

October 15, 2014

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

RE: Mix It Up Football Sweepstakes

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your letter dated October 6, 2014, in which you seek, on behalf of Diageo Americas, Inc., legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Mix It Up Football Sweepstakes” promotion is scheduled to run from January 1 through 31, 2015. Consumers may participate via text message or mail. On or about February 6, 2015, three (3) entrants will be randomly selected to each receive an “ultimate football entertaining package” including a television, a gift card valued at three hundred dollars (\$300.00), party accessories such as plates and napkins, and a cocktail shaker set. In addition, one hundred (100) first prize winners will each receive a set of coasters or an apron. Alcoholic beverages will not be part of the prizes. No purchase is necessary to enter, and the sweepstakes is open only to entrants who are 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 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)].

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This office has reviewed the proposed promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)].

Therefore, it would be 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 Management.
- 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. 14-541