

February 11, 2019

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

RE: Guinness St. Patty's Day Sweeps

Dear Mr. Schleifstein:

ISSUE: This office is in receipt of your e-mail dated January 16, 2019, wherein you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the "Guinness St. Patty's Day Sweeps" sweepstakes 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 www.guinnessstpattysweeps.com where they must verify their age and provide their name, zip code, state, telephone number, and e-mail address. Alternatively, interested individuals may enter by texting "VOUCHER" to 55755 and following the link to the sweepstakes website. Entrants are limited to one entry per person during the sweepstakes entry period.

Ten national (non-military) winners will be randomly selected to receive a \$250.00 gift card to the Guinness webstore found at www.guinnesswebstore.com. Fifty military winners will be randomly selected to receive a \$100.00 gift card to the Guinness webstore.¹ The approximate retail value of all prizes is \$7,500.00. 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 do not indicate whether alcohol will be part of the prizes.

¹The official rules state that the gift cards are redeemable solely at the webstore for any items sold on the website other than furniture (i.e. bar stools, tables, portable bars, clock, lamps, mirrors).

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,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 19-020