

January 2, 2019

Jessica Buck
Trade Development Manager
American Liberty Division
Southern Glazer's Wine & Spirits
VIA E-MAIL

RE: Jameson Whiskey Bar Sweepstakes

Dear Ms. Buck:

ISSUE: This office is in receipt of your e-mail dated November 29, 2018, wherein you request legal review of a sweepstakes promotion to be conducted in Pennsylvania. You sent a follow-up e-mail on November 29, 2018, with an update indicating a change to the method of entry reflecting a "text to win" entry only.

According to the official rules you provided, the "Jameson Whiskey Bar Sweepstakes" promotion is scheduled to begin on February 13, 2019 and run until March 31, 2019. To participate in the sweepstakes, interested individuals from the state of Pennsylvania may enter by texting "JAMESON" to short code 888111 and following the commands. Entrants are limited to one entry per person per calendar day.

One grand prize winner will be randomly selected to receive a burnished walnut whiskey bar, back bar, and hutch. The total approximate value of the grand prize is \$4,500.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is only open to residents of Pennsylvania who are at least twenty-one years of age at the time of entry. The official rules state that alcohol will not be included in any prize.

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 and determined that it comports with applicable liquor laws and regulations, specifically section 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h).

Further, 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 Fine Wine & Good 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 this 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 & 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,

A handwritten signature in cursive script, appearing to read "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. 18-470