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**RE: Diageo Americas, Inc.
“Mix It Up Football Sweepstakes”**

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and attached letter dated October 31, 2013, wherein you request approval, on behalf of Diageo Americas, Inc., to conduct the “Mix It Up Football Sweepstakes” in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on January 1, 2014, and runs until January 31, 2014. 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.

Interested individuals may enter the sweepstakes by sending a text message with the word “COCKTAILS” to “839863.” Alternatively, interested individuals may enter the sweepstakes by printing their name, address, date of birth, and telephone number along with the words “Mix It Up Football Sweepstakes – DIA19661” on a three (3)-inch by five (5)-inch card and mailing it the address set forth in the “Official Rules.” There is a limit of one (1) entry per person, regardless of the method of entry.

Five (5) grand prizes and three hundred fifty (350) first place prizes will be awarded for the sweepstakes. The winners will be determined via a random drawing to be conducted on or about February 10, 2014.

The grand prize winners will each receive an ultimate football entertaining package consisting of the following: one (1) high definition TV; one (1) three hundred dollar (\$300.00) gift card to be used to purchase a football cable package; one (1) ultimate party accessory package that includes plates, napkins, cups, table clothes, coasters, utensils, and a chip and dip tray; and one (1) cocktail shaker set. Alcoholic beverages are not part of the prize. The approximate retail value of each grand prize is one thousand five hundred dollars (\$1,500.00).

The first place prize winners will each receive a pub glass, set of coasters, or an apron. Alcoholic beverages are not part of the prize. The approximate retail value of each first place prize is twenty-five dollars (\$25.00).

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 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)].

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, it is permissible to conduct the proposed sweepstakes promotion, as described above, 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.

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. 13-484