

August 5, 2015

Scott A. Schleifstein, Esq.  
Cohen Silverman Rowan LLP  
360 Lexington Avenue, 16<sup>th</sup> floor  
New York, NY 10017

**RE: Johnnie Walker Racing Sweepstakes**

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter of July 28, 2015, wherein you request approval, on behalf of Diageo Americas, Inc., to conduct the “Johnnie Walker Racing Sweepstakes” in Pennsylvania.

According to the “Official Rules” that you provided with your e-mail, the sweepstakes began on August 1, 2015, and runs until October 10, 2015. The sweepstakes is open only to legal residents of the United States who are twentyone (21) years of age or older. No purchase is necessary to enter or win the sweepstakes.

Interested individuals may enter the sweepstakes by texting “JWRACEDAY” to the short code “24587.” Alternatively, interested individuals may enter the sweepstakes by printing their name, address, date of birth, and telephone number on a three (3)-inch by five (5)-inch card and mailing it to the designated address. There is a limit of one (1) entry per person, regardless of the method of entry.

One (1) grand prize will be awarded for the sweepstakes. The grand prize winner will be determined in a random drawing to be conducted on or about October 15, 2015. The grand prize winner will receive a trip for two (2) people to an openwheel auto race in Austin, Texas, from October 23, 2015 to October 25, 2015. The trip includes the following: round-trip coach air travel for the winner and one (1) guest to Austin, Texas; standard, double occupancy hotel accommodations for three (3) days and two (2) nights; ground transportation between the airport and hotel; two (2) tickets to the auto race; and a two hundred dollar (\$200.00) gift card

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to be used for additional ground transportation or otherwise. The approximate retail value of the prize is four thousand, one hundred thirty dollars (\$4,130.00). The grand prize winner's guest must be twenty-one (21) years of age or older.

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 grand prize.

Please be advised that to the extent that any part of the trip being awarded as the grand prize 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)].

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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.

the Board's wine and spirit 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 of Product Selection

LCB Advisory Opinion No. 15-327

