American Vintage Beverage Inc., Suite 1070, 328 S. Jefferson Street, Chicago, Illinois 60661

May 29, 2014

Mr. Richard R. Haymaker
Chief Legal Counsel
Illinois Liquor Commission
101 West Jefferson Street
Springfield, IL 62702

Dear Richard:

Thank you for the opportunity to comment on proposed Regulation 100.440 Retailer Specific/Private Labeling that you sent out via email May 14. We are at this time only providing comments on this particular proposed rule. We may, at a future time, comment on other proposed rules.

American Vintage Beverage Inc. ("AVBI"), a supplier of malt beverage and distilled spirits products, is part of the Mark Anthony group of companies ("Mark Anthony") that also includes Mike's Hard Lemonade Co. In 2012, Mark Anthony relocated the operations of all its US companies, including AVBI, to Chicago. Approximately 90 Mark Anthony and AVBI employees now work in Chicago as a result of this corporate relocation.

It is not clear what this proposed regulation is intended to accomplish. We also note the following:

1. Federal Law allows Private Label products - Subsection "a" of the proposed rule refers to "federal rules related to private labeling." Federal alcohol laws and regulations do not explicitly address, or restrict in any way, private label alcoholic beverages, which have been sold legally in Illinois and the United States for a very long time. How would currently approved products in Illinois be impacted?

2. No Statutory Foundation - We don't believe there is any Illinois statutory foundation or support for this proposed regulation. We are not aware of any Illinois law that explicitly addresses private label alcohol beverages. The proposed regulation references 235 ILCS 5/6-17.1. That statute does not mention private label products, and the requirements of that law are quite clear.

3. Commercial Free Speech - We believe that this regulation could violate the right to free commercial speech. A per se prohibition is the wrong approach. If the Commission is concerned about 3 tier system violations, exclusive outlets or other issues, then existing law and enforcement tools that the Commission has are sufficient and can be utilized on a case by case basis as needed. Case by case enforcement is much better than a per se, unconstitutional ban on an entire class of products that have been sold in Illinois and throughout the country for many years.

4. Proposed Rule Confusing - The actual wording of the proposed rule is confusing. What does "retailer specific label" actually mean – the term is not defined? We do not understand what subsection b means or how it would be interpreted.

5. Proposed Subsection "c" would create a significant burden - The requirement that the same product also be sold under a different name/label is impractical and an unnecessary burden on private industry. What goal would this accomplish? This would result in significant production complexity and increased cost to industry members. How can the State, whether by regulation or otherwise, legally require any company to produce a certain product? Why should any company do this if it will generate a loss? What if no retailer actually purchases the other product? How much of the other product would have to be produced?

6. Non-Exclusive Retailer Labels - It appears, though it is not clear, that this proposal is aimed at making sure there are no products sold exclusively at one retailer. What if a product has a retailer name or trademark on the label and it is not sold exclusively at that retail account or is not sold at that account at all? Would that be legal under this proposed regulation?

   While we strongly believe this entire proposed regulation should be withdrawn, if a new rule is adopted, it should specifically and clearly allow products to have a retailer name, logo or trademark on its label as long as the product is not sold exclusively at any account.

If you have any questions regarding our comments, please contact me.

Sincerely,

William A. Levine
General Counsel