



September 28, 2020

Heather Rutz-Leighton
Strike, Kerr & Johns
556 Commercial Street
San Francisco, CA 94111
on behalf of Fetzer Vineyards
VIA E-MAIL

RE: Casillero del Diablo Unleash the Legend Halloween Sweepstakes

Dear Ms. Rutz-Leighton:

ISSUE: This correspondence is in response to your e-mail of September 14, 2020, in which you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Casillero del Diablo Unleash the Legend Halloween Sweepstakes” promotion is scheduled to begin on October 1, 2020 and runs until October 31, 2020. To participate in the sweepstakes, interested individuals may enter online at <http://woobox.com/ke3kjn>, as further detailed in the official rules.¹

One grand prize winner will be randomly selected to receive a \$500.00 Visa® gift card. Fifteen weekly winners (three chosen each week over a five-week period) will each receive a Movie Rental Gift Card. The total approximate retail value of the prizes is \$1,250.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is open only to residents who are at least twenty-one years of age at the time of entry. The official rules indicate that alcohol is not included in the prizes.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer, manufacturer’s representatives, or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.

¹ The official rules have been attached to this Advisory Opinion for your convenience.

- 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 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h).

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 is 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

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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
Michel Demko, Executive Director
Elizabeth Brassell, Director of Policy & Communication
Stacy Kriedeman, Director, Marketing Communications
Thomas Bowman, Director, Bureau of Product Selection
Ra-lbpromo@pa.gov

LCB Advisory Opinion No. 20-235

strike kerr & johns

ALCOHOL BEVERAGE LAW

TO: Rodrigo J. Diaz – ra-lblegal@pa.gov

FROM: Roger Clayton, Strike Kerr & Johns – roger@alcohol.law

DATE: September 14, 2020

RE: *REQUEST FOR APPROVAL*: PENNSYLVANIA
Casillero del Diablo Unleash the Legend Halloween Sweepstakes

Fetzer Vineyards (“Sponsor”) is planning to run a sweepstake to promote its Casillero del Diablo wine brand.

The “Unleash the Legend Halloween Sweepstakes” (“Sweepstakes”) will begin October 1, 2020 and end on October 31, 2020. Consumers will be able to enter the Sweepstakes by visiting <http://woobox.com/ke3kjin> and following the online instructions to complete and submit an online entry form with all required information. Three (3) Weekly Prize winners will be chosen each week and one (1) Grand Prize winner will be chosen on or about November 6, 2020.

The Weekly Prize winners will receive a Movie Rental Gift Card (the “Weekly Prize”). **The prize does not contain alcoholic beverages.** The Approximate Retail Value of each Weekly Prize is fifty dollars (ARV \$50.00).

The Grand Prize winner will receive a Visa Gift Card (the “Grand Prize”). **The Grand Prize does not contain alcoholic beverages.** The Approximate Retail Value (“ARV”) of the Grand Prize is five hundred dollars (\$500.00).

No purchase will be necessary to enter the Sweepstakes, and entrants must be 21 or older. The Sweepstakes will not be open to employees or agents of the Sponsor or other members of the alcohol beverage industry. The official rules are included for your reference.

If you would confirm that the promotion described above would be permitted in your state and advise of any restrictions that may apply, I would appreciate it. If you have any questions, please contact me at (415) 229-7887, or by email at roger@alcohol.law.

Very truly yours,



APPROVED:

“Casillero del Diablo Unleash the Legend Halloween Sweepstakes” Official Rules

NO PURCHASE NECESSARY TO ENTER OR WIN. THIS SWEEPSTAKES IS OPEN TO LEGAL RESIDENTS OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA. MUST BE 21 YEARS OF AGE OR OLDER TO ENTER. A PURCHASE WILL NOT INCREASE YOUR CHANCES OF WINNING. VOID WHERE PROHIBITED OR RESTRICTED BY LAW. SWEEPSTAKES BEGINS OCTOBER 1, 2020 AT 12:00:01 A.M. (ET) AND ENDS OCTOBER 31, 2020 AT 11:59:59 P.M. (ET). ONE (1) GRAND PRIZE WINNER WILL RECEIVE A \$500 VISA® GIFT CARD (ARV \$500.00). FIFTEEN (15) WINNERS (THREE WINNERS PER WEEK) WILL RECEIVE A MOVIE RENTAL GIFT CARD (ARV \$50). FOR OFFICIAL RULES, HOW TO ENTER, AND PRIZE DESCRIPTIONS, PLEASE VISIT woobox.com/ke3kin. THE SWEEPSTAKES IS SPONSORED BY FETZER VINEYARDS, HOPLAND, MENDOCINO CO., CALIFORNIA. ("Sponsor").

