

October 1, 2013

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

**RE: 2013 Magic Hat “Winterland Weekend Pass” Sweepstakes**

Dear Mr. Skawinski:

ISSUE: This correspondence is in response to your e-mail of September 23, 2013, wherein you request approval, on behalf of Independent Brewer’s United Corporation d/b/a Magic Hat Brewing Company, to run the 2013 Magic Hat “Winterland Weekend Pass” Sweepstakes in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the sweepstakes is scheduled to begin on October 15, 2013, and runs until December 31, 2013. 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. No purchase is necessary to enter or win the sweepstakes.

There are three (3) ways for interested individuals to enter the sweepstakes. First, interested individuals may enter by visiting [www.magichat.net/winterpass](http://www.magichat.net/winterpass) and completing the entry form. Second, interested individuals may enter using their smartphone by visiting [m.magichat.net/winterpass](http://m.magichat.net/winterpass) and completing the entry form. Finally, interested individuals may enter by accessing the Magic Hat Brewing Company fan page at <http://www.facebook.com/magichatbrewing> 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 January 4, 2014. 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 Burlington, Vermont (unless the winner resides within two hundred (200) miles of the destination); accommodations for three (3) nights (two (2) standard rooms, double occupancy) at a Vermont ski resort of the sponsor’s choice; ground transportation between the Burlington airport (or other arrival location) and ski resort; four (4) two (2)-day lift tickets for a Vermont ski resort selected by the sponsor; four (4) two (2)-day ski or snowboard rentals; a VIP tour of the Magic Hat Brewery in Burlington, Vermont; a five hundred dollar (\$500.00) prepaid debit gift card; and two

hundred fifty dollars (\$250.00) worth of Magic Hat apparel and merchandise. The approximate retail value of the prize is six thousand dollars (\$6,000.00). No alcohol is being awarded as a prize. All guests must be twenty-one (21) years of age or older.

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 indicate that no alcohol will be awarded as a 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,

FAITH S. DIEHL  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement  
James Short, Director of Marketing and Merchandising  
Michelle Bonsick, Director, Bureau of Marketing Communications,  
Branding & Design  
Pamela Bernd, Bureau of Product Selection

LCB Advisory Opinion No. 13-433