

July 14, 2014

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

**RE: Diageo-Guinness USA Inc.
Red Stripe “Stripe My Selfie” Promotion**

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter dated June 26, 2014, wherein you seek approval on behalf of Diageo-Guinness USA, Inc. to conduct the Red Stripe “Stripe My Selfie” Promotion in Pennsylvania.

According to the “Official Rules” that you provided, the promotion was scheduled to begin on July 1, 2014, and runs until September 30, 2014. The promotion 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 promotion consists of a series of weekly sweepstakes, a series of weekly “Core” contests, and periodic “Challenge of the Day” contests. Interested individuals may enter by “liking” the official Red Stripe Lager Facebook page, www.facebook.com/redstripe, or “following” the official Red Stripe Lager Twitter page, @RedStripe, and then posting a selfie photo with Red Stripe along with the hashtag #STRIPEMYSELFIE on Facebook, Twitter or Instagram. The submission of a photo will result in one (1) entry in the applicable weekly sweepstakes and weekly “Core” contest, unless the photo is being specifically submitted for a “Challenge of the Day” contest. Photos submitted for a “Challenge of the Day” contest may not be submitted for a weekly sweepstakes and/or “Core” contest and vice versa. There is a limit of one (1) sweepstakes and “Core” contest entry per person per week and a limit of one (1) “Challenge of the Day” contest entry per person per contest.

A total of eighty-four (84) sweepstakes prizes will be awarded for the promotion, with five (5) to ten (10) prizes being awarded each week. The sweepstakes winners will be selected in random drawings to be conducted on or about the third business day after the conclusion of a week. The prizes for the sweepstakes may include merchandise and/or souvenirs such as a carrying case for a wireless device,

a Red Stripe t-shirt or hat, or a beverage cooler on wheels. The approximate retail value of each prize will range between fifteen dollars (\$15.00) and one hundred fifty dollars (\$150.00).

Forty-eight (48) “Core” contest first prizes will be awarded for the promotion, with four (4) prizes being awarded each week. The winners for the “Core” contests will be determined by a judge based on the following criteria: originality—thirty-five percent (35%); creativity—thirty-five percent (35%); popularity on social media—twenty-five (25%); and technical merit—five percent (5%). Weekly judging will take place on or about the third business day after the conclusion of a week. The four (4) top scoring photos for each week will receive a first prize. The first prizes for the “Core” contests may include merchandise and/or souvenirs, such as: a carrying case for a wireless device; a Red Stripe t-shirt or hat; or a beverage cooler on wheels. The approximate retail value of each prize will range between fifteen dollars (\$15.00) and one hundred fifty dollars (\$150.00). “Core” contest first prize winners who entered during the first five (5) weeks of the promotion will also be finalists to win the grand prize. The grand prize winner will be determined by a separate judge using the same criteria set forth above. The grand prize consists of the opportunity to have the winner’s name, image, likeness and/or the winning photo used in advertising materials related to Red Stripe. The grand prize winner must be twenty-five (25) years of age or older.

One (1) to three (3) prizes will be awarded for each “Challenge of the Day” contest. The winners for the “Challenge of the Day” contests will be determined by a judge based on the following criteria: originality—thirty-five percent (35%); creativity—thirty-five percent (35%); popularity on social media—twenty-five (25%); and technical merit—five percent (5%). The top scoring photo entries for each contest will receive a prize. The prizes for the “Challenge of the Day” contests may include merchandise and/or souvenirs, such as: a carrying case for a wireless device; a Red Stripe t-shirt or hat; or a beverage cooler on wheels. The approximate retail value of each prize will range between fifteen dollars (\$15.00) and one hundred fifty dollars (\$150.00).

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 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)].

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, it is permissible to conduct the proposed 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 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

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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. 14-412