

October 29, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

Daniel J. Ryan
Commercial Marketing Director
North American Spirits & Wine-PA

RE: Moet Sweepstakes

Dear Mr. Ryan:

ISSUE: This correspondence is in response to your e-mail sent October 23, 2013, and forwarded to this office the same day, wherein you appear to be seeking approval to conduct a Moet Sweepstakes in Pennsylvania.

Although you did not submit a copy of the “Official Rules” for the sweepstakes for our review, you did supply a copy of a point-of-sale (“POS”) bottle necker, which you presumably would like to use in the Pennsylvania Liquor Control Board’s (“Board”) Wine & Spirits stores, that provides important details about the sweepstakes. According to the bottle necker, the sweepstakes is scheduled to begin on November 1, 2013, and runs until January 1, 2014. Interested individuals may enter the sweepstakes by visiting @MOETUSA on Facebook or Twitter. The winners of the sweepstakes will receive a trip to New York City to attend the New Year’s Eve VIP Party. The approximate retail value of each prize is four thousand dollars (\$4,000.00). The sweepstakes is open only to legal residents of the United States who are twenty-one (21) years of age or older. No purchase is necessary to enter or win the sweepstakes.

OPINION: Section 5.32(h) of the Board’s 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 POS material that you provided 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.

Importantly, the POS materials that you provided do not indicate whether 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 trip to New York City being awarded as the prize, including the New Year Year's Eve VIP Party, will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winners and/or any guests of the winners, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Additionally, please be advised that prior approval of malt or brewed beverages 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.
- the Board's wine and spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- other – internet, text messaging.

Daniel J. Ryan
October 29, 2013
Page 3

Finally, if you would like this office to review any future sweepstakes, we kindly ask that you supply us with a copy of the official rules for those sweepstakes, as this will greatly assist us in conducting our review.

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. 13-474