

October 8, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

MacKenzie Carruth
Avid Marketing Group
The Meadows
1344 Silas Deane Highway, 5th Floor, Suite 510
Rock Hill, Connecticut 06067
RE: Four Loko Photo Sharing Contest

Dear Ms. Carruth:

ISSUE: This correspondence is in response to your e-mail of October 1, 2013, in which you request approval on behalf of Phusion Projects, LLC, to conduct a sweepstakes promotion in Pennsylvania.

According to the official rules you provided, the “Four Loko Photo Sharing Contest” promotion is scheduled to run from October 25 to November 1, 2013. The first phase of the promotion runs from October 25 through October 29, 2013, during which entry may be completed using the Instagram application online. The second phase runs from October 29 through November 1, 2013, during which consumers may participate online at www.facebook.com/fourloko. The four (4) entrants with the most “likes” during the second phase of the contest will receive prizes. The grand prize winner will receive a trip for two (2) to the 2014 Mountain Oasis Electronic Music Summit Festival in Asheville, North Carolina, with an approximate retail value of eight hundred dollars (\$800.00). The first prize winner will receive two hundred dollars (\$200.00). The second prize winner will receive one hundred dollars (\$100.00). The third prize winner will receive a Four Loko “Swag Bag.” In addition, the top ten entrants will each receive Four Loko gear. The promotion is open to legal residents of the United States 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 alcoholic beverages are not included in any prize.

Therefore, it would be permissible to conduct this promotion in the Commonwealth, as indicated 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 spirits stores, subject to approval of the Bureau of Product Selection.
- other – Internet, text messaging.

Please note 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

LCB Advisory Opinion No. 13-446