

April 22, 2016

Ryan M. Martin
Winston & Strawn LLP
35 West Wacker Drive
Chicago, IL 60601-9703
VIA E-MAIL

RE: Evan Williams American-Made Heroes Contest

Dear Mr. Martin:

ISSUE: This correspondence is in response to your e-mail received April 6, 2016, wherein you request legal review of a proposed promotion that Slant and Heaven Hill Brands would like to offer to consumers in Pennsylvania—the Evan Williams “American-Made Heroes Contest.”

According to the “Official Rules” that you provided, the contest is scheduled to begin on April 18, 2016, and runs until August 1, 2016. Interested individuals may participate in the contest by visiting www.American-MadeHeroes.com and completing the registration form to nominate themselves or another individual. Nominators are required to submit an original essay of no more than 250 words that explains why the nominee is an “American-Made Hero.” Submission of an accompanying photo is optional. Nominators may also describe a particular item with a value of \$250.00 or less that they believe the nominee should receive and why. There is a limit of one entry per person/e-mail address, and a nominee may only be nominated once into the contest.

All eligible entries will be judged by a panel of judges based on the following criteria: the accomplishments of the nominee—20%; the nominee’s impact on the lives of others—20%; and how well the nominee represents the “Evan Williams American-Made Hero”—60%. The top two hundred entries with the highest total scores will be deemed the winners. Each winning nominee will either receive the item described in the essay associated with their nominating entry or a \$250.00 Visa® prepaid card.

Nominees must be legal residents of the fifty United States, the District of Columbia, or any territories or possessions of the United States, must be twenty-one years of age or older; and must be United States active-duty service members or military veterans. Nominator participants must be legal residents of the fifty United States or the District of Columbia who are twenty-one years of age or older. No purchase is necessary to participate in or win the contest.

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 (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 promotion based on the "Official Rules" that you provided, 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), as long as no alcoholic beverages are awarded as part of the prizes.

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 Fine Wine and Good 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, as long as no alcoholic beverages are awarded as part of the prizes, it is permissible to conduct the proposed 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 Fine Wine and Good 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.

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. 16-127