

January 27, 2017

Emma McGovern, Esquire
Winston & Strawn LLP
35 West Wacker Drive
Chicago, IL 60601
VIA E-MAIL

RE: Evan Williams Seriously Good Sweepstakes Promotion

Dear Ms. McGovern:

ISSUE: This correspondence is in response to your e-mail sent January 19, 2017, in which you seek legal review, on behalf of Heaven Hill Brands, of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Evan Williams Seriously Good” sweepstakes promotion is scheduled to begin on February 10, and run until March 14, 2017. To enter the sweepstakes, consumers must go to EvanWilliams.com/SeriouslyGoodQuiz to register for the sweepstakes and take the quiz. For each question answered correctly on the quiz, consumers will receive one entry into the sweepstakes. Consumers who get all ten questions correct will receive an additional entry to the sweepstakes. Consumers may only take the quiz once, and it must be completed in one session.

One entrant will be randomly selected to receive the grand prize of a trip for two to Louisville, Kentucky for the “Evan Williams Experience,” including airfare, lodging for two days, a \$150 Visa® gift card, and two Evan Williams Bourbon-branded prize packages, which “may” include a hat, visor, t-shirt, sunglasses, or four shot glasses. The approximate retail value of the grand prize is \$3,300.00. An additional forty entrants will be randomly selected to receive an Evan Williams Bourbon-branded prize package, which “may” consist of a t-shirt, hat, visor, sunglasses, or four shot glasses. The approximate retail value of each prize package is \$40.00. The sweepstakes is only open to adults who are at least twenty-one years of 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, so long as alcoholic beverages are not included in any part of the prize package.

Although the official rules do not indicate whether alcoholic beverages are included in the prize package, please be advised 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.

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, 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. 17-006