

April 21, 2016

Scott A. Schleifstein, Esq.
Cohen Silverman Rowan LLP
360 Lexington Avenue, 16th Floor
New York, NY 10017
VIA E-MAIL

RE: Peligroso Tequila Salud to Summer Grand Prize & Weekly Sweepstakes

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter sent April 4, 2016, in which you seek legal review of a sweepstakes promotion that Diageo Americas, Inc., would like to make available in Pennsylvania, the “Peligroso Tequila Salud to Summer Grand Prize & Weekly Sweepstakes.”

According to the “Official Rules” that you provided, the sweepstakes was scheduled to begin on April 4, 2016, and will run until June 17, 2016. There will be a weekly giveaway for each of the first eight weeks of the promotion period, and there will be a grand prize giveaway during the last week of the promotion period.

Interested individuals may enter the sweepstakes by visiting the official Peligroso Tequila account on Facebook at www.facebook.com/peligrosotequila, “liking” the sweepstakes post, and then providing an answer to the question in the comments section of the post. There is a limit of one entry per person per weekly sweepstakes giveaway, and a limit of one entry per person for the final week of the promotion period.

Two grand prizes and thirty-seven weekly prizes will be awarded for the sweepstakes. The prize winners will be selected through random drawings. Each grand prize winner will receive a digital camera having an approximate retail value of \$250.00. Each weekly prize winner will receive a Peligroso prize pack that includes such branded items as drink koozies, drink tumblers, and/or T-shirts. The approximate retail value of each weekly prize is \$42.00.

The sweepstakes is open only to legal residents of the United States who are twenty-one years of age or older at the time of entry. No purchase is necessary to enter or win the sweepstakes.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("PLCB") 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 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 PLCB's Regulations, 40 Pa. Code § 5.32(h), and is acceptable for use in Pennsylvania.

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 PLCB's wine and spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one brand of any one manufacturer at any one time may not exceed \$300.00 on a retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, 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.

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X the PLCB'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.

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. 16-121