

August 18, 2015

Nichole D. Shustack, Esq.
The Boston Beer Company
One Design Center Place, Suite 850
Boston, MA 02210
VIA E-MAIL: nichole.shustack@bostonbeer.com

RE: Angry Orchard® Haunted Orchard Sweepstakes

Dear Ms. Shustack:

ISSUE: This correspondence is in response to your letter of August 12, 2015, wherein you seek approval to conduct the “Angry Orchard® Haunted Orchard Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on September 1, 2015, and runs until October 31, 2015. The sweepstakes is open only to legal residents of the United States who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to enter or win the sweepstakes.

Interested individuals may enter the sweepstakes via text message by texting an official entry code found in store on point of sale cardboard signs, packaging material, cooler stickers or other official entry code communication on sweepstakes related advertising materials at participating retailer locations or on the Angry Orchard website to the short code “30364.” Alternatively, interested individuals may enter by sending an e-mail containing their name, complete mailing address, telephone number, e-mail address, date of birth, and an official entry code found in store on point of sale cardboard signs, packaging material, cooler stickers or other official entry code communication on sweepstakes related advertising materials at participating retailer locations or on the Angry Orchard website to official.rules@angryorchard.com. There is a limit of one (1) entry per person, per method of entry.

One (1) prize will be awarded for the sweepstakes. The prize winner will be selected in a random drawing to be conducted on or about November 2, 2015. The prize

winner will receive a trip for the winner and one (1) guest to New Orleans, Louisiana, or the cash equivalent. The trip includes the following: roundtrip, coach class air transportation for the winner and one (1) guest from a major U.S. airport nearest the winner's residence to New Orleans, Louisiana; double occupancy hotel accommodations for two (2) nights; and five hundred dollars (\$500.00) in spending money. The approximate retail value of the prize is ten thousand dollars (\$10,000.00). The winner and his or her 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, manufacturer's representative, or 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 prize.

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

Therefore, as long as no alcoholic beverages are awarded as part of the 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 (POS only).
- the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection.
- 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

LCB Advisory Opinion No. 15-351