

November 17, 2016

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

RE: Guinness Gravity Glass Sweepstakes and Guinness Gravity Glass Sweepstakes Promotions

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail dated October 25, 2016, in which you seek legal review of two sweepstakes promotions to be conducted in Pennsylvania.

According to the official rules you provided for the first sweepstakes, the “Guinness Gravity Glass” sweepstakes promotion was scheduled to begin on November 1, and run until December 31, 2016. Entrants may enter the sweepstakes via text message or online. To enter the sweepstakes via text message, consumers must text “GRAVITY” to 55755 to receive a link to a website to complete the required entry form. To enter the sweepstakes online, consumers must go to www.HappyHolidaysFromGuinness.com to complete the online entry form.

One entrant will be randomly selected to receive the grand prize of a trip for two to Dublin, Ireland, including lodging for four days, airfare, two tickets to a tour of St. James’s Gate Brewery, and a \$1,000.00 gift card to cover additional travel expenses. The approximate retail value of the grand prize is \$5,115.00. An additional fifty entrants will be randomly selected to receive the first place prize of one engraved Guinness Gravity glass. The approximate retail value of each glass is \$30.00. Alcoholic beverages are not included in any of the prizes and no purchase is necessary to enter the sweepstakes. The sweepstakes is open to adults who are of legal drinking age in select states, including Pennsylvania.

According to the official rules you provided for the second sweepstakes, the “Guinness Gravity Glass Holiday” sweepstakes promotion was scheduled to begin

on November 1, and run until December 31, 2016. Entrants may enter the sweepstakes via text message or online. To enter the sweepstakes via text message, consumers must text "DUBLIN" to 55755 to receive a link to a website to complete the required entry form. To enter the sweepstakes online, consumers must go to www.GuinnessHolidays.com to complete the online entry form.

One entrant will be randomly selected to receive the grand prize of a trip for two to Dublin, Ireland, including lodging for four days, airfare, two tickets to a tour of St. James's Gate Brewery, and a \$1,000.00 gift card to cover additional travel expenses. The approximate retail value of the grand prize is \$5,115.00. An additional fifty entrants will be randomly selected to receive the first place prize of one engraved Guinness Gravity glass. The approximate retail value of each glass is \$30.00. Alcoholic beverages are not included in any of the prizes and no purchase is necessary to enter the sweepstakes. The sweepstakes is open to adults who are of legal drinking age in select states, including Pennsylvania.

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 promotions and determined they 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 are acceptable for use in this Commonwealth, so long as alcoholic beverages are not included in the prize package.

Although the official rules in both sweepstakes indicated that alcoholic beverages are not included in the prize package, 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.

Therefore, it is permissible to conduct both sweepstakes promotions two 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,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Tisha Albert, Director, Office of Regulatory Affairs
Jeffrey Lawrence, Assistant Director, Bureau of Licensing