

February 24, 2015

Maddie Rowlett
Strike & Techel
Alcohol Beverage Law
556 Commercial Street
San Francisco, CA 94111

RE: The Art of Patrón Contest

Dear Ms. Rowlett:

ISSUE: This correspondence is in response to your e-mail and corresponding letter sent February 5, 2015, in which you request approval, on behalf of the Patrón Spirits Company, to run the “The Art of Patrón Contest” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the promotion is scheduled to begin on March 1, 2015, and runs until July 17, 2015. Interested individuals may enter the contest by visiting www.artofpatron.com and following the links to the contest entry page, where they will be prompted to complete an entry form requiring the following information: the entrant’s first and last name, e-mail address, street address, and city and state; the name of the entrant’s artwork; a short essay (one hundred (100) words or less) describing the entrant’s artwork and the inspiration behind it; a photograph of the artwork, submitted in JPEG format up to two megabytes (2MB) or via downloadable link; and an attestation that the essay, artwork, and photograph are all original works owned exclusively by the entrant. The artwork must be “a three (3)-dimensional and tangible piece or object, such as a sculpture,” and among other requirements, must “contain, be made from, or depict, any Patrón bottle . . . or component thereof.” There is a limit of one (1) entry per person during the contest period.

On or about July 24, 2015, a panel of judges chosen by the sponsor whose qualifications may include experience in graphic design, advertising, marketing, or other creative or artistic fields will judge all eligible contest submissions based on the following criteria: overall creativity and visual appeal – sixty (60) points possible; unique use or representation of a Patrón bottle in the artwork – thirty (30) points possible; and persuasiveness and appeal of essay – ten (10) points possible. The entrants with the highest total scores above ninety (90) points (up to a total of ten (10) entrants) will be deemed finalists.

On or about August 10, 2015, the eligible finalists’ submissions will be placed onto the contest website for public voting. Each finalist will receive between one (1) and ten (10) additional points based on the number of public votes that his or her submission receives.

The grand prize winning finalist will be chosen no later than August 28, 2015. The one (1) finalist who receives the highest total score from combining the judging panel score with the public vote score will be the grand prize winner. The grand prize winner will receive ten thousand dollars (\$10,000.00). Each remaining finalist will receive a finalist's prize of one thousand dollars (\$1,000.00).

No purchase is necessary to enter or win the contest. The contest is open only to legal residents of the fifty (50) United States or Washington D.C., who are at least twenty-one (21) years of age as of the start of the contest.

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 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.

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 Fine Wine & Good 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.
- the Board's Fine Wine & Good Spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- 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, Director of Marketing and Merchandising
Michelle Bonsick, Director, Bureau of Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-063