

January 11, 2019

Sroeum Sroeun
Compliance Administrator
The Wine Group
VIA E-MAIL

RE: Trapiche – Win a Trip to Argentina Sweepstakes

Dear Sroeum:

ISSUE: This correspondence is in response to your e-mail dated December 10, 2018, wherein you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Trapiche – Win a Trip to Argentina Sweepstakes” promotion was scheduled to begin on January 3, 2019 and runs until December 31, 2019. To enter the sweepstakes, interested individuals may go to www.trapichewines-use.com/sweeps to complete and submit the online entry form. Entrants may earn additional entries by accessing the promotional website, Facebook, Instagram, referring friends, and/or watching a “Brand Video.”

Four grand prize winners and one guest per winner will be selected to receive a trip to Mendoza, Argentina, to include: roundtrip airfare, hotel accommodations for three nights, roundtrip ground transportation between the hotel and airport, and roundtrip ground transportation between the hotel and Trapiche Winery in Argentina. One winner will be selected in a random drawing on March 31, June 20, September 30, and December 31, 2019 within the sweepstakes period. The total approximate retail value of all prizes is \$16,000.00. 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. The winner’s guest must be at least twenty-one years of age at the time of travel.

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 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, so long as alcoholic beverages are not part of any prize.

Although the official rules indicate that alcoholic beverages are not included in any of the prizes, please be advised that to the extent any part of the grand prizes being awarded will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guest, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

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, as long as alcoholic beverages are not part of any prize, 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. 18-492