

July 27, 2015

Scott A. Schleifstein
Cohen Silverman Rowan LLP
360 Lexington Avenue, 16th Floor
New York, NY 10017
VIA E-MAIL: scott@promolaw.com

RE: Diageo Tropical Getaway Sweepstakes

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter dated July 24, 2015, in which you seek approval on behalf of Diageo Americas, Inc. to conduct the “Diageo Tropical Getaway Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on July 27, 2015, and runs through August 23, 2015. The sweepstakes is open only to legal residents of Pennsylvania who are twenty-one (21) years of age or older at the time of entry.

Interested individuals may enter the sweepstakes by visiting www.cmsmirnoffsweps.com and following the on-screen instructions to submit an entry. There is a limit of one (1) entry per person.

One (1) grand prize and twenty (20) first prizes will be awarded for the sweepstakes. The grand prize winner will be selected in a random drawing to be conducted on or about August 24, 2015. The first prize winners will be selected in random drawings to be conducted on or about the following dates: August 3, 2015; August 10, 2015; August 17, 2015; and August 24, 2015.

The grand prize winner will receive a trip for the winner and one (1) guest to St. Croix, U.S. Virgin Islands for six (6) days and five (5) nights.

The trip includes the following: roundtrip coach air travel from a major airport nearest the winner’s residence to St. Croix; one (1) VIP tour for the winner and guest

of the Captain Morgan Rum Distillery; a one thousand dollar (\$1,000.00) gift card; and standard, double occupancy accommodations for the winner and guest for five (5) nights in St. Croix. The winner's guest must be twenty-one (21) years of age or older. Alcoholic beverages are not part of the prize. The approximate retail value of the grand prize is six thousand dollars (\$6,000.00).

Each first prize winner will receive a beach bag filled with summer beach essentials including: wireless speakers; a one (1)-year music streaming service subscription; and a one hundred fifty dollar (\$150.00) gift card. The approximate retail value of each first prize is five hundred dollars (\$500.00).

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 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 prizes.

Although the "Official Rules" that you provided indicate that alcoholic beverages are not part of the grand prize, please be advised that to the extent that any part of the trip being awarded as the grand prize, including the VIP tour of the Captain Morgan Rum Distillery, 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 grand 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 prizes, 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.
- 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 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. 15-320