

February 11, 2015

Jessica Fenstermaker  
Administrative Assistant for Marketing & Retail Sales  
Capital Wine & Spirits LLC  
129 Hartman Road  
North Wales, PA 19454

**E: Jack Daniel's Tennessee Honey – “Honey Hysteria Sweepstakes”**

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail sent January 28, 2015, which was forwarded to this office on January 29, 2015, wherein you request approval on behalf of Brown-Forman Corporation to conduct the Jack Daniel's Tennessee Honey - “Honey Hysteria Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on February 24, 2015, and runs until April 6, 2015. Interested individuals may enter the sweepstakes via text message by sending the keyword “JDHONEY” or “JDMARCH” to 68405. Alternatively, interested individuals may enter the sweepstakes online by visiting [www.honeyhysteria.com](http://www.honeyhysteria.com) and completing and submitting the entry form. There is a limit of one (1) entry per day per person, mobile telephone number, and/or e-mail address, regardless of the method of entry.

Interested individuals also have the option of registering to win team play prizes by visiting [www.honeyhysteria.com](http://www.honeyhysteria.com) and either recruiting a team or becoming a member of a team using the available links. A team may consist of at least two (2) entrants and up to a maximum of five (5) entrants. Once registered, an entrant's entries are applied to both his/her individual entries and team entries simultaneously.

Additional entries may be acquired by playing the “Quick Pickup Game” on [www.honeyhysteria.com](http://www.honeyhysteria.com). Prior to each tournament round, persons playing the game will have a limited amount of time to select winning teams. The additional entries will be rewarded at the end of each tournament round based on the number of correct winners chosen as follows: Round one (1) – one (1) entry per correctly chosen winner; Round two (2) – two (2) entries per correctly chosen winner; Round three (3) – four (4) entries per correctly chosen winner; Round (4) – eight (8) entries per correctly chosen winner; Round (5) – sixteen (16) entries per

correctly chosen winner; and Round (6) – thirty-two (32) entries per correctly chosen winner.

Additional entries may also be acquired by “sharing” [www.honeyhysteria.com](http://www.honeyhysteria.com) with friends via social media. The original entrant will receive ten (10) additional entries for each friend who registers via his/her unique “url” included in the post and/or link provided. There is a limit of five hundred (500) additional entries that the original entrant may acquire.

Additional entries may also be acquired by entering a “promo code” distributed via Facebook, Twitter, e-mail, or text message. Each “promo code” may only be used one (1) time per entrant and will entitle the entrant to the following amounts of additional entries: Facebook – ten (10) entries; Twitter – ten (10) entries; e-mail – fifteen (15) entries; and text message – five (5) entries.

A total of one hundred ninety-five (195) individual play prizes and eight (8) team play prizes will be awarded for the sweepstakes, as further detailed below.

For Round one (1), a total of sixty-eight (68) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about March 15, 2015. Each individual prize winner will receive one (1) Jack Daniel’s Tennessee Honey t-shirt and one (1) shot glass. The individual prize has an estimated retail value of eight dollars and seventy-five cents (\$8.75). The team prize winner will receive one (1) flying disc can game (to be awarded to the member who started the team) and one (1) Jack Daniel’s Tennessee Honey shot glass per team member (up to five (5)). The estimated retail value of the team prize is forty-five dollars and ninety-two cents (\$45.92).

For Round two (2), a total of sixty-four (64) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about March 19, 2015. Each individual prize winner will receive one (1) soft basketball hoop game, one (1) wristband, and one (1) headband. The estimated retail value of each individual prize is thirteen dollars and twenty-eight cents (\$13.28). The team prize winner will receive one (1) cornhole game set (to be awarded to the member who started the team) and one (1) Jack Daniel’s Tennessee Honey can holder per team member (up to five (5)). The estimated retail value of the team prize is one hundred three dollars and nineteen cents (\$103.19).

