

March 30, 2015

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

RE: Johnnie Walker Entourage Sweepstakes

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail sent March 17, 2015, in which you seek approval, on behalf of Diageo Americas, Inc., to conduct the “Johnnie Walker Entourage Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on April 1, 2015, and runs until May 15, 2015. Interested individuals may enter the sweepstakes by printing their name, date of birth, address and telephone number, and the words “JOHNNIE WALKER ENTOURAGE SWEEPSTAKES” on a three (3)-inch by five (5)-inch card and mailing it to the designated address. Alternatively, interested individuals may enter by texting “KEEPWALKING” to “24587.” There is a limit of one (1) entry per person, regardless of the method of entry.

One (1) grand prize and ten (10) first prizes will be awarded for the sweepstakes. The winners will be determined in a random drawing to be conducted on or about May 21, 2015.

The grand prize winner will receive a trip for two (2) people to the U.S. premiere screening of the movie *Entourage* in Los Angeles, California, for three (3) days and two (2) nights. The trip includes the following: round-trip coach air travel from the major airport nearest the winner’s residence to Los Angeles, California; transportation to and from the Los Angeles airport and the hotel; transportation to and from the hotel and the movie premiere screening; two (2) passes to the movie premiere screening; and standard hotel accommodations for two (2) people. The approximate retail value of the grand prize is ten thousand dollars (\$10,000.00).

Each first prize winner will receive two (2) passes to attend a pre-scheduled private screening of the movie *Entourage*. The approximate retail value of each first prize is twenty dollars (\$20.00).

The sweepstakes is open only to legal residents of the fifty (50) 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 the prizes do not include alcoholic beverages, it is important to point out, in case you are unaware, that to the extent that any part of prizes being awarded 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. 15-125