

April 24, 2014

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Scott A. Schleifstein
Cohen Silverman Rowan LLP
360 Lexington Avenue, 16th Floor
New York, NY 10017

RE: Smirnoff Sorbet Light “Spring Refresh” Contest

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and attached letter dated April 17, 2014, in which you seek approval on behalf of Diageo Americas, Inc., to conduct the Smirnoff Sorbet Light “Spring Refresh” Contest in Pennsylvania.

According to the “Official Rules” that you provided, the contest was scheduled to begin on April 21, 2014, and runs until June 9, 2014. Interested individuals may enter the sweepstakes by visiting www.smirnoffsorbetlight.com and following the instructions to complete and submit an entry form. Entrants are required to select an inspirational “Spring Refresh” image and “pin” it to a board on Pinterest along with a written description explaining how they refresh for spring and the hashtag “#smirnoffcontestentry.” There is a limit of one (1) entry per person.

Three (3) grand prizes will be awarded for the contest. The grand prize winners will be selected by an independent judging organization based on the following criteria: adherence to theme—twenty-five percent (25%); originality—fifty percent (50%); and creativity—twenty-five percent (25%). The top three (3) scoring entrants will be named the grand prize winners. Each grand prize winner will receive a check for five thousand dollars (\$5,000.00) to be used to make his or her “Spring Refresh” pin and/or board a reality.

The contest 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 contest.

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 has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] 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 Management 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.
- the Board's wine and spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- other – Internet, text messaging.

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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. 14-175