

May 14, 2014

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Jim Heetman
Promotion Mechanics, Inc.
87 South Main Street
Newtown, CT 06470

RE: Tito's Handmade Vodka "Austin City Limits Sweepstakes"

Dear Mr. Heetman:

ISSUE: This correspondence is in response to your e-mail sent April 29, 2014, wherein you request approval, on behalf of Fifth Generation, Inc., to run the Tito's Handmade Vodka "Austin City Limits Sweepstakes" in Pennsylvania.

According to the "Official Rules" that you provided, the sweepstakes is scheduled to begin on May 15, 2014, and runs until July 15, 2014. The sweepstakes is open only to legal residents of the United States or the District of Columbia 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 visiting www.titosvodka.com/titorocks and following the instructions to complete and submit an entry form. There is a limit of one (1) entry per person/e-mail address, per day. All entries received will be divided into the following four (4) separate regions based on the geographic location of the state in which the entrants reside: East Region, Central Region, Texas Region, and West Region.

One (1) prize will be awarded for each region. The prize winners will be selected in random drawings, to be conducted on or about August 6, 2014, from among the eligible entries received for each region. Each prize winner will receive two (2) three (3)-day tickets to the Austin City Limits Music Festival to be held in Austin, Texas from October 10th through October 12th, 2014. Alcoholic beverages will not be provided as part of the prizes. The total approximate retail value of each prize is four hundred fifty dollars (\$450.00).

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)].

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 prizes.

Although the "Official Rules" that you provided indicate that alcoholic beverages will not be provided as part of the prize, it is important to point out, in case you are unaware, that to the extent that the Austin City Limits Music Festival tickets being awarded as prizes entitle the winners and/or their guests to engage in sampling or taste testing, or to otherwise receive alcoholic beverages at no additional cost, 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 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, as long as no alcoholic beverages are awarded as part of the prizes, 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.
- 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. 14-205