August 26, 2015

Scott A. Schleifstein
Cohen Silverman Rowan LLP
360 Lexington Avenue, 16th Floor
New York, NY 10017

RE: Peligroso Tequila "Tequilagating" Sweepstakes

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter dated August 24, 2015, in which you seek approval, on behalf of Diageo Americas, Inc., to conduct the Peligroso Tequila "Tequilagating" 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 mail or text message. 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 November 6, 2015. The grand prize winner will receive a trip for two (2) people to the 2015 Surfer Poll Awards scheduled for Sunday, December 6, 2015, on Oahu's North Shore. The trip includes the following: round-trip coach air travel from the major airport nearest the winner's residence to Honolulu, Hawaii; accommodations for the winner and his or her guest for two (2) nights at a hotel of the sponsor's choosing; two (2) VIP tickets to the 2015 Surfer Poll Awards; and two (2) three hundred dollar ($300.00) gift cards. The approximate retail value of the grand prize is four thousand, six hundred dollars ($4,600.00). The grand prize winner's guest must be twenty-one (21) years of age or older. Alcoholic beverages are not part of the grand prize. The grand prize winner may elect to receive a three thousand dollar ($3,000.00) gift card in lieu of the trip.

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 grand prize.

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 tickets to the 2015 Surfer Poll Awards, 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 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.

_X_ 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. 15-372