

May 7, 2014

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The Boston Beer Company
One Design Center Place, Suite 850
Boston, MA 02210

RE: Angry Orchard – “Cool Your Core” Sweepstakes

Dear Ms. Shustack:

ISSUE: This correspondence is in response to your letter of May 1, 2014, wherein you request approval to run the Angry Orchard – “Cool Your Core” Sweepstakes in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on June 1, 2014, and runs until August 31, 2014. The 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 the sweepstakes by texting an official entry code found in stores 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@angryorchard.com. There is a limit of one (1) entry per person, per method of entry.

Sixty-one (61) total prizes, consisting of one (1) grand prize and sixty (60) first prizes, will be awarded for the sweepstakes. The prize winners will be selected in

a random drawing, to be conducted on or about September 8, 2014, from among all eligible entries received.

The grand prize winner will receive a trip for the winner and one (1) guest to an Ice Hotel in Fairbanks, Alaska or the cash equivalent. The trip consists of the following: round-trip coach air transportation from the major U.S. airport nearest the winner's residence to Fairbanks, Alaska; double occupancy hotel accommodations for five (5) nights; a full-size car rental; two hundred fifty dollars (\$250.00) per day in spending money; and a five hundred dollar (\$500.00) tour stipend. The approximate retail value of the grand prize is ten thousand dollars (\$10,000.00). The winner's guest must be twenty-one (21) years of age or older. Each first prize winner will receive an Angry Orchard branded refrigerator. The approximate retail value of each first prize is two hundred ten (\$210.00) dollars.

Also, all entrants will receive a link to obtain an Angry Orchard koozie having an approximate retail value of two dollars (\$2.00).

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)].

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 promotion as described above 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)], as long as no alcoholic beverages are awarded as part of the grand prize.

Please be advised that to the extent that any part of the trip being awarded as the grand prize will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guest, this would be construed as awarding alcoholic beverages as part of the prize 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 prize, it would be permissible to conduct the proposed sweepstakes promotion 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

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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. 14-194