INTERNET ACCESS IS REQUIRED TO PARTICIPATE.

SWEEPSTAKES PERIOD. The Sweepstakes (the “Sweepstakes”) begins October 1, 2020 at 12:00:01 a.m. (ET) and ends October 31, 2020 at 11:59:59 p.m. (ET) (the “Sweepstakes Period”). The Sweepstakes Period will be divided into five (5) weekly entry periods as outlined in the chart below (each, a “Weekly Period”). Weekly entries must be time stamped by 11:59:59pm PT at the end of each Weekly Period; Sponsor’s clock shall be the official timekeeper for this Sweepstakes.

Weekly Period	Begins at 12:00 a.m. PT on:	Ends at 11:59 p.m. PT on:
1	October 1, 2020	October 4, 2020
2	October 5, 2020	October 11, 2020
3	October 12, 2020	October 18, 2020
4	October 19, 2020	October 25, 2020
5	October 26, 2020	October 31, 2020

1. **HOW TO ENTER:** There is one (1) way to enter this Sweepstake (“Entry Method”). A completed entry via the Entry Method shall be referred to herein as the “Entry” or the “Submission.”

Access the Sweepstakes entry form by visiting <http://woobox.com/ke3kin> and following the online instructions to complete and submit an online entry using the entry form with all required information to receive one (1) Entry in the Sweepstakes (“Entry Method”). The entry form may require entrant information, including name, street address, date of birth, phone number, email address & other items. A completed entry via the Entry Method shall be referred to herein as the “Entry” or the “Submission.” Incomplete entry forms will not constitute an Entry or Submission. Limit one entry per email address, per person, per day.

You must have an email address in order to use the Entry Method. Email accounts are free via multiple sources such as Gmail, Yahoo Mail, Outlook, etc. Registration for each can be obtained by going to the appropriate email service website and entering the

required information to register, or by downloading the application from an App Store and following the application's onscreen instructions to open an account. Normal Internet access and usage charges imposed by your online service provider may apply.

If you choose to enter the Sweepstakes by using a mobile device: Message and data rates apply. You may be charged by your wireless carrier for entering the Sweepstakes via mobile device. It is therefore recommended that you consult your wireless carrier's pricing plan BEFORE entering the Sweepstakes via mobile device. Not all mobile devices offer wireless Internet access and wireless Internet access may not be available in all areas.

An entrant's email address must be able to receive messages from Sponsor during the Sweepstakes Period. Sponsor reserves the right to disqualify, in its sole and absolute discretion, entries made through email accounts that are used to perpetuate, solicit, or encourage fraud, unlawful activity, sexual activity, harassment, or spam or submit multiple Entries in excess of the Entry limitation. **Sponsor discourages participants from creating multiple email accounts to submit multiple Entries, and any participant doing so will have all of his or her Entries disqualified.**

LIMIT ONE ENTRY PER EMAIL ADDRESS, PER PERSON, PER DAY OF THE SWEEPSTAKES PERIOD, FOR THE SWEEPSTAKES. No purchase necessary to enter and win. Entrants may make only one (1) Entry per day during the Sweepstakes Period. Any Entry must also comply with the Terms of Service for his/her chosen email provider. Further, no entrant will be eligible to receive the prize unless Sponsor determines, in its sole and absolute discretion, that such entrant's Entry has been or can be sufficiently cleared for legal purposes. Violation of this Entry limit will result in only the initial Entry per day being accepted. Sponsor reserves the right to void all Entries (and disqualify entrant from the Sweepstakes altogether as well as to prohibit such entrant from participating in future promotions offered by Sponsor) if Sponsor determines in its sole discretion that a given person has engaged in egregious, blatant or repeated violations of the Entry limit. Proof of submission of Entry does not constitute proof of receipt of same or proof of Entry. All Entries become the sole property of the Sponsor. Sponsor and its agencies assume no responsibility for late, lost, illegible/garbled, incomplete, damaged, inaccessible, corrupted or jumbled entries/text messages/SMS transmissions, or any technical failures regardless of cause; and, all such entries are void.

