

June 17, 2016

Karen L. Gabriele  
Senior Compliance Specialist  
Mark Anthony Services, Inc.  
328 S. Jefferson Street  
Chicago, IL 60661  
**VIA E-MAIL**

**RE: Mike's HARDER® Summer Concert on the Beach Sweepstakes**

Dear Ms. Gabriele:

ISSUE: This correspondence is in response to your e-mail dated June 7, 2016, in which you seek legal review, on behalf of Mark Anthony Brands, Inc., of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the "Mike's HARDER® Summer Concert on the Beach" sweepstakes promotion was scheduled to begin on June 9, and runs until June 16, 2016. Entrants may enter the sweepstakes via Facebook or Twitter. To enter the sweepstakes via Facebook, an entrant must go to the Mike's HARDER® Facebook page and comment on the "Mamby on the Beach" post. To enter the sweepstakes via Twitter, entrants must follow "@HARDER" and "retweet" the sponsored post.

One entrant will be randomly selected to receive the grand prize of a trip for two to Chicago, Illinois, including airfare, lodging for three days, a gift card valued at \$250.00, and two VIP two-day passes to the Mamby on the Beach Festival. The approximate retail value of the grand prize is \$2,500.00 and does not contain alcoholic beverages. The promotion is only open to adults of drinking age and no purchase is necessary to enter.

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 sweepstakes promotion 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), so long as no alcoholic beverages are awarded as part of the grand prize.

Although you have indicated that alcoholic beverages are not part of the grand prize, please be advised that to the extent that any part of the trip being awarded as the grand 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 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 would be permissible to conduct the sweepstakes in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.

Karen L. Gabriele

June 17, 2016

Page 3

X the PLCB's wine and spirit 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 of Marketing and Merchandising  
Stacy Kriedeman, Director, Marketing Communications  
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-220