

August 28, 2014

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**RE: “Smirnoff Ice Ladies with Game Sweepstakes”**

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter of August 22, 2014, in which you seek approval on behalf of Diageo-Guinness USA Inc., to conduct the “Smirnoff Ice Ladies with Game Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided along with your e-mail and letter, the sweepstakes is scheduled to begin on September 1, 2014, and runs until December 31, 2014. The sweepstakes is open only to legal residents of the forty-eight (48) contiguous 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.

Interested individuals may enter by sending a text message with “THEGAME” from their handset addressed to “839863” during the sweepstakes period. Alternatively, interested individuals may enter by printing their name, address, date of birth, telephone number, and the words “Smirnoff Ice Ladies with Game Sweepstakes- DIA22063” on a three (3)-inch by five (5)-inch card and mailing it to the address set forth in the “Official Rules” during the sweepstakes period. There is a limit of one (1) entry per person regardless of the method of entry.

One (1) grand prize will be awarded for the sweepstakes. The grand prize winner will be selected in a random drawing to be conducted on or about January 8, 2015. The grand prize winner will receive two (2) tickets to the professional football championship game in Glendale, Arizona on Sunday, February 1, 2015, along with one thousand, five hundred dollars (\$1,500.00) in gift card(s), which may be used

in conjunction with travel to/from and lodging in Glendale, Arizona or otherwise as the winner chooses. The grand prize does not include travel or lodging. The winner's guest must be twenty-one (21) years of age or older. The total approximate retail value of the prize is seven thousand, five hundred dollars (\$7,500.00). All expenses and travel costs are the responsibility of the winner.

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 and determined that it comports with the 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)], and is acceptable for use in this Commonwealth.

Please be advised that prior approval of malt or brewed beverages point-of-sale ("POS") material and prior approval of 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 this 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 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. 14-495