For Round three (3), thirty-two (32) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about March 21, 2015. Each individual prize winner will receive one (1) Jack Daniel's Tennessee Honey Beer Bucket and one (1) Jack Daniel's Tennessee Honey shot glass set. The estimated retail value of each individual prize is thirteen dollars and fifty-seven cents (\$13.57). The team prize winner will receive one (1) dartboard (to be awarded to the member who started the team) and one (1) Jack Daniel's Tennessee Honey pint glass per team member (up to five (5)). The estimated retail value of the team prize is one hundred thirty-six dollars and twelve cents (\$136.12).

For Round four (4), sixteen (16) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about March 26, 2015. Each individual prize winner will receive one (1) bartender tool and one (1) shaker. The estimated retail value of each individual prize is thirty-one dollars and sixty-two cents (\$31.62). The team prize winner will receive one (1) Honey Pot Table including cups and ping pong balls (to be awarded to the member who started the team) and one (1) Jack Daniel's Tennessee Honey beer key per team member (up to five (5)). The estimated retail value of the team prize is one hundred seventy-three dollars and ninety-two cents (\$173.92).

For Round five (5), eight (8) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about March 28, 2015. Each individual prize winner will receive one (1) Jack Daniel's Tennessee Honey basketball jersey and one (1) Jack Daniel's Tennessee Honey basketball. The estimated retail value of each individual prize is ninety-three dollars and fifty cents (\$93.50). The team prize winner will receive one (1) Honey canopy (to be awarded to the member who started the team) and one (1) camp chair per team member (up to five (5)). The estimated retail value of the team prize is two hundred sixty-two dollars and fifty-nine cents (\$262.59).

For Round six (6), four (4) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about April 4, 2015. Each individual prize winner will receive one (1) concert/event ticket gift card. The estimated retail value of each individual prize is one hundred dollars (\$100.00). The team prize winner will receive one (1) Chiller machine (to be awarded to the member who started the team) and one (1) bar stool per team member (up to five (5)). The estimated retail value of the team prize is four hundred seventy-one dollars and twenty cents (\$471.20).

For Round seven (7), two (2) individual prizes and one (1) team prize will be awarded. The winners will be selected in random drawings to be conducted on or about April 6, 2015. Each individual prize winner will receive one (1) Jack Daniel's Tennessee Honey cooler and two (2) blue tooth speakers. The estimated retail value of each individual prize is two hundred twenty-five dollars (\$225.00). The team prize winner will receive one (1) pop a shot game (to be awarded to the member who started team) and one (1) basketball per team member (up to five (5)). The estimated retail value of the team prize is four hundred seventy-five dollars (\$475.00).

For Round eight (8), one (1) individual grand prize and one (1) team grand prize will be awarded. The winners will be selected in random drawings to be conducted on or about April 6, 2015. The individual grand prize winner will receive one (1) sixty (60)-inch flat screen LED television having an estimated retail value of eight hundred dollars (\$800.00). Each member of the grand prize winning team will receive the following: one (1) ticket to attend the 2015 Pro Draft on Thursday, June 25, 2015; one (1) round-trip coach class ticket from the commercial airport closest to the member's home to/from either John F. Kennedy International Airport or LaGuardia Airport; hotel occupancy in a double occupancy, standard room for two (2) nights; and a gift card in the amount of two hundred fifty dollars (\$250.00). The total estimated retail value of the team grand prize is one thousand, seven hundred dollars (\$1,700.00).

No purchase is necessary to enter or win the sweepstakes. The sweepstakes is open only to legal U.S. residents 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, a manufacturer's representative, or a 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 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, as long as alcoholic beverages are not awarded as part of the prizes.

Although the "Official Rules" that you provided indicate that beverage alcohol is not a part of any of the sweepstakes prizes, it is important to point out, in case you are unaware, that to the extent that any part of the trip being awarded as the team grand prize will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winning team members, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Furthermore, 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 prizes, it is permissible to conduct the proposed sweepstakes 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 spirit stores, subject to approval of the Bureau of Product Selection (POS only).
- other – Internet, text messaging.

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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, Director of Marketing and Merchandising  
Michelle Bonsick, Director, Bureau of Marketing Communications  
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-040