

April 8, 2016

Jim Heetman
Promotion Mechanics, Inc.
87 South Main Street
Newtown, CT 06470
VIA E-MAIL

RE: TINCUP American Whiskey Sweepstakes Promotion

Dear Mr. Heetman:

ISSUE: This correspondence is in response to your e-mail of March 18, 2016, in which you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania by your client, Proximo Spirits, Inc.

According to the official rules you provided, the “TINCUP American Whiskey ‘Find Tin. Win Gold.’ Promotion” is scheduled to run from April 11 through June 30, 2016. Consumers may enter online via social media to participate in the social media portion of the sweepstakes and via the www.geocaching.com website to participate in the “find the gold” portion of the sweepstakes. Fifty entrants from the social media entry pool will be randomly selected to receive a branded rucksack with an approximate retail value of \$99.00. Up to twenty-five entrants in the “find the gold” portion will each receive a share of the \$25,000.00 grand prize pool, which will be paid in gold bars and/or coins. The amount of gold per winner will depend on how many entrants are successful in the “geocaching treasure hunt,” by finding special maps hidden in California, Colorado, Georgia, Illinois, and Texas. No alcoholic beverages will be awarded as part of a prize. No purchase is necessary to enter, and the promotion is open only to adults of legal drinking age.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one 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 promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code, 47 P.S. § 4-493(24), and section 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h).

Therefore, it would be permissible to conduct this promotion in the Commonwealth, in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the PLCB's wine and spirits stores, subject to approval of the Bureau of Product Management.
- 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.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

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

LCB Advisory Opinion No. 16-099