

May 15, 2014

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RE: “Absolut Artpop Lounge Sweepstakes”

Dear Mr. Radbell:

ISSUE: This correspondence is in response to your letter of May 6, 2014, in which you request approval to run the “Absolut Artpop Lounge Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to occur during the period indicated in the promotion announcement on the venue screen and/or monitor, beginning on July 7, 2014 and ending on July 19, 2014, and running on select public event dates only from 5:00 p.m. local time to 8:30 p.m. local time. Interested individuals may enter the sweepstakes by sending a text with the keyword “ABSOLUTTRANSFORM” to the short code “404040.” Alternatively, interested individuals may enter by completing the registration form provided by the Brand Ambassador at Guest Services located inside the venue of attendance. There is a limit of one (1) entry per person during each promotion period, regardless of the method of entry.

One (1) grand prize will be awarded on each of the following six (6) participating Lady Gaga event dates: July 7, 2014—First Niagara Center in Buffalo, NY; July 11, 2014—United Center in Chicago, IL; July 14, 2014—AT&T Center in San Antonio, TX; July 16, 2014—Toyota Center in Houston, TX; July 17, 2014—American Airlines Center in Dallas, TX; and July 19, 2014—MGM Grand Garden Arena in Las Vegas, NV. The grand prize winners will be randomly selected from all eligible entries at approximately 8:30 p.m. local time on each participating date. Each grand prize consists of two (2) passes to the Absolut Artpop Lounge. The

winner and guest must both be at least twenty-one (21) years of age. The approximate retail value of each grand prize is five hundred seventy dollars (\$570.00).

The sweepstakes is open only to natural persons who are legal residents of the contiguous United States and who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to enter or win the sweepstakes.

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 alcoholic beverages are not awarded as any part of the grand prize.

Please be advised that to the extent that entry into the Absolut Artpop Lounge entitles the winners and/or their guests to receive any alcoholic beverages at no additional cost, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Additionally, 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 alcoholic beverages are not awarded as any part of the grand prize, it is 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.
- 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. 14-219