

February 25, 2015

Joe Quagliaroli
Account Coordinator
Avid Marketing Group

RE: Jose Cuervo Distillery Sweepstakes

Dear Mr. Quagliaroli:

ISSUE: This correspondence is in response to your letter of February 11, 2015, in which you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania by your client, Proximo Spirits.

According to the official rules you provided, the “Jose Cuervo Distillery Sweepstakes” promotion is scheduled to run from April 1 through May 31, 2015. Consumers may participate by submitting an entry form online via the promotional website or via text message. Two (2) entrants will be randomly selected to each receive a trip for the winner and a guest to the Casa Cuervo Distillery in Guadalajara, Mexico, including round-trip airfare, three (3) nights of lodging, and a Visa gift card valued at five hundred dollars (\$500.00). Alcoholic beverages will not be part of the prize. The promotion is open only to adults of legal drinking age, and no purchase is necessary to enter.

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)].

This office has reviewed the promotion and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the Liquor Code and section 5.32(h) of the Board’s Regulations [47 P.S. § 4-493(24)(i); 40 Pa. Code § 5.32(h)], as long as alcoholic beverages are not part of the prize. To the extent that any

part of the grand prize trip involves the provision of alcoholic beverages at no additional cost to the winner and/or guest, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Therefore, it would be permissible to conduct this promotion in the Commonwealth, subject to the above limitation, 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.
- 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. 15-070