All entries become the property of Sponsor. Released Parties are not be responsible for late, lost, delayed, incomplete, inaccurate, garbled or misdirected entries or any error, omission, interruption, dilution, defect or delay in operation or transmission on the Internet or any damage to a user's computer or mobile device. Sponsor will not acknowledge receipt of entries.

2. **ELIGIBILITY:** Sweepstakes is open to legal residents of the United States and the District of Columbia, who are at least 21 years of age at time of entry. Employees, directors, officers and agents of Sponsor and its parent companies, affiliates, subsidiaries, and advertising and promotion agencies (including Project Fermented LLC), prize suppliers, and any alcoholic beverage industry producers, importers, wholesalers, distributors or licensed retailers, and members of the immediate families or households of any of the above are NOT eligible to participate. In order to enter the Sweepstakes or receive a prize, you must fully comply with these Official Rules, and by entering you agree to be bound by these Official Rules and terms, and the decisions of Sponsor and Project Fermented LLC (the independent judging organization), whose decisions shall be binding and final in all respects, and you certify that you are eligible to enter. You also agree to release, indemnify and hold harmless the Sweepstakes Entities and all of their respective employees, officers, directors and agents (collectively, "Released Parties") against any and all claims, injury, damage or losses to any person or property arising, in whole or in part, directly or indirectly, out of or relating to participation in this Sweepstakes and/or use or misuse or redemption of a prize, and (c) agree to be bound by the decisions of the Sponsor, Project Fermented LLC, and judges, which are final and binding. VOID WHERE PROHIBITED OR RESTRICTED BY LAW, AND IS SUBJECT TO ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

PRIZE: Each week three (3) Weekly Prize Winners will be selected to receive a Movie Rental Gift Card (the "Weekly Prize" or the "prize"). One (1) Grand Prize Winner will be drawn from all eligible entrants (including all Weekly Prize Winners) and awarded a Visa® Gift Card in the amount of five hundred dollars (\$500.00). **Each Winner must be 21 years or older.** Approximate Retail Value ("ARV") of each Weekly Prize is approximately fifty dollars (ARV \$50.00); ARV for the Grand Prize is approximately five hundred dollars (\$500.00); Total ARV of all prizes is approximately one thousand five hundred fifty dollars (\$1,250.00). **Alcoholic beverages are not part of the prize.** No assignment, transfer, cash redemption, or substitution of the prizes is permitted. The potential winner will be determined on the next business day after the close of each Weekly Period, in a random drawing from among eligible Entries, by Project Fermented LLC, Sponsor's chosen judge (an independent third-party judging organization), whose decision will be final and binding. Odds of winning a Weekly Prize or the Grand Prize will be determined by the total number of eligible Entries received each week. The Potential Grand Prize Winner will be selected in a random drawing from among all eligible entries received; the random drawing will be conducted on or about November 6, 2020 by Project Fermented LLC, whose decision is final and binding. The awarding of each Weekly Prize and the Grand Prize is subject to verification of the potential winner's eligibility. The potential winner will be notified by phone or email by Project Fermented LLC, and may be required to furnish valid proof of age in a form prescribed by Sponsor, sign and return an Affidavit of Eligibility, a Liability Release, and, where permitted by law, a Publicity Release, within seventy-two (72) hours of notification. If potential winner cannot be reached, does not respond within 72 hours, or does not complete the required Affidavits and Releases, the

Weekly Prize will automatically be forfeited and an alternate potential winner may be selected at Sponsor's sole discretion. **Each Entrant is eligible for One (1) Weekly Prize ONLY during the Sweepstakes Period; Weekly Prize Winners are not eligible for winning multiple Weekly Prizes.** Weekly Prize Winners will be eligible for the Grand Prize drawing.

No substitution, cash redemption or transfer of prizes is permitted except at Sponsor's sole discretion or as provided herein. If the advertised prize(s) cannot be awarded for any reason, Sponsor reserves the right to substitute a prize of equal or greater value. All federal, state and local income taxes on the prizes and all other costs associated with acceptance or use of the prizes are the sole responsibility of the winner. Arrangements for delivery of prizes will be made after winner validation. The odds of winning depend on the number of entries received. Unclaimed prizes will not be awarded.

3. **GENERAL CONDITIONS.** This Sweepstakes is subject to all applicable federal, state and local laws and regulations. Sponsor reserves the right, in its sole discretion, to offer a cash alternative for the prize.

