

December 10, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

Nichole D. Shustack, Esq.
The Boston Beer Company
One Design Center Place, Suite 850
Boston, MA 02210

RE: Samuel Adams Sweepstakes Promotions

Dear Ms. Shustack:

ISSUE: This correspondence is in response to your letters of November 25, 2013, wherein you request approval to run the following three (3) Samuel Adams sweepstakes promotions in Pennsylvania: the “Thirty (30) Years of Independence Sweepstakes”; the “Cheers to Thirty (30) Years Sweepstakes”; and the “Cold Snap Sweepstakes.”

The “Thirty (30) Years of Independence Sweepstakes” is scheduled to begin on January 1, 2014, and runs until April 30, 2014. This sweepstakes is open only to legal residents of the United States who are at least twenty-one (21) years of age at the time of entry. No purchase is necessary to enter or win the sweepstakes.

Interested individuals may enter this sweepstakes by texting an official entry code found in store on point-of-sale (“POS”) cardboard signs, packaging material, cooler stickers or other sweepstakes-related advertising materials to “30364.” Alternatively, interested individuals may enter by sending an e-mail containing their first and last name, complete mailing address, telephone number, e-mail address, date of birth, and an official entry code to Official.Rules@samueladams.com. There is a limit of one (1) entry per person, regardless of the method of entry.

Five (5) grand prizes will be awarded for this sweepstakes. The grand prize winners will be selected in a random drawing on or about May 1, 2014. Each

grand prize winner will receive a trip for the winner and one (1) guest to Boston, Massachusetts, for the Thirtieth (30th) Anniversary Celebration in August 2014. The trip includes the following: roundtrip, coach class air transportation for the winner and his or her guest from a major U.S. gateway airport nearest the winner's residence to Boston, Massachusetts; three (3) days and two (2) nights' standard hotel accommodations (one (1) room, double occupancy); ground transportation to and from the event and the hotel; admission to the Thirtieth (30th) Anniversary Celebration; and a five hundred dollar (\$500.00) gift card for meals. The approximate retail value of each prize is two thousand, five hundred dollars (\$2,500.00). The winner's guest must be twenty-one (21) years of age or older.

The "Cheers to Thirty (30) Years Sweepstakes" is scheduled to begin on January 1, 2014, and runs until April 30, 2014. This sweepstakes is open only to legal residents of the United States who are at least twenty-one (21) years of age at the time of entry. No purchase is necessary to enter the sweepstakes.

Interested individuals may enter this sweepstakes by texting an official entry code found in store on POS cardboard signs, packaging material, cooler stickers or other sweepstakes-related advertising materials to "30364." Alternatively, interested individuals may enter by sending an e-mail containing their first and last name, complete mailing address, telephone number, e-mail address, date of birth, and an official entry code to Official.Rules@samueladams.com. There is a limit of one (1) entry per person, regardless of the method of entry.

One (1) grand prize will be awarded for this sweepstakes. The grand prize winner will be selected in a random drawing on or about May 1, 2014. The grand prize winner will receive a trip for the winner and one (1) guest to Boston, Massachusetts, for the Thirtieth (30th) Anniversary Celebration in August 2014. The trip includes the following: roundtrip, coach class air transportation for the winner and his or her guest from a major U.S. gateway airport nearest the winner's residence to Boston, Massachusetts; three (3) days and two (2) nights' standard hotel accommodations (one (1) room, double occupancy); ground transportation to and from the event and the hotel; admission to the Thirtieth (30th) Anniversary Celebration; and a five hundred dollar (\$500.00) gift card for meals. The approximate retail value of each prize is two thousand, five hundred dollars (\$2,500.00). The winner's guest must be twenty-one (21) years of age or older. All entrants will receive a coupon code to obtain a free Samuel Adams Hat having an approximate retail value of fourteen dollars (\$14.00).

The “Cold Snap Sweepstakes” is scheduled to begin on January 1, 2014, and runs until February 28, 2014. This sweepstakes is open only to legal residents of the United States who are at least twenty-one (21) years of age at the time of entry. No purchase is necessary to enter or win the sweepstakes.

Interested individuals may enter this sweepstakes by visiting the Samuel Adam’s Facebook page and following the on-screen instructions to submit an entry. Alternatively, interested individuals may enter the sweepstakes by sending an e-mail containing their first and last name, complete mailing address, telephone number, e-mail address, date of birth, and the phrase “Cold Snap Sweepstakes” to Official.Rules@samueladams.com. There is a limit of one (1) entry per person, regardless of the method of entry.

One (1) grand prize will be awarded for this sweepstakes. The grand prize winner will be selected in a random drawing on or about March 10, 2014. The grand prize winner will receive a trip for the winner and one (1) guest to Hawaii. The trip includes the following: roundtrip, coach class air transportation for the winner and his or her guest from a major U.S. gateway airport nearest the winner’s residence to Honolulu, Hawaii; and five (5) days and four (4) nights’ standard hotel accommodations (one (1) room, double occupancy). The approximate retail value of each prize is five thousand dollars (\$5,000.00). The winner’s guest must be twenty-one (21) years of age or older. The trip must be taken prior to January 1, 2015.

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)].

In addition, while the Liquor Code generally prohibits any licensee, manufacturer or other person from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase alcohol, there is an exception to this general prohibition which allows the offering or giving of “advertising novelties of nominal value.” [47 P.S. § 4-493(24)(i)]. The Board has defined “advertising novelties of nominal value” as items that have a wholesale cost of fifteen dollars (\$15.00) or less and contain advertising material. [40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision)]. Advertising novelties typically consist of items such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, pens, or pamphlets. [Id.].

This office has reviewed the proposed sweepstakes promotions as described above and determined that they comport 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 no alcoholic beverages are awarded as part of the grand prizes for each of the sweepstakes.

Please be advised that to the extent that any part of the trips being awarded as the grand prizes for each of the sweepstakes will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winners and/or their guests, this would be construed as awarding alcoholic beverages as part of the prizes and is not permitted.

Further, 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 no alcoholic beverages are awarded as part of the grand prizes, it would be permissible to conduct the proposed sweepstakes promotions in the Commonwealth in reference to the areas checked below:

____ retail licensed premises.

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

LCB Advisory Opinion No. 13-514