

July 1, 2016

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

RE: Smirnoff 5k Race Sweepstakes

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail sent June 24, 2016, in which you seek legal review, on behalf of Diageo Americas, Inc., of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Smirnoff 5k Race” sweepstakes is scheduled to run from June 27 through July 31, 2016. Interested individuals may enter the sweepstakes by visiting www.RunWithSmirnoff.com and follow the provided online instructions. Four entrants will be randomly selected to receive the grand prize of a trip for two to Las Vegas, including lodging for four days, airfare, registration for the race, and running gear. The approximate retail value of each grand prize is \$2,130.00. The promotion is only open to adults of legal drinking age and no purchase is necessary to enter. Alcoholic beverages are not included in the grand prize.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer, a manufacturer’s representative, or a 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 and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the

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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 this Commonwealth.

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 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.
- 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 of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-242