

April 30, 2015

Karen L. Gabriele  
Compliance Specialist  
Mark Anthony Services, Inc.  
328 S. Jefferson Street, Suite 1030  
Chicago, IL 60661

**RE: Mark Anthony Brands Palm Breeze™ Sweepstakes**

Dear Ms. Gabriele:

ISSUE: This correspondence is in response to your e-mail and attached letter dated April 24, 2015, in which you seek approval to conduct the “Mark Anthony Brands Palm Breeze™ Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on April 29, 2015, and runs until May 6, 2015. Interested individuals may enter the contest online by visiting <http://bit.ly/1J4huzN> and following the on-screen instructions to submit an entry. There is a limit of one (1) entry per person/e-mail address per day. However, entrants may obtain one (1) additional entry by following @Palmbreeze on Twitter.

One (1) grand prize will be awarded for the sweepstakes. The grand prize winner will be selected in a random drawing on or about May 7, 2015. The grand prize winner will receive a trip for two (2) people to the 2015 Palm Breeze™ Event in Austin, Texas, on May 28, 2015. The trip includes the following: round-trip coach class air transportation for the winner and one (1) guest from a major commercial airport near the winner’s residence within the fifty (50) United States to Austin, Texas; hotel accommodations for three (3) days and two (2) nights (one (1) room, standard double occupancy); tickets to the Palm Breeze™ Event; ground transportation; and a two hundred fifty dollar (\$250.00) check to be used for meals. The approximate retail value of the prize is three thousand, three hundred dollars (\$3,300.00). The winner’s guest must be twenty-one (21) years of age or older. Alcoholic beverages are not part of the prize.

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. 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 grand prize.

Although the "Official Rules" that you provided indicate that alcoholic beverages are not part of the grand prize, it is important to point out, in case you are unaware, that to the extent that any part of the grand prize being awarded will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guest, this would be construed as awarding alcoholic beverages as part of the prize 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 grand prize, 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 (POS only).
- the Board's wine and spirits 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

LCB Advisory Opinion No. 15-198