

April 29, 2015

Charity Garner
Polling Specialist
Arrowhead Promotion & Fulfillment Co.

RE: Bacardi Ultimate Pool Party Sweepstakes

Dear Ms. Garner:

ISSUE: This correspondence is in response to your e-mail of April 15, 2015, in which you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania, sponsored by your client, Bacardi U.S.A., Inc.

According to the official rules you provided, the “Bacardi Ultimate Pool Party Sweepstakes” promotion is scheduled to run from April 15 through May 14, 2015. Consumers may participate online via the promotional website. Two (2) grand prizes will be awarded. The winner from the first entry period will receive a trip for four (4) to Las Vegas, Nevada, including airfare, lodging for three (3) nights, ground transportation, tickets to a pool party, and a gift card valued at two hundred dollars (\$200.00). The winner from the second entry period will receive a similar prize package of a trip to Chicago, Illinois. No purchase is necessary to enter, and the promotion is open only to adults of legal drinking age.

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 proposed promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board’s Regulations [40 Pa. Code § 5.32(h)], and

is acceptable for use in this Commonwealth, assuming alcoholic beverages will not be included as part of the prizes.

Please note that to the extent any part of the grand prize trips will involve the provision of alcoholic beverages at no additional cost to the winner and/or guests, 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 spirits stores, subject to approval of the Bureau of Product Management.
- 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. 15-196