

October 20, 2016

Maria Freitas
Strike & Techel
556 Commercial Street
San Francisco, CA 94111
VIA E-MAIL

RE: #PatronWorthy Sweepstakes

Dear Ms. Freitas:

ISSUE: This correspondence is in response to your e-mail of September 30, 2016, in which you request legal review, on behalf of The Patron Spirits Company, of a proposed promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “#PatronWorthy” sweepstakes promotion is scheduled to begin on October 17, 2016, and run until October 31, 2016. There are three additional sweepstakes periods, which will begin on the first day of November, December, and January, and end on the last day of each month. To enter the sweepstakes, consumers must go to <https://www.patrontequila.com/campaign/patronworthy.html> and submit the required sweepstakes information.

Each week, for a period of four weeks, fifty entrants will be randomly selected to receive the grand prize of limited edition “Patrón glassware and/or barstools.” The approximate retail value of each grand prize is \$75.00 and does not include 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 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 sweepstakes promotions and determined that both promotions comport 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 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 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 spirit 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
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. 16-410