

September 20, 2016

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

RE: Buchanan's Latin Grammy Awards Sweepstakes-2016

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail and letter sent September 6, 2016, in which you seek legal review of a sweepstakes promotion that Diageo Americas, Inc., would like to make available in Pennsylvania, the "Buchanan's Latin Grammy Awards Sweepstakes-2016."

According to the "Official Rules" that you provided, the sweepstakes was scheduled to begin on September 19, 2016, and runs until November 1, 2016. Interested individuals may enter in one of three ways: online, text message, or regular mail. There is a limit of one entry per person, regardless of the method of entry.

Two grand prizes will be awarded for the sweepstakes. The grand prize winners will be selected in a random drawing on or about November 3, 2016. Each grand prize winner will receive a trip for two people to the 17th Annual Latin Grammy Awards Show. The trip includes the following: round-trip coach air travel from the major airport nearest the winner's residence to Las Vegas, Nevada; transportation to/from Las Vegas airport, the hotel, the awards show, and the after party; two VIP tickets to the awards show; two tickets to the after party; standard hotel accommodations for two nights and three days at a Las Vegas hotel; and a \$150.00 prepaid gift card. The approximate retail value of each grand prize is \$3,000.00. Alcoholic beverages are not part of the prize.

The sweepstakes is open only to legal residents of the fifty United States or the District of Columbia 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 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), as long as no alcoholic beverages are awarded as part of the grand prizes.

Although the "Official Rules" indicate that alcoholic beverages are not part of the grand prizes, please be advised that if any part of the trips being awarded as the grand prizes, including the awards show or the after party, involves sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the grand prize winners and/or their guests, this would be construed as awarding alcoholic beverages as part of the prizes 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 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, as long as no alcoholic beverages are awarded as part of the grand prizes, 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 wine and 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
Charles Mooney, Chief Operating Officer
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-368