

November 26, 2013

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Charity Garner
Polling Specialist
Arrowhead Promotion & Fulfillment Co.

RE: Bacardi OakHeart Challenge

Dear Ms. Garner:

ISSUE: This correspondence is in response to your e-mail of November 7, 2013, wherein you request approval, on behalf of Bacardi U.S.A., Inc., to run the Bacardi OakHeart Challenge (“Challenge”) promotion in Pennsylvania.

According to the “Official Rules” that you provided, the Challenge is open only to legal residents of the fifty (50) United States or the District of Columbia who have qualified to participate in the Great Urban Race Championship, are at least twenty-five (25) years of age, and received an invitation to participate in the Challenge.

Qualified individuals may enter the Challenge by visiting www.OakHeartChallenge.com/EntryForm and completing the entry form, which requires an explanation as to why the entrant’s team deserves to win and the uploading of a photo showing the entrant’s team completing a challenge. Entries were required to be received by November 11, 2013. There was a limit of one (1) entry per team.

The sponsor will evaluate all entries based on the following judging criteria: creativity and originality; how well the entry reflects the OakHeart brand; and how well the entry reflects team spirit. The sponsor will select up to ten (10) teams as finalists based on the judges’ scores. The finalists will be posted on www.OakHeartChallenge.com from November 18, 2013 to December 2, 2013, and website visitors will be invited to vote for their favorite finalists based on the judging criteria. There is a limit of one (1) vote per person, per day. The finalist team receiving the highest score will be deemed the Challenge winner.

The winning team will receive three thousand dollars (\$3,000.00) to be awarded as gift cards and divided among the team members. The prize will be awarded during the Great Urban Race in Puerto Rico and must be claimed in person.

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 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)].

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 would be 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.

X the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection (POS only).

X 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, Product Selection

LCB Advisory Opinion No. 13-506