

June 18, 2015

Jessica Fenstermaker
Administrative Assistant for Marketing & Retail Sales
Capital Wine & Spirits LLC
129 Hartman Road
North Wales, PA 19454
VIA E-MAIL: jessica_fenstermaker@charmer-sunbelt.com

RE: Jack Daniel's Tennessee Honey – “Jack N for Beats Contest”

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail sent June 10, 2015, wherein you request approval to conduct the Jack Daniel's Tennessee Honey – “Jack N for Beats Contest” in Pennsylvania.

According to the “Official Rules” that you provided, the contest was scheduled to begin on June 8, 2015, and runs until July 31, 2015. Interested individuals may enter the contest by visiting www.jacknforbeats.com, completing the onscreen entry form, and entering a “hip hop bar” that is no more than sixteen (16) bars in length between June 8, 2015 and July 19, 2015. Alternatively, interested individuals may enter by attending, registering and submitting an eligible entry at one (1) of the live local auditions to be held in eleven (11) different cities between June 8, 2015 and July 19, 2015. There is a limit of one (1) entry per person.

Up to twelve (12) participants will be selected by a panel of judges at each live local audition to participate in a local cypher event. The local cypher event will be held one (1) to three (3) days after the live local audition. The judges will select one (1) winner from each local cypher event based on the following criteria: originality – maximum of five (5) points; creativity – maximum of five (5) points; musical skill – maximum of five (5) points; and flow – maximum of five (5) points. Each local cypher event prize winner will receive a prize of five hundred dollars (\$500.00). Eligible entries that are deemed acceptable from the live local auditions and local cypher events will be entered into the online competition.

All eligible entries for the online competition will be posted to the website for online voting from July 20, 2015 to July 31, 2015. Voters are asked to judge the entries based on the same voting criteria set forth above. There is a limit of one (1) vote per day, per entry, per voter.

Ten (10) finalist entries will be selected. The finalist entries will be those that score the highest based on: votes – seventy-five percent (75%); and judging score – twenty-five percent (25%).

One (1) grand prize winner will be selected from among the ten (10) finalist entries by a judging panel based on the judging criteria previously set forth above. The grand prize winner will receive ten thousand dollars (\$10,000.00) and a trip/studio session with DJ Khaled. The trip includes the following: round trip coach class airfare for the winner and one (1) guest from the commercial airport closest to the grand prize winner's home to Miami, Florida; hotel accommodations for two (2) nights (double occupancy); and a studio session with DJ Khaled at a place to be selected by the sponsor. The approximate retail value of the trip is three thousand dollars (\$3,000.00). Alcoholic beverages are not part of any prize.

The contest is open only to legal residents of the United States who are at least twenty-one (21) years of age. No purchase is necessary to enter or win.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer, a manufacturer's representative, or a 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, 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 trip being awarded as the grand prize involves taste testing, sampling, or the provision of alcohol at no additional cost to the grand prize winner and/or his or her guest, this would be construed as awarding alcohol as part of the prize and is not permitted.

Additionally, 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 alcoholic beverages are not awarded as any part of the grand prize, it is permissible to conduct the proposed 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

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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
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-259