

April 14, 2014

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April Pyatt
Manager, Intellectual Property Compliance
Pernod Ricard USA
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RE: Dead Bolt Wine Battle of the Bands Contest

Dear Ms. Pyatt:

ISSUE: This correspondence is in response to your e-mail and letter dated April 8, 2014, which were forwarded to this office on April 9, 2014, wherein you request approval to conduct the “Dead Bolt Wine Battle of the Bands Contest” in Pennsylvania.

According to the “Official Rules” that you provided, the contest was scheduled to begin on April 8, 2014, and runs until April 23, 2014. Interested individuals may enter the contest by visiting www.facebook.com/deadboltwine, following the instructions, and completing and submitting the online entry form. Entrants will be required to enter their band name, band website, band e-mail address, point of contact, link to band SoundCloud, which song best represents their band, and band member names. Entrants will also be required to upload a band photo in .jpg format sized at three hundred (300) by three hundred (300) pixels. There is a limit of one (1) entry per band, per e-mail address during the contest entry period, regardless of the method of entry.

The contest is open only to legal residents of the United States or the District of Columbia who are twenty-five (25) years of age or older at the time of entry. All band entrants must be available on July 15, 2014. No purchase is necessary to enter or win.

On or about April 25, 2014, a judging organization will select ten (10) potential winners from among all valid entries received based on the following criteria: sound—thirty-five percent (35%); performance—thirty-five percent (35%); and

relevance to the event—thirty percent (30%). On or about May 19, 2014, the band that has received the most consumer votes will be selected as the winner.

The winning band will receive a prize package consisting of the following: two (2) nights and three (3) days accommodations; airfare; access to a VIP Dead Bolt private event; and opening lineup position for the headlining act for the event. The approximate retail value of the prize package is ten thousand dollars (\$10,000).

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer, manufacturer's representative, 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 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)], and is acceptable for use in this Commonwealth, as long as no alcoholic beverages are awarded as part of the prize.

Please be advised that to the extent that any part of the prize being awarded involves taste testing, sampling, or the provision of alcohol at no additional cost to the winning band and/or its band members, this would be considered awarding alcoholic beverages as part of the prize and is not permitted.

Further, please be advised that prior approval of malt or brewed beverages point-of-sale ("POS") material and prior approval of 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 the prize being awarded does not include any alcoholic beverages, it is permissible to conduct the proposed 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 spirit 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
Dale Horst, Interim Director of Marketing and Merchandising
Michelle Bonsick, Director, Bureau of Marketing Communications,
Branding & Design
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 14-134