

January 6, 2017

Michelle Mark
Compliance Associate BRM
Delicato Family Vineyards
VIA E-MAIL

RE: Bota Take A Hike Sweepstakes

Dear Ms. Mark:

ISSUE: This correspondence is in response to your e-mail sent December 29, 2016, in which you seek legal review of a sweepstakes promotion on behalf of your client, Delicato Family Vineyards (“Sponsor”), to be conducted in Pennsylvania.

According to the official rules you provided, the “Bota Take a Hike” promotion is scheduled to begin on February 1, 2017 and run until May 31, 2017. A consumer may enter online by visiting the sweepstakes website and completing an entry form or via the Bota Box Facebook app. The second method for entry allows the consumer to enter by mailing a 3” x 5” card with his or her name, zip code, telephone number and e-mail address to the address provided. A consumer may also text the word “BACKPACK” to 24587. After registering once, a consumer may earn additional entries online by logging into the website and sharing an image to Instagram with the hashtag “takeahikewithbotasweeps,” sharing the sweepstakes on Twitter with the hashtag “takeahikewithbotasweeps,” or by sharing via e-mail. A consumer may also earn additional entries by mailing a 3” x 5” card with their name, zip code, telephone number, e-mail address and date of birth to the address provided. One hundred entrants will be randomly selected to receive a Bota Box Backpack. The approximate retail value of each prize is \$50.00. Alcoholic beverages are not included in the prize. The promotion is only open to adults of legal drinking age in the United States 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.

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
- other – Internet, text messaging.

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).

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, Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-564