



September 1, 2020

Katie Ford  
on behalf of Pernod Ricard USA, LLC  
**VIA E-MAIL**

**RE: TX Whiskey Holiday Sweepstakes**

Dear Ms. Ford:

ISSUE: This correspondence is in response to your e-mail of August 11, 2020, in which you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “TX Whiskey Holiday Sweepstakes” promotion is scheduled to begin on October 1, 2020 and runs until December 31, 2020. To participate in the sweepstakes, interested individuals may enter online at [holidayswithtx.com](http://holidayswithtx.com) or by text message, as further detailed in the official rules.<sup>1</sup>

Two grand prize winners, one from among all entrants who indicated they are active or retired military and one from among all entrants who did not indicate that they are active or retired military, will be randomly selected to receive a pair of Tony Lama boots. One first prize winner will receive a stock pair of boots. The total approximate prize value of all prizes is \$5,000.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is open only to residents who are at least twenty-one years of age at the time of entry. The official rules indicate that alcohol is not included in the prizes.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer, manufacturer’s representatives, 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.

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<sup>1</sup> The official rules have been attached to this Advisory Opinion for your convenience.

- 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).

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 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 is 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

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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  
Michael Demko, Executive Director  
Elizabeth Brassell, Director of Policy & Communications  
Stacy Kriedeman, Director, Marketing Communications  
Thomas Bowman, Director, Bureau of Product Selection  
[Ra-lbpromo@pa.gov](mailto:Ra-lbpromo@pa.gov)

LCB Advisory Opinion No. 20-202



Date: July 29, 2020  
Client: Pernod Ricard  
Sweepstakes: TX Whiskey Holiday Sweepstakes  
Subject: Official Rules

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**Mandatories:**

**NO PURCHASE NECESSARY TO ENTER OR WIN.** TX Whiskey Holiday Sweepstakes is open to legal residents of the 50 U.S. & D.C. (which excludes P.R. and all U.S. territories & possessions), and active or retired military personnel who are legal U.S. citizens (regardless of where they reside), 21 years of age or older. Void where prohibited. Begins 12:00:01 a.m. ET 10/1/20; ends 11:59:59 p.m. ET 12/31/20. Visit [holidayswithtx.com](http://holidayswithtx.com) for free entry details and Official Rules, which govern. Alcohol is not included with the prize. 3 messages per query. By texting you authorize Pernod Ricard to send you an automated text message to your #. Consent not required for condition of purchase. Message & Data rates may apply. Text "STOP" to 833-222-1972 to stop. Text "HELP" to 833-222-1972 for help. Sponsor: Pernod Ricard USA, LLC, New York, NY.

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**NO PURCHASE NECESSARY TO ENTER OR WIN. A PURCHASE OR PAYMENT OF ANY KIND WILL NOT INCREASE YOUR CHANCES OF WINNING.**

**OPEN ONLY TO LEGAL RESIDENTS OF THE 50 UNITED STATES AND THE DISTRICT OF COLUMBIA (WHICH EXCLUDES PUERTO RICO AND ALL UNITED STATES TERRITORIES AND POSSESSIONS), AND ACTIVE OR RETIRED MILITARY PERSONNEL WHO ARE LEGAL UNITED STATES CITIZENS (REGARDLESS OF WHERE THEY RESIDE), 21 YEARS OF AGE OR OVER AT THE TIME OF ENTRY.**

1. **Sweepstakes Period:** The TX Whiskey Holiday Sweepstakes (the "Sweepstakes") begins at 12:00:01 a.m. Eastern Time ("ET") on October 1, 2020 and ends at 11:59:59 p.m. ET on December 31, 2020 (the "Sweepstakes Period").
2. **How To Enter: There are two (2) ways to participate (to enter at the Site), as follows.**
  - a. Via Text/Site: To participate using a text-enabled cell phone/device, send a text message with the word "TXWhiskey" to the long code "833-222-1972". Next, you will receive a text message back asking you to provide your date of birth. Once your date of birth/eligibility has been verified, you will receive instructions on how to visit the Site (as defined below) to complete the online entry form, including (if applicable) checking off a box to indicate if you are active or retired military, to receive one entry (the "Entry") into the corresponding Grand Prize random drawing and the First Prize random drawing, as described below.