ELECTRONIC SUBMISSIONS: Neither Sponsor nor Project Fermented LLC will be responsible for: (a) lost, late, misdirected, undeliverable, incomplete, illegible or indecipherable entries due to, among other things, system errors or failures or otherwise, or faulty transmissions or other telecommunications malfunctions, bugs and/or problems related to the online entry; (b) technical failures of any kind; (c) failures of any of the equipment or programming associated with or utilized in the Sweepstakes; (d) unauthorized human and/or mechanical intervention in any part of the entry process or the Sweepstakes; (e) technical or human error that may occur or be encountered by entrants in the entry process, or by Sponsor in the administration of the Sweepstakes or the processing of entries, including computer system, phone line, hardware, software or program malfunctions, or other errors, failures or delays in computer transmissions or network connections that are human or technical in nature; or (f) any injury or damage to persons or property (including death) which may be caused, directly or indirectly, in whole or in part, from any entrant's participation in the Sweepstakes or receipt or use of any prize. Sponsor may disqualify or prohibit an entrant from participating in the Sweepstakes or receiving any prize if, in Sponsor's sole discretion, Sponsor determines or suspects that such entrant is attempting to undermine the legitimate operation of the Sweepstakes by cheating, hacking, deception, or other unsafe or unfair playing practices (including the use of automated quick entry programs, or creating aliases to register more than once) or intending to annoy, abuse, threaten or harass any other entrants or Sponsor's representatives. In the event of a dispute, online entries will be deemed made by the authorized account holder of the email address submitted at time of entry. The authorized account holder is the natural person who is assigned to the e-mail address by an internet access provider, online service, or other organization that is responsible for assigning e-mail addresses.

CAUTION: ANY ATTEMPT BY ANY ENTRANT TO DELIBERATELY DAMAGE THE WEBSITE OR UNDERMINE THE LEGITIMATE OPERATION OF THE SWEEPSTAKES MAY BE IN VIOLATION OF CRIMINAL AND/OR CIVIL LAWS, AND SHOULD SUCH AN ATTEMPT BE MADE, SPONSOR RESERVES THE UNRESTRICTED RIGHT, EXERCISABLE AT ANY TIME IN SPONSOR'S SOLE DISCRETION, AND WITHOUT WAIVER OF OR LIMITATION ON ANY OF SPONSOR'S OTHER AVAILABLE LEGAL AND/OR EQUITABLE RIGHTS AND REMEDIES, TO SEEK CIVIL AND/OR CRIMINAL PROSECUTION AND DAMAGES (INCLUDING ATTORNEYS' FEES) FROM AND AGAINST ANY SUCH ENTRANT TO THE FULLEST EXTENT OF THE LAW.

PRIZE CONDITIONS: Federal and state income taxes may apply and are the sole responsibility of the prize winner(s), regardless of whether the prize is used in whole or in part. An IRS form 1099 may be issued in the name of the winner(s) for the actual value of the prize received if prize value is US\$600 or more. No assignment, transfer, cash redemption, or substitution of the prizes is permitted, but Sponsor reserves the right to substitute a prize for one of comparable or greater value. Sponsor shall not be responsible for any cancellations, delays, diversions or substitution or any act or omissions whatsoever by any air carriers, hotels, venue operators, transportation companies, prize providers or any other persons providing any prize-related services or accommodations. NEITHER SPONSOR NOR ITS REPRESENTATIVES MAKE ANY WARRANTY, REPRESENTATION OR GUARANTEE, EXPRESS OR IMPLIED, IN FACT OR IN LAW, RELATIVE TO THE USE OF ANY PRIZE, INCLUDING, WITHOUT LIMITATION, QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE (UNLESS SPONSOR ELECTS TO PROVIDE ANY PRIZE RECIPIENT WITH ANY EXPRESS WRITTEN WARRANTIES). FURTHER, NEITHER SPONSOR NOR THE SWEEPSTAKES ENTITIES ASSUME ANY ADDITIONAL EXPENSES, OMISSIONS, DELAYS OR ACTS OF ANY GOVERNMENT OR AUTHORITY.

