

November 17, 2016

Janis Carlow
Assistant to Mark Guldin
Vice President, Off Premise
Lantern Division
Southern Glazer Wine & Spirits
VIA E-MAIL

RE: Mark West Ultimate Grilling Challenge

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail sent November 9, 2016, wherein you request legal review of a contest promotion to be offered to consumers in Pennsylvania.

According to the official rules you provided, the “Mark West Ultimate Grilling Challenge” contest promotion is scheduled to begin on May 1, and run until June 30, 2017. Consumers may enter the contest by completing and submitting the online registration form found at www.markwestwines.com/grilling, or by registering via Facebook. Subsequent to registration, consumers must submit an “original grilling recipe.” The recipe must be grilled or smoked, and the recipe must be paired with Mark West Pinot Wine. The recipe must further include all of the ingredients, measurements, preparation instructions, the recipe name, and an original photograph of the dish. The recipe will then be reviewed to determine if it comports with the aforementioned requirements. Once approved, the recipe will be featured in a gallery on the website in which members of the public will vote for their favorite recipe.

A panel of judges will select one grand prize winner based on the following criteria: contest theme of “grilling”—25%; “clarity of good prepared with recipe in photo”—25%; originality—25%; and public votes—25%.

The grand prize winner will receive a \$10,000.00 cash prize, which will be awarded in the form of a check payable to the winner. The contest is open only to legal residents of the fifty United States or the District of Columbia who are twenty-one

years of age or older at the time of entry. No purchase is necessary to participate in or win the contest and the prize does not include alcoholic beverages.

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 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.

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 retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, it is permissible to conduct the proposed promotion 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 Fine Wine and Good Spirits 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
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-463