

July 24, 2013

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Richard E. Skawinski
Beverage Law LLC
120 Ravencrest Drive
Stratford, CT 06614

RE: 2013 Magic Hat “Halloween” Sweepstakes

Dear Mr. Skawinski:

ISSUE: This correspondence is in response to your e-mail of July 18, 2013, wherein you request approval, on behalf of Magic Hat Brewing Company, to run the 2013 Magic Hat “Halloween” Sweepstakes in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the sweepstakes is scheduled to begin on August 1, 2013, and runs until September 30, 2013. There are four (4) ways for interested individuals to enter the sweepstakes. First, interested individuals may enter by visiting www.magicchat.net/halloween and completing the entry form. Second, interested individuals may enter using their smartphone by visiting m.magicchat.net/Halloween and completing the entry form. Third, interested individuals may enter by printing their name, street address, city, state, zip code, daytime and evening phone numbers, and e-mail address on a three (3)-inch by five (5)-inch piece of paper, signing the paper, and then mailing it to the address specified in the “Official Rules.” Finally, interested individuals may enter by accessing the Magic Hat Brewing Company fan page at <http://www.facebook.com/magicchatbrewing> during the promotion period and following the links to complete the entry form. There is a limit of one (1) entry per person/e-mail address/mobile phone number, regardless of the method of entry.

One (1) winner will be selected for the sweepstakes. The winner will be randomly selected from among all eligible entries received on or about October 1, 2013. The winner will receive a prize package, which includes the following: round-trip coach class airfare for the winner and three (3) guests from the major international airport closest to the winner’s home to New Orleans, Louisiana; accommodations for four (4) nights (two (2) rooms, double occupancy) at a hotel of the sponsor’s choice in New Orleans, Louisiana; four (4) VIP passes to a music festival in New Orleans, Louisiana from November 1 to November 3, 2013, subject to availability; ground transportation between the airport and hotel of the sponsor’s choice; round-

trip ground transportation between the hotel and festival venue for each day of the festival; four (4) tickets to a scheduled event on October 31, 2013, which shall consist of a walking tour of the historic French Quarter in New Orleans, Louisiana, subject to availability; round-trip ground transportation between the hotel and the scheduled event on October 31, 2013; a one thousand dollar (\$1,000.00) gift card for meals; and one hundred dollars (\$100.00) worth of Magic Hat apparel and merchandise. The approximate retail value of the prize is seven thousand four hundred eighty dollars (\$7,480.00). Any and all costs and expenses not specifically mentioned in the "Official Rules," including but not limited to those relating to additional transportation, insurance, income taxes, meals, gratuities, room service, extra services, events, and personal expenses, are the winner's responsibility to pay. No alcohol is being awarded as a prize.

The sweepstakes is open only to legal United States residents of certain states, including Pennsylvania, who are twenty-one (21) years of age or older on August 1, 2013. No purchase is necessary to enter or win the sweepstakes.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one (21) 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 as described in the "Official Rules" 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 Board's Regulations [40 Pa. Code § 5.32(h)], as long as alcoholic beverages are not awarded as any part of the prize.

While the "Official Rules" that you provided appear to indicate that no alcoholic beverages will be awarded as any part of the prize, it is important to point out, in case

you are unaware, that to the extent that any part of the prize package being awarded will involve sampling, tasting testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guests, 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 Board’s wine and spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one (1) brand of any one (1) manufacturer at any one (1) time may not exceed three hundred dollars (\$300.00) on a retail licensed premises. [47 P.S. § 4-493(20)(i)].

Therefore, as long as alcoholic beverages are not awarded as any part of the prize, 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 (POS only).
- the Board’s wine and spirit stores, subject to approval of the Bureau of Product Selection.
- 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.

Very truly yours,

Rick Skawinski
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FAITH S. DIEHL
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 13-345