

January 3, 2019

Paul DelVecchio
Market Manager, PA & DE
Pernod Ricard USA
New York, NY 10177
VIA E-MAIL

RE: Kenwood & Mumm Napa CAWines Sweepstakes

Dear Mr. DelVecchio:

ISSUE: This correspondence is in response to your e-mail dated December 11, 2018, wherein you request legal review of a proposed promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Kenwood & Mumm Napa CAWines Sweepstakes” promotion¹ is scheduled to begin on February 25, 2019 and runs until March 24, 2019. To enter the promotion, interested individuals may enter by texting “CAWINES” to shortcode 888111 and following the instructions. Alternatively, interested individuals may enter by mailing an official entry form to the address provided. Entrants are limited to one entry per person, per day.

One grand prize winner will be randomly selected to receive a 60” HD television. Two first place winners will be randomly selected to receive a 40” HD television. The approximate retail value of all prizes is \$1,300.00. No purchase is necessary to enter, and the sweepstakes is open only to Pennsylvania residents who are at least twenty-one years of age at the time of entry. The official rules state that alcohol will not be included in any prize.

¹ Some of the material submitted refers to the promotion as “March Mayhem.” It is presumed that these are alternate names for the same 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 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 & 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.

Paul DeVelcchio

January 3, 2019

Page 3

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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 18-467