

March 17, 2015

Jennifer Chomicki
Marketing Compliance Team
Pernod Ricard USA

RE: Avion World's Best Sweepstakes

Dear Ms. Chomicki:

ISSUE: This correspondence is in response to your e-mail of February 25, 2015, in which you request legal review of the Avion World's Best Sweepstakes promotion to be conducted in Pennsylvania.

According to the "Official Rules" that you provided, the sweepstakes promotion is scheduled to begin on April 1, 2015, and runs until August 31, 2015. Interested individuals may enter the sweepstakes via the Internet, smartphone, or regular mail. There is a limit of one (1) entry per person, per wireless phone number or e-mail address per day, regardless of the method of entry. Entrants may earn one (1) additional entry per person, per day by sharing the sweepstakes via social media.

Two (2) prize winners will be selected for the sweepstakes—one (1) for the east coast states and one (1) for the west coast states. The winners will be selected in random drawings to be conducted on or about September 4, 2015. Each prize winner will receive a three (3)-day and two (2)-night trip for the winner and up to three (3) guests. The destination of the trips will be Miami, Florida, for the winner from the east coast states, and Las Vegas, Nevada, for the winner from the west coast states. Each trip includes the following: a private jet experience to and from the destination city; luxury ground transportation during the trip; two (2) overnight stays at a hotel including two (2) rooms with beds or a suite with two (2) bedrooms; and dining. The approximate retail value of each prize is eighty-eight thousand, seven hundred ninety-two dollars (\$88,792.00). No alcohol is included as part of the prizes.

The sweepstakes is open only to legal residents of the United States or the District of Columbia who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to enter or win the sweepstakes.

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 as described above 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)], as long as no alcoholic beverages are awarded as part of the prizes.

Although the "Official Rules" that you provided indicate that no alcohol is included as part of the prizes, it is important to point out, in case you are unaware, that to the extent that any part of the trips being awarded as the prizes will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winners and/or their guests, this would be construed as awarding alcoholic beverages as part of the prizes 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 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. 15-088