

October 4, 2013

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Natalie A. Harris
Mandell Menkes, LLC
One North Franklin Street, Suite 3600
Chicago, IL 60606

RE: Hpnotiq SparkleLouder Contest & Sweepstakes

Dear Ms. Harris:

ISSUE: This correspondence is in response to your e-mail and attached letter of September 24, 2013, in which you request approval to run a sweepstakes promotion in Pennsylvania sponsored by Heaven Hill Distilleries, Inc.

According to the official rules you provided, the “Hpnotiq SparkleLouder Contest & Sweepstakes” promotion is scheduled to run from November 4 through December 6, 2013. Consumers may participate by following the instructions for entry online at the promotional website or Facebook page. A total of twenty (20) weekly sweepstakes winners will randomly be selected to each receive one (1) Effy white gold, blue topaz, and diamond ring with an approximate retail value (“ARV”) of one thousand two hundred fifty dollars (\$1,250.00). In addition, one (1) grand prize winner will be selected by a panel of judges to receive a trip for four (4) to New York City including round-trip airfare, ground transportation, hotel accommodations for two (2) nights, and access to the midnight ball drop in Times Square, with an ARV of eight thousand dollars (\$8,000.00). The promotion is limited to female U.S. residents who are twenty-one (21) years of age or older, and no purchase is necessary to enter.

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 promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)], and is acceptable for use in this Commonwealth, as long as it does not involve unlawful discrimination and alcohol is not awarded as a prize.

Please be advised that the Pennsylvania Human Relations Act ("PHRA") prohibits discrimination on the basis of sex. [43 P.S. § 955]. Because your proposed promotion is limited to individuals who are females, this could possibly be viewed as unlawful discrimination. This office is not authorized to opine as to whether any specific conduct definitively would or would not violate the PHRA; rather, the Pennsylvania Human Relations Commission ("PHRC") would have the authority to make such determinations. You may wish to contact the PHRC for more information at phrc@pa.gov or at 717-787-4410.

Additionally, to the extent that any part of the grand prize trip includes the provision of alcohol at no additional cost to the grand prize winner and their guests, this would be construed as the awarding of alcohol as part of the prize and is not permitted.

Therefore, it would be permissible to conduct this promotion in the Commonwealth, as described above, in reference to the areas checked below:

- ___ retail licensed premises.
- ___ distributor licensed premises.
- ___ both retail and distributor licensed premises.
- ___ the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection.

X other – Internet, text messaging.

Finally, 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)].

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, Product Selection

LCB Advisory Opinion No. 13-441