

July 1, 2015

Kristin Brady
Digital Account Coordinator
Avid Marketing Group
100 Corporate Place, Suite 200
Rocky Hill, CT 06067
VIA E-MAIL: kbrady@avidinc.com

RE: Limited Edition Ketel One Dutch Mule Mug Offer

Dear Ms. Brady:

ISSUE: This correspondence is in response to your e-mail sent June 22, 2015, wherein you request approval on behalf of your client, Diageo America's, Inc., to run a promotional offer in Pennsylvania.

Through the promotional offer, interested individuals may receive a limited edition Ketel One Dutch Mule Mug by sending a check or money order in the amount of eleven dollars (\$11.00) to the designated address. The retail value of the mug is eleven dollars (\$11.00). The offer is open only to persons who are twenty-one (21) years of age or older. No purchase of alcohol is necessary to participate. The offer is scheduled to start on July 1, 2015, and runs through June 30, 2016.

OPINION: Generally, the Liquor Code prohibits any licensee, manufacturer or other person from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase alcohol. [47 P.S. § 4-493(24)(i)]. However, there is an exception to this general prohibition which allows the offering or giving of "advertising novelties of nominal value." [Id.]. The Pennsylvania Liquor Control Board ("Board") has defined "advertising novelties of nominal value" as items that have a wholesale cost of fifteen dollars (\$15.00) or less and contain advertising material. [47 P.S. § 4-493(24)(i); 40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision)]. Advertising novelties typically consist of items such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, pens, or pamphlets. [Id.]. Advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage. [Id.].

Nevertheless, since the promotion in question does not involve the sale of alcoholic beverages and seems to essentially amount to the sale of a branded item, this promotion would not be subject to section 493(24)(i) of the Liquor Code. Moreover, section 13.52 of the Board's Regulations specifically authorizes the sale of promotional items advertising one's own business, such as t-shirts, mugs, caps, and other items, to the general public. Therefore, it would be permissible to run the proposed promotional offer in Pennsylvania.

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
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-269