

November 5, 2015

Jenna Bell  
Assistance Account Coordinator  
Avid Marketing Group  
100 Corporate Place, Suite 200  
Rocky Hill, CT 06067  
**VIA E-MAIL**

**RE: Tito's® Handmade Vodka Wanderlust Sweepstakes**

Dear Ms. Bell:

ISSUE: This correspondence is in response to your e-mail dated October 27, 2015, in which you seek approval on behalf of your client, Fifth Generation, Inc., to conduct the “Tito's® Handmade Vodka Wanderlust Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on January 1, 2016, and runs until March 31, 2016. 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.

The sweepstakes is comprised of one (1) national segment and six (6) regional segments. Interested individuals may enter the sweepstakes by visiting [www.titoswanderlustsweeps.com](http://www.titoswanderlustsweeps.com) and following the on-screen instructions. Alternatively, interested individuals may enter by texting the word “FRESHSTART” to “55755.” Entrants will automatically be entered into both the national segment and their respective regional segment. There is a limit of one (1) entry per person/household/telephone number/e-mail address per day.

One (1) grand prize will be awarded for the sweepstakes. The grand prize winner will be selected in a random drawing to be conducted on or about March 31, 2016. The grand prize winner will receive a trip for two (2) people to the Wanderlust Music Festival in Olympic Valley, California. The trip includes the following: round trip coach air transportation from the major airport nearest the winner's

home to Reno, Nevada; a five (5) day and four (4) night stay (one (1) room, double occupancy) at a hotel of the sponsor's choice; four (4)-day general admission passes for the winner and one (1) guest to the Wanderlust Music Festival; and one (1) five hundred dollars (\$500.00) Visa gift card. The trip is to take place from July 14, 2016 to July 18, 2016. The approximate retail value of the grand prize is three thousand, eight hundred dollars (\$3,800.00). Alcoholic beverages are not part of the prize.

Four (4) additional prizes will also be awarded for the sweepstakes, with one (1) of those prizes being awarded for entries in the Eastern Regional Segment (which includes Pennsylvania). The additional prize winners will be determined in random drawings to be conducted on or about March 31, 2016. Each additional prize winner will receive four (4)-day general admission passes for the winner and one (1) guest to the Wanderlust Music Festival in Olympic Valley, California. Tickets will be for festival dates from July 14, 2016 to July 17, 2016. The approximate retail value of each additional prize is eight hundred dollars (\$800.00). Travel accommodations and alcoholic beverages are not part of the additional prizes.

A total of three hundred (300) instant-win prizes will also be awarded, with one prize being awarded to each of the first fifty (50) entrants in each regional segment. Each instant-win prize winner will receive a prize pack containing one (1) Tito's<sup>®</sup> yoga mat and one (1) Tito's<sup>®</sup> water bottle. The approximate retail value of each prize pack is thirty-six dollars (\$36.00).

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 prizes.

Although the "Official Rules" that you provided indicate that no alcoholic beverages are included in the prizes, it is important to point out, in case you are unaware, that to the extent that any part of the grand prize or the additional prizes being awarded, including admission to the Wanderlust Music Festival, 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 prizes 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,

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. 15-460