

November 3, 2015

Kate Hardy
Strike & Techel
556 Commercial Street
San Francisco, CA 94111
VIA E-MAIL

RE: Patrón Social Club Country Music Awards Giveaway

Dear Ms. Hardy:

ISSUE: This correspondence is in response to your e-mail and letter of October 14, 2015, in which you request legal review of the “Patrón Social Club Country Music Awards Giveaway” sweepstakes promotion.

According to the “Official Rules” that you provided, the sweepstakes was scheduled to begin on October 22, 2015, and end on October 25, 2015. Patrón Social Club members could enter the sweepstakes by using a link provided in an e-mail inviting them to enter. There was no limit to the number of times each member could enter the sweepstakes.

One (1) prize was to be awarded for the sweepstakes. The prize winner was to be selected in a random drawing to be conducted on or about October 26, 2015. The prize winner will receive a trip for two (2) people to attend the Country Music Awards. The trip includes the following: two (2) roundtrip economy airline tickets to/from Nashville, Tennessee; hotel accommodations for one (1) night (double occupancy, standard room); and two (2) tickets to the Country Music Awards. The approximate retail value of the prize is three thousand dollars (\$3,000.00). Alcoholic beverages were not to be part of the prize.

The sweepstakes was open only to legal residents of the fifty (50) United States or the District of Columbia who were at least twenty-one (21) years of age at the start of the sweepstakes period and who were Patrón Social Club members. No purchase was necessary to enter or win the sweepstakes.

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 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 were awarded as part of the prize.

Although the "Official Rules" that you provided indicate that alcoholic beverages were not to be part of the prize, please be advised that to the extent that any part of the trip 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 were awarded as part of the prize, the sweepstakes promotion described was permissible to conduct 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,

RODRIGO J. DIAZ
EXECUTIVE DEPUTY CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-457