

February 10, 2017

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

**RE: Diageo Lucky Green Thumb Sweepstakes Promotion**

Dear Mr. Schleifstein:

ISSUE: This correspondence is in response to your e-mail sent January 31, 2017, in which you seek legal review, on behalf of Diageo Americas, Inc., of a proposed sweepstakes to be conducted exclusively in Pennsylvania.

According to the official rules that you provided, the “Diageo Lucky Green Thumb” sweepstakes promotion is scheduled to begin on February 27, and runs until March 27, 2017. To enter the sweepstakes, consumers must go to [www.LuckyGreenThumb.com](http://www.LuckyGreenThumb.com) to submit the required sweepstakes information. There is a limit of one entry per person, per week. Each week, for a period of four weeks, one entrant will be randomly selected to receive the grand prize of a cooler, a patio umbrella, and a luxury furniture set. The approximate retail value of each grand prize is \$1,750.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is only open to Pennsylvania residents who are at least twenty-one years of age.

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 sweepstakes 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).

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 materials 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 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**

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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  
Dale Horst, Director of Marketing and Merchandising  
Stacy Kriedeman, Director, Marketing Communications  
Thomas Bowman, Director, Bureau of Product Selection

LCB Advisory Opinion No. 17-021