

July 17, 2015

Heather Rice  
Manager, Regulatory Affairs  
Beam Suntory  
VIA E-MAIL: [Heather.rice@beamsuntory.com](mailto:Heather.rice@beamsuntory.com)

**RE: Devil's Cut<sup>®</sup> "Unleash the Spirit Within" Consumer Contest**

Dear Ms. Rice:

**ISSUE:** This correspondence is in response to your e-mail sent July 9, 2015, in which you request approval to conduct the Devil's Cut<sup>®</sup> "Unleash the Spirit Within" Consumer Contest in Pennsylvania.

According to the "Official Rules" that you provided, the contest is scheduled to run from August 18, 2015 through September 24, 2015. The contest 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 contest.

Interested individuals may enter the contest by visiting [www.maxim.com/devils-cut-contest](http://www.maxim.com/devils-cut-contest) and completing and submitting an entry. Entrants are required to submit a photograph with their entry which represents how they "Make History." There is a limit of one (1) entry per individual, per e-mail address, per day during the contest period.

All entries will be evaluated by a panel of judges based on the following criteria in order to select the finalists: relevance to the fundamental spirit of the contest—twenty-five percent (25%); content quality—twenty-five percent (25%); creativity demonstrated through storytelling—twenty-five percent (25%); and overall impression—twenty-five percent (25%).

On or about October 2, 2015, a panel of judges will evaluate the finalists' entries based on the same criteria set forth above. The finalists' entries receiving the three (3) highest overall scores will be the winners.

One (1) winning entrant will receive a three (3)-day/two (2)-night vacation trip package for the winner and one (1) guest to New York, New York. The trip includes the following: round-trip coach airfare; accommodations for two (2) nights at standard hotel accommodations based on double occupancy; a personal styling session for the winner and his/her guest; access to and/or inclusion for the winner and his/her guest in a musical performance and a custom experience; and potential participation and/or inclusion of the winner and his/her guest in one (1) or more promotional videos to be filmed in New York, New York. The approximate retail value of the prize is ten thousand dollars (\$10,000.00). The winner's guest must be at least twenty-one (21) years of age.

Another winning entrant will receive a three (3)-day/two (2)-night vacation trip package for the winner and one (1) guest to Alaska. The trip includes the following: round-trip coach airfare; accommodations for two (2) nights at standard hotel accommodations based on double occupancy; a personal styling session for the winner and his/her guest; access to and/or inclusion for the winner and his/her guest in a guided dogsledding tour, helicopter tour, and a kayaking experience; and potential participation and/or inclusion of the winner and his/her guest in one (1) or more promotional videos to be filmed in Alaska. The approximate retail value of the prize is ten thousand dollars (\$10,000.00). The winner's guest must be at least twenty-one (21) years of age.

Another winning entrant will receive a three (3)-day/two (2)-night vacation trip package for the winner and one (1) guest to Hawaii. The trip includes the following: round-trip coach airfare; accommodations for two (2) nights at standard hotel accommodations based on double occupancy; a personal styling session for the winner and his/her guest; access to and/or inclusion for the winner and his/her guest in an island plane tour, hiking tour, and a private dinner; and potential participation and/or inclusion of the winner and his/her guest in one (1) or more promotional videos to be filmed in Hawaii. The approximate retail value of the prize is ten thousand dollars (\$10,000.00). The winner's guest must be at least twenty-one (21) years of age.

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 prizes.

Please be advised that to the extent that any part of the 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.

Further, 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 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).

X 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  
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-301