Data and text-messaging rates may apply. Text "STOP" to 833-222-1972 to stop. Text "HELP" to 833-222-1972 for help. Text messaging requires 2-way text messaging capable device.

- b. Via the Site Only: To enter the Sweepstakes during the Sweepstakes Period, visit [holidayswithtx.com](http://holidayswithtx.com) (the "Site") and complete the online entry form, including (if applicable)

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checking off a box to indicate if you are active or retired military, to receive one Entry into the corresponding Grand Prize random drawing and the First Prize random drawing, as described below.

**You must be active or retired military if you indicate that you are active or retired military on the online entry form.** All eligible Entries must be received by 11:59:59 p.m. ET on December 31, 2020. Entries become the property of Sponsor upon receipt and will not be acknowledged or returned. Sponsor is not responsible for lost, late, misdirected, corrupted, incomplete or damaged Entries. Proof of sending or submission will not be deemed to be proof of receipt by Sponsor.

Limit one (1) Entry per person per day regardless of method of accessing the Site.

**NOTE ABOUT PARTICIPATING VIA TEXT USING A DEVICE:** When you use your device and/or transmit data via your device, standard data/text messaging rates may apply according to the terms and conditions of your service agreement with your wireless carrier. Other charges may apply (such as normal airtime and carrier charges) and may appear on your mobile phone bill or be deducted from your prepaid account balance. Wireless carriers' rate plans may vary, and you should contact your wireless carrier for more information on rate plans and charges relating to your participation in this Sweepstakes. Check your device's capabilities for specific instructions.

3. **Eligibility:** Open to legal residents of the 50 United States and the District of Columbia (which excludes Puerto Rico and all United States territories and possessions), and active or retired military personnel who are legal United States citizens (regardless of where they reside), 21 years of age or older as of date of Entry. Employees of Pernod Ricard USA, LLC (the "**Sponsor**"), Don Jagoda Associates, Inc. ("**Administrator**"), Tony Lama, their respective affiliates, parents, subsidiaries, divisions, suppliers, distributors, all retailers of any alcohol-beverage products; and advertising, promotional and judging agencies (collectively "**Sponsor and its Administrators**"), and each of their respective employees, shareholders, directors, officers, members and agents and their immediate family members and/or those living in the same household of each are not eligible to participate or win. Void where prohibited and subject to all federal, state and local laws.
4. **Sweepstakes Drawings:** Two (2) Grand Prize winners [one (1) from among all entrants who indicated that they are active or retired military on the online entry form and one (1) from among all entrants who did not indicate that they are active or retired military on the online entry form] will be selected in separate random drawings. In addition, one (1) First Prize winner will be selected from among all eligible Entries received. The random drawings will be conducted by the Administrator, an independent judging organization whose decisions are final on all matters relating to the Sweepstakes, on or about January 6, 2021. Prizes will be awarded provided a sufficient number of eligible Entries are received from entrants who indicated that they are active or retired military or do not indicate such and overall. The odds of winning a prize will depend on the number of eligible Entries received from entrants who indicated they are active or retired military, are not active or retired military and overall.
5. **Prizes and Approximate Retail Values ("ARV"):** Grand Prize (2 total – as broken out above): A pair of Sponsor-selected Tony Lama boots (ARV: \$2,000). First Prize (1): A stock pair of Sponsor-selected Tony

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Lama boots (maximum ARV: \$1,000). **ALCOHOL IS NOT PART OF THE PRIZE.** Prizes are awarded “as is” without any warranty or guaranty of any kind. No substitution or transfer of prize permitted except at the sole discretion of the Sponsor who reserves the right to substitute prize of equal or greater value in the event the prize is unavailable. Prizes may be substituted for any reason only at the discretion of the Sponsor. Winners may pick their desired adult boot size. All federal, state and local taxes are the sole responsibility of winners.

