

December 28, 2018

Jessica Buck
Trade Development Manager – PA
Southern Glazer’s Wine & Spirits
460 American Avenue
King of Prussia, PA 19406
VIA E-MAIL

RE: Smithworks VIP Concert Ticket Sweepstakes

Dear Ms. Buck:

ISSUE: This correspondence is in response to your e-mail dated December 17, 2018, wherein you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules that you provided, the “Smithworks VIP Concert Ticket Sweepstakes” promotion is scheduled to begin on January 1, and runs until March 19, 2019. Interested individuals may enter online by visiting the sweepstakes website at www.SmithworksVIPTickets.com, and following the instructions for entry. The promotion is being offered in fourteen different states, including Pennsylvania, and eligible entrants will be divided into designated drawings based upon their state of residence. The entry deadline for Pennsylvania entries is February 19, 2019.

A total of sixteen grand prize winners will be randomly selected to receive a “VIP Experience,” which includes two premium reserved seat tickets to the Blake Shelton concert, an invitation to the pre-show BS’ers Lounge, one ‘Friends and Heroes’ merchandise item, and one commemorative VIP laminate. The grand prize winner for Pennsylvania will be selected on February 20, 2019. The approximately retail value of all prizes is \$7,328.00.

The rules specify that alcoholic beverages are not included in any of the prizes. No purchase is necessary to enter, and entrants must be at least twenty-one years of age to be eligible for this promotion.

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 and it appears to 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.

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

Therefore, it would be permissible to conduct this 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 & Good Spirits 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, Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Thomas Bowman, Director, Bureau of Product Selection

LCB Advisory Opinion No. 18-459