

November 8, 2016

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

RE: Beringer Main & Vine Sweepstakes

Dear Ms. Speelman:

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

According to the official rules you provided, the “Beringer Main & Vine” sweepstakes promotion was scheduled to begin on November 1, 2016, and run until June 30, 2017. There is a national and regional sweepstakes in which consumers may enter. To enter the sweepstakes via text, consumers must text “NAPATRIP” to 55155 and submit the required information. To enter the sweepstakes online, consumers must visit www.mainandvine.com/napasweeps and submit the required information. To enter the sweepstakes by mail, consumers must submit the required sweepstakes information to the designated P.O. Box. Consumers may also enter the regional sweepstakes by texting the valid keyword(s) found on the promotional material to 55155 and submitting the required information.

One entrant from the national sweepstakes and two entrants from the regional sweepstakes will be randomly selected to receive the grand prize of a trip to Napa Valley for a “Valerie Bertinelli inspired weekend experience at the Beringer Vineyard” for four, including airfare, lodging for four days, a private tour of the Beringer Winery, a cooking class at the Hudson House, and ground transportation. The approximate retail value of each grand prize is \$10,500.00. The promotion is only open 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 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 proposed sweepstakes promotions and determined that both promotions comport 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, so long as alcoholic beverages are not included in the prize package.

Although the official rules do not indicate whether alcoholic beverages are included in the prize package, please be advised 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 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 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 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 BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,



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. 16-453