- 6. General Rules:** Potential winners will be notified via email/email link. Potential winners will be required to sign and return, via email/email link, an Affidavit of Eligibility and liability and publicity release, except where prohibited, within forty eight (48) hours of notification. If a potential winner fails to return the completed affidavit within forty eight (48) hours, or if affidavit is returned as undeliverable or if a potential winner is deemed ineligible, the prize will be forfeited and an alternate winner will be selected. Prizes will be fulfilled within eight-ten weeks after winner verification is complete. Return of prize notification as undeliverable may result in disqualification and alternate selection. All taxes related to the prizes are the responsibility of the winners. Acceptance of a prize constitutes permission to Sponsor and its Administrators (including Tony Lama) to use each winner’s name and likeness for promotional purposes without further compensation except where prohibited by law. Winners, by accepting a prize, and all entrants, as a condition of entry/participation, agree, as applicable, to release and hold harmless Sponsor and its Administrators, their respective parents, subsidiaries, divisions, affiliates, suppliers, distributors and advertising, promotional and judging agencies and their respective officers, directors, shareholders, members, employees, agents, assigns, and all others associated with the development and execution of the Sweepstakes, from and against any and all liability, claims or actions of any kind whatsoever, for injuries, death, damages, or losses to persons or property which may be sustained in connection with submitting an Entry or otherwise participating in any aspect of the Sweepstakes, the receipt, ownership or use of any prize awarded, or while preparing for, participating in or for any typographical or other error in these Official Rules or the announcement or offering of the prizes. In the event of a dispute as to the identity of an entrant, the authorized account holder of the email account used to enter, will be deemed to be the entrant. “Authorized account holder” of the email account is defined as the natural person who is assigned to the email account by an internet service provider, or other organization (e.g., business, educational institution, etc.) that is responsible for assigning email addresses. Sponsor reserves the right at its sole discretion to disqualify any individual that tampers or attempts to tamper with the entry process or the operation of the Sweepstakes; violates these Official Rules; acts in an unsportsmanlike or disruptive manner: or acts with intent to annoy, abuse, threaten or harass any other person. Sponsor and its Administrators are not responsible for technical, hardware or software malfunctions, telephone failures of any kind, lost or unavailable network connections, or failed, incorrect, inaccurate, incomplete, garbled or delayed electronic communications, whether caused by the sender, by any of the equipment or programming associated with or utilized in the Sweepstakes which may limit the ability to participate, or by any human error which may occur in the processing of the Entries and administration of the Sweepstakes. Sponsor reserves the right to cancel, terminate or modify the Sweepstakes if it cannot be completed as planned for any reason, including infection by computer virus, bugs, tampering, unauthorized intervention, technical failures or corruption of any sort. In such event, Sponsor will award the prizes in random drawings from among all eligible Entries received from entrants who indicated they are active or retired military, did not indicate active or retired military and overall prior to cancellation. As a condition of entering in the

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Sweepstakes, entrant agrees that: 1) under no circumstance will entrant be permitted to obtain awards for, and participant hereby waives all rights to claim, punitive, incidental, consequential or any other damages, other than for out-of-pocket expenses; 2) all causes of action arising out of or connected with this Sweepstakes, or prize awarded, shall be resolved individually, without resort to any form of class action; and 3) any and all claims, judgments, and award shall be limited to actual out-of-pocket costs incurred, but in no event attorneys' fees.

7. **Winners List:** For the names of the winners, available after January 30, 2021, send a stamped, self-addressed envelope by March 1, 2021, to: The TX Whiskey Holiday Sweepstakes - Winners, 100 Marcus Dr. Attn: JS, Melville, NY 11747.
8. **Sponsor/Administrator:** The Sponsor of the Sweepstakes is Pernod Ricard USA, LLC, 250 Park Avenue, New York, NY 10177. The Administrator of the Sweepstakes is Don Jagoda Associates, Inc., 100 Marcus Drive, Melville, NY 11747.

Please enjoy TX responsibly.

TX<sup>®</sup> Blended Whiskey. 41% Alc./Vol. © 2020 Firestone & Robertson Distilling Co., Fort Worth, TX.

TX<sup>®</sup> Texas Straight Bourbon Whiskey. 45% Alc./Vol. © 2020 Firestone & Robertson Distilling Co., Fort Worth, TX.

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