GENERAL LIABILITY RELEASE: If for any reason this Sweepstakes is not capable of running as planned, the Sponsor reserves the right at its sole and absolute discretion, to disqualify any individual, and to cancel, terminate, modify or suspend the Sweepstakes in whole or in part, at any time, without notice and award the Sweepstakes prize using all non-suspect eligible entries, or in any manner that is fair and equitable. Entrant further agrees that Sponsor and Project Fermented LLC shall not be responsible or liable for any losses, damages, or injuries of any kind resulting from the Sweepstakes, or any Sweepstakes-related activity. By participating, all entrants release Sponsor, Project Fermented LLC, each of their parents and subsidiaries, affiliates, partners, employees, officers, directors, and agents, including advertising agencies, and all others associated with the development and execution of the Sweepstakes (collectively, the "Released Parties") from any and all injury, loss, or damage caused or claimed to be caused by your participation in the Sweepstakes and/or acceptance, awarding, receipt, use and/or misuse of the prize. In addition, Entrant releases the Released Parties from any such liability and agree that these entities are in no manner responsible for any warranty, representation, or guarantee, expressed or implied, in fact or in law, relating to the Sweepstakes and/or prize. Entrant hereby agrees to indemnify and hold Sponsor

harmless from and against any third-party claims, actions or proceedings of any kind and from any, and all damages, liabilities, costs and expenses, including attorney fees and court costs, arising out of any breach or alleged breach of any of the warranties and representations set forth above. Entrant further understands and agrees that all rights under Section 1542 of the Civil Code of California ("Section 1542") and any similar law of any state or territory of the United States that may be applicable with respect to the foregoing release are hereby expressly and forever waived. Entrant acknowledges that Section 1542 provides that: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASING PARTY." The releases hereunder are intended to apply to all claims not known or suspected to exist with the intent of waiving the effect of laws requiring the intent to release future unknown claims.

ARBITRATION: Except where prohibited by law, as a condition of participating in this Sweepstakes, Entrant agrees that (1) any and all disputes and causes of action arising out of or connected with this Sweepstakes, or any prize awarded, shall be resolved individually, without resort to any form of class action, and exclusively by final and binding arbitration under the rules of the American Arbitration Association and held at the AAA regional office nearest the Entrant; (2) the Federal Arbitration Act shall govern the interpretation, enforcement and all proceedings at such arbitration; and (3) judgment upon such arbitration award may be entered in any court having jurisdiction. Under no circumstances will Entrant be permitted to obtain awards for, and Entrant hereby waives all rights to claim, punitive, incidental or consequential damages, or any other damages, including attorneys' fees, other than Entrant's actual out-of-pocket expenses (i.e., costs associated with participating in this Sweepstakes), and participant further waives all rights to have damages multiplied or increased.

CHOICE OF LAW: By entering, Entrant agrees that all issues and questions concerning the construction, validity, interpretation and enforceability of these Official Rules, participant's rights and obligations, or the rights and obligations of the Sponsor in connection with the Sweepstakes shall be governed by the laws of the State of California, without giving effect to any choice of law or conflict of laws principles. By participating in the Sweepstakes, Entrant consents to the sole jurisdiction and venue of the federal, state and local courts located in San Francisco, California.

PRIVACY POLICY: Entrant understands that he or she is providing their information to Sponsor. By entering the Sweepstakes, each Entrant acknowledges that his or her first and last name and hometown may be announced online, including on Sponsor's social media channels. Except where prohibited, acceptance of any, and all prizes constitutes consent by the winner to use of his/her name, voice, picture, likeness and biographical data for advertising and promotional purposes without any additional compensation.

Each Entrant further hereby acknowledges and agrees that if he or she is chosen as a winner for any prize, certain of his or her identifying information may be disclosed to third parties (at least as required by law), including, without limitation, on an online page listing prize winner(s). Information collected from Entrant will be treated by Sponsor in accordance with Sponsor's privacy policy, available at www.fetzer.com/privacy-policy, and with due regard to Entrant's privacy. Entrant should be aware that Sponsor may be collecting non-public, personally-identifiable information about them in connection with the operation of the Sweepstakes.

4. **WINNER LIST:** A list of Winner(s) will be available after November 30, 2020. Please send a return self-addressed stamped envelope, attention to CASILLERO DEL DIABLO Unleash the Legend Halloween Sweepstakes Winner's Department, P.O. Box 611, Hopland, CA 95449. Residents of Vermont may omit return postage. All requests for the Winner's list must be received by December 15, 2020. Requests will be fulfilled after all winners are verified.
5. **SPONSOR:** This sweepstakes is sponsored by Fetzer Vineyards, Hopland, Mendocino Co., California. The information you provide in connection with this Sweepstakes is being provided to the Sponsor and Project Fermented LLC. The information you provide in connection with this Sweepstakes will be used for purposes of this Sweepstakes only. Copyright ©2020 FETZER VINEYARDS, HOPLAND, MENDOCINO CO., CA. All rights reserved.