

February 2, 2017

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

RE: Crown Royal “Crown Your Bartender” Contest

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail sent January 5, 2017, in which you seek legal review, on behalf of Diageo Americas, Inc., of a proposed contest to be conducted in Pennsylvania.

According to the official rules you provided, the “Crown Royal ‘Crown Your Bartender’” contest is scheduled to begin on January 22, and run until April 30, 2017. Consumers may enter the contest via text or mail. To enter the contest via text, consumers must text “CROWNYOURBARTENDER” to 24587. Consumers will then be prompted to complete the required contest information, along with the nominee’s¹ name and place of employment, and a 100-word essay describing why the nominee is “worthy of recognition.” To enter the contest via mail, consumers must print on an 8.5” x 11” paper the required contest information along with the nominee’s name and place of employment, and a 100-word essay describing why the nominee is “worthy of recognition” to the designated P.O. Box.

One nominee will be selected to receive the grand prize of being “included in an upcoming lifestyle film” based on the following criteria set forth by an “independent judging organization:” degree to which the nominee is aligned with the brand messaging of “Live Generously;” “significance of nominee’s actions on a personal level;” and the “impact of the nominee on the broader community.” The retail establishment where bartender is employed will not be featured in the film. Judges may also conduct interviews with nominee bartenders to “supplement” their review of the nomination. The grand prize has no retail value and the winner is responsible for all

¹ The official rules indicate that a “nominee” must be employed as a “professional bartender” to be considered for the contest. A “professional bartender” is further defined as “any person whose normal job duties, as of the date of nomination, include the creation and serving of alcohol to paying customers at an on-premise establishment with an alcohol beverage retailer’s license...”

expenses incurred during the filming process. The nominee must be at least twenty-five years of age to be considered for the grand prize.

An additional fifty-one nominees, one from each state, including Washington DC, will be selected to receive a Crown Royal “Crown Your Bartender” trophy based on the aforementioned judging criteria. The approximate retail value of each trophy is \$50.00. It will be presumed that alcoholic beverages are not included in any of the prizes. The contest is open to legal residents who are at least twenty-one years of age at the time of entry and no purchase is necessary to enter the contest.

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 contest and determined that it does **not** comport with section 13.51(a) of the Board’s Regulations. 40 Pa. Code § 13.51(a).

Pursuant to section 13.51(a) of the Board’s Regulations:

“[N]o in-State or out-of-State manufacturer, licensee or group of licensees, their servants, agents or employees, may directly or indirectly, in person, individually or through a trade organization, contribute to or accept from another licensee or group of licensees of a different class, their servants, agents or employees or a trade organization of licensees of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose.”

40 Pa. Code § 13.51(a).

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Alternatively, section 493(24)(i) of the Liquor Code allows manufacturers and licensees to provide advertising novelties of nominal value, which bear advertising matter, to other licensees and consumers with or without a purchase. 47 P.S. § 4-493(24)(i). The Board has defined advertising novelties of nominal value as items that have a wholesale cost of \$15.00 or less and contain advertising material. 40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision).

The “Prizes” section of the “Official Rules” indicate that “in no event, however, will a prize (or other thing of value) of any kind be awarded to the retail establishment where a winning nominee is employed as a bartender.” Although this language appears to address any potential prohibitions between the manufacturer and a retail licensee, the manufacturer, in this case, is still awarding either a grand prize or a first prize to an employee of a retail licensee beyond that of advertising novelties. Therefore, it is **not** permissible to conduct the proposed contest in Pennsylvania in accordance with section 13.51(a) of the Board’s Regulations. 40 Pa. Code § 13.51(a).

Should you have any further questions, please do not hesitate to contact this office.

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, Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 17-009