

August 9, 2016

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

RE: mike's HARDER® Win a Custom Lalo Yunda Tattoo Sweepstakes

Dear Ms. Gabriele:

ISSUE: This correspondence is in response to your e-mail sent August 2, 2016, in which you seek legal review, on behalf of Mark Anthony Brands, Inc., of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “mike's HARDER® Win a Custom Lalo Yunda Tattoo” sweepstakes promotion is scheduled to begin on September 1, and runs until October 1, 2016. Entrants may enter the sweepstakes via Facebook or Twitter. To enter the sweepstakes via Facebook, entrants must go to the mike's HARDER® Facebook page and comment on the Lalo Yunda sweepstakes post. To enter the sweepstakes via Twitter, entrants must follow “@HARDER” and comment on the Lalo Yunda post, including the hashtag “HARDERTattooSweeps.”

One entrant will be randomly selected to receive the grand prize of a trip for two to Los Angeles, California, including airfare, lodging for three days, and a custom tattoo by professional tattoo artist, Lalo Yunda for the grand prize winner. The approximate retail value of the grand prize is \$2,000.00 and does not contain alcoholic beverages. The promotion is only open to adults of legal 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, 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 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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 16-291