

February 17, 2017

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

**RE: Gnarly Head Game Night In Sweepstakes**

Dear Ms. Mark:

ISSUE: This correspondence is in response to your e-mail dated February 7, 2017, in which you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania by Delicato Vineyards (“Sponsor”).

According to the official rules you provided, the “Gnarly Head Game Night In” promotion is scheduled to run from February 15, 2017 to August 31, 2017. Consumers may enter the sweepstakes online by completing an entry form at [www.gnarlygamenight.com](http://www.gnarlygamenight.com) or by completing an entry form through Facebook. Alternatively, consumers may enter by texting the word “GNARLY” to shortcode 24587 and following the link in the reply text to submit an entry form. Consumers may earn additional entries by sharing an image to Instagram with the hashtags #gnarlyheadwine and #sweepstakes, by clicking “share the Sweepstakes” on Twitter with hashtags #gnarlyheadwine and #sweepstakes, or by sharing via e-mail to the e-mail address provided. Each entrant may earn up to a maximum of four entries for the promotion.

Ten grand prize winners will receive a \$250.00 gift card for a Host Your Own Gnarly Night party pack. One hundred second place winners will receive a Gnarly Head poker set and four hundred third place winners will receive a pack of Gnarly Head playing cards. The approximate retail value of all prizes is \$6,120.00. The winners will be selected in a random drawing performed by an independent third party judging agency on or about September 20, 2017.

The sweepstakes is open only to legal residents of the United States and the District of Columbia who are at least twenty-one years of age at the time of entry. No purchase is necessary to enter or win the sweepstakes. No alcoholic beverages are included in the prize.

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 proposed sweepstakes promotion 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), 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 wine and spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- 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 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).

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  
Thomas Bowman, Director, Bureau of Product Selection

LCB Advisory Opinion No. 17-025