

February 11, 2019

Katie Ford
Marketing Compliance Manager
Pernod Ricard USA
VIA E-MAIL

RE: The Martell Swift Ones Jacket Sweeps

Dear Ms. Ford:

ISSUE: This correspondence is in response to your e-mail dated January 24, 2019, wherein you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “The Martell Swift Ones Jacket Sweeps” promotion was scheduled to begin on February 1 and runs until March 31, 2019. To participate in the sweepstakes, interested individuals may visit the sweepstakes website at <http://www.martell.com/en-us/sign-up> where they must complete the online entry form. Alternatively, interested individuals may enter by clicking on a sponsored Facebook advertisement or clicking on a sponsored banner advertisement available at various websites. Entrants are limited to one entry per person.

Five prize winners will be randomly selected to receive a Martell-branded jacket. The approximate retail value of all prizes is \$500.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is open only to adults 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

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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. 19-016