September 8, 2016, in which you seek legal review, on behalf of Excelsior Wines, of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Casillero del Diablo ‘Hell’s Kitchen’” sweepstakes promotion is scheduled to begin on October 3, 2016, and runs until February 28, 2017. To enter the sweepstakes, consumers must go to the Diablo Wine Facebook page and complete the required online entry form. Consumers may acquire an additional entry into the sweepstakes by posting the sweepstakes link on his or her Facebook “wall,” sending invite requests to friends on Facebook, or by sharing the sweepstakes link on Twitter.

One entrant will be randomly selected to receive the grand prize of a “VIP Dinner Experience” for two in Las Vegas, Nevada, including airfare, lodging for three days and two nights, a \$500.00 gift certificate redeemable at BLT Steak at Bally’s Las Vegas towards the purchase of a dinner for two, a meet and greet with Head Chef Ariel Malone, season fifteen winner of Hell’s Kitchen. In lieu of the grand prize package, the winner may request to receive \$1,700.00 cash. The approximate retail value of the grand prize is \$1,700.00 and does not include 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).

Although you indicated alcoholic beverages are not included in the prize package, 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, 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 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 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.

X the PLCB's wine and spirit stores, subject to approval of the Bureau of Product Selection (POS only).

X 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. 16-373