

January 28, 2019

Scott Schleifstein  
Cohen Silverman Rowan LLP  
79 Madison Avenue  
New York, NY 10016  
**VIA E-MAIL**

**RE: PA March Brunch Sweepstakes**

Dear Mr. Schleifstein:

ISSUE: This office is in receipt of your e-mail dated January 11, 2019, wherein you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “PA March Brunch Sweepstakes” promotion is scheduled to begin on February 25 and runs until March 24, 2019. To participate in the sweepstakes, interested individuals from the state of Pennsylvania may enter by texting “BRUNCH” to short code 55755 and following the commands. Alternatively, interested individuals may visit the sweepstakes website at [www.MeetYourNewBrunchCrew.com](http://www.MeetYourNewBrunchCrew.com) where they must verify their age and provide their name, zip code, state, telephone number, and e-mail address. Entrants are limited to one entry per person.

One grand prize winner will be randomly selected to receive a “brunch” to be awarded in the form of \$2,000.00 worth of gift cards. Four weekly prize winners will be randomly selected to win brunch kits that will include glasses as well as tools and/or equipment for preparing and/or serving brunch.<sup>1</sup> The total approximate value of all prizes is \$3,200.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is open only to residents of Pennsylvania who are at least twenty-one years of age at the time of entry. The official rules specify that alcohol will not be included in any of the prizes.

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<sup>1</sup>The official rules state that week one is from February 25<sup>th</sup> to March 3<sup>rd</sup>, week two is March 4<sup>th</sup> to March 10<sup>th</sup>, week three is March 11<sup>th</sup> to March 17<sup>th</sup>, and week four is from March 18<sup>th</sup> to March 24, 2019.

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), so long as alcohol is not part of any prize.

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, as long as alcohol is not included in the prizes, 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).

X 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  
Thomas Bowman, Director, Bureau of Product Selection

LCB Advisory Opinion No. 19-012