

May 28, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

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

RE: Diageo-Guinness USA Inc. Sweepstakes Promotions

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail dated May 20, 2014, wherein you seek approval on behalf of Diageo-Guinness USA, Inc. to conduct two (2) sweepstakes promotions in Pennsylvania.

According to the materials that you submitted, the first sweepstakes promotion, which is called the “Guinness International Champions Cup Sweepstakes,” is scheduled to begin on June 1, 2014, and runs until July 13, 2014. The sweepstakes is open only to legal residents of the United States 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.

Interested individuals may enter this sweepstakes by texting “GUINNESS” to “839863” during the sweepstakes period. Alternatively, interested individuals may enter this sweepstakes by printing their name, address, date of birth, telephone number, and the words “GUINNESS International Champions Cup Sweepstakes – DIA21232” on a three (3)-inch by five (5)-inch card and mailing it to the address specified in the “Official Rules.” There is a limit of one (1) entry per person, regardless of the method of entry.

One hundred thirty (130) grand prizes will be awarded for this sweepstakes. The winners will be determined in a random drawing to be conducted on or about July 18, 2014. Each grand prize winner will receive two (2) tickets to attend one (1) of thirteen (13) professional soccer games that are part of the Guinness International Champions Cup 2014. The approximate retail value of each grand prize is one hundred dollars (\$100.00). There is a limit of one (1) grand prize per family, household or address. Alcoholic beverages are not included as part of the grand prize. The winners’ guests must be twenty-one (21) years of age or older.

The second sweepstakes, which is called the “Win a Trip to the Guinness International Champions Cup in Miami Sweepstakes,” is scheduled to begin on June 1, 2014, and runs until July 21, 2014. The sweepstakes is open only to legal residents of the United States 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.

Interested individuals may enter this sweepstakes by texting “GUINNESSWIN” to “839863” during the sweepstakes period. Alternatively, interested individuals may enter by printing their name, address, date of birth, telephone number, and the words “Win a Trip to the GUINNESS International Champions Cup in Miami Sweepstakes – DIA21278” on a three (3)-inch by five (5)-inch card and mailing it to the address specified in the “Official Rules.” There is a limit of one (1) entry per person, regardless of the method of entry.

Four (4) grand prizes will be awarded for this sweepstakes. The grand prize winners will be selected in a random drawing to be conducted on or about July 25, 2014. Each grand prize winner will receive a trip for two (2) to the Guinness International Champions Cup final in Miami, Florida. The trip includes the following: round-trip coach air travel from the major airport nearest the winner’s residence to Miami, Florida; standard hotel accommodations (double occupancy) for three (3) nights for the winner and one (1) guest; ground transportation between the Miami airport and hotel; and two (2) tickets for the winner and one (1) guest to attend the Guinness International Champions Cup final. The approximate retail value of each grand prize is five thousand dollars (\$5,000.00). There is a limit of one (1) prize per family, household or address. Alcoholic beverages are not included as part of the prize. The winners’ guests must be twenty-one (21) years of age or older.

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 promotions as described above and determined that they comport 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 prizes.

While the materials that you provided for each sweepstakes promotion indicate that no alcoholic beverages are part of the prize, it is important to point out, in case you are unaware, that to the extent that the tickets to the games or any part of the trips being awarded as the grand prizes for the sweepstakes would involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winners and/or their guests, this would be construed as awarding alcoholic beverages as part of the prizes 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 grand prizes, it would be permissible to conduct the proposed sweepstakes promotions 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 spirits stores, subject to approval of the Bureau of Product Selection.
- other – Internet, text messaging.

Scott A. Schleifstein

May 28, 2014

Page 4

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

LCB Advisory Opinion No. 14-236