



September 29, 2020

Karen Gabriele
Mark Anthony Services, Inc.
328 South Jefferson Street, Suite 1050
Chicago IL, 60661
on behalf of Mark Anthony Brands, Inc.
VIA E-MAIL

RE: White Claw® Cooler Backpack Sweepstakes

Dear Ms. Gabriele:

ISSUE: This correspondence is in response to your e-mail of September 16, 2020, in which you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “White Claw® Cooler Backpack Sweepstakes” promotion is scheduled to begin on November 4, 2020, and runs until January 5, 2021. To participate in the sweepstakes, interested individuals may enter by text message or by mail, as further detailed in the official rules.¹

One hundred prize winners, as detailed in the official rules, will be randomly selected to each receive an insulated cooler backpack. The total approximate retail value of the prizes is \$5,500.00. 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.

¹ 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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 20-239

White Claw® Cooler Backpack Sweepstakes
Official Rules

NO PURCHASE NECESSARY. A PURCHASE WILL NOT INCREASE YOUR CHANCE OF WINNING. THIS SWEEPSTAKES IS OPEN ONLY TO LEGAL U.S. RESIDENTS OF THE STATES OF MASSACHUSETTS, MAINE, MICHIGAN, NEW HAMPSHIRE, NEW YORK, OHIO, PENNSYLVANIA, VERMONT AND WEST VIRGINIA WHO ARE 21 YEARS OF AGE OR OLDER AT TIME OF ENTRY. VOID ELSEWHERE AND WHERE PROHIBITED OR RESTRICTED BY LAW.

1. Eligibility: This Sweepstakes is open only to legal U.S. residents of the States of Massachusetts, Maine, Michigan, New Hampshire, New York, Ohio, Pennsylvania, Vermont and West Virginia who are 21 years of age or older at the time of entry. Void elsewhere and where prohibited or restricted by law. Employees, officers and directors of the following entities and members of their immediate families (defined as parent, child, sibling, spouse) or same households (whether related or not) are NOT eligible to enter the Sweepstakes or win a prize: Mark Anthony Brands Inc., its parent company, subsidiaries, divisions, affiliates, prize suppliers, advertising and promotion agencies (including HP2 Promotions), as well as alcohol beverage licensees (i.e., alcohol beverage suppliers, importers, wholesalers, distributors and retailers). By participating in the Sweepstakes, entrants agree to abide by and be bound by these Official Rules and the decisions of Sponsor and HP2 Promotions (the independent judging organization) which shall be final and binding in all respects. All federal, state and local laws apply.

2. Sweepstakes Period: Sweepstakes begins at 12:00:01 a.m. (ET) on November 4, 2020 and ends at 11:59:59 p.m. (ET) January 5, 2021.

3. How to Enter: There are two (2) ways to enter this Sweepstakes.

Entry Method No. 1 - Text: During the Sweepstakes Period, send a Text Message Entry (“TME”) by texting “BACKPACK” from your handset addressed to short code 55678. A valid TME will receive an automatic reply substantially in the form as follows: “Thx for ur Text! You must be 21+ to enter. Reply w/birthdate in format MM/DD/YYYY.” Once you send the text message and if you are 21 or older, you will be automatically entered into the Sweepstakes. You will be charged for all text messages sent and received from your handset according to the terms in your individual Calling Plan with your cellular provider. Entries must be received by 11:59:59 p.m. (ET) on the day immediately preceding the approximate drawing date (see chart in Rule 6 below) except for the final drawing (Drawing No. 8) for which entries must be received by 11:59:59 p.m. (ET) January 5, 2021.

Receipt of entry may be acknowledged but such acknowledgment does not constitute any representation of eligibility for the Sweepstakes nor is it otherwise binding upon Sponsor. All entries become the sole property of the Sponsor and receipt of entries will not be acknowledged (except perhaps as noted above) or returned. No alterations or forged entries are permitted. All entrants must have a text messaging two-way capable handset and digital service in order to enter the Sweepstakes using the text messaging method. Prizes will be awarded to the name corresponding to the phone number from which the text message originated. Message and data rates apply to use of Entry Method No. 1. Please consult your wireless service provider regarding your pricing plan BEFORE using Entry Method No. 1 to enter the Sweepstakes. Not all wireless providers feature necessary service to participate in the Sweepstakes via Entry Method No. 1. Check your phone capabilities for specific text messaging instructions. Text messaging service is not available in all areas.

Entry Method No. 2 – Mail: To enter without submitting a text, during the Sweepstakes Period print your name, address, date of birth, telephone number, and “BACKPACK” Sweepstakes on a 3” x 5” card and mail in an envelope to: HP2, P.O. Box 40216, Phoenix, AZ 85067. Entries must be received by the day immediately preceding the approximate drawing date (see chart in Rule 6 below) with the exception of the final drawing (Drawing No. 8) for which entries must be postmarked by January 6, 2021 and received by January 15, 2021. Limit of one (1) mail entry per outer envelope. Copied/mechanically reproduced mail entries will not be accepted.

4. Entry Restrictions: Limit one (1) entry per person, per day (12:00:01 a.m. [ET] until 11:59:59 p.m. [ET]) during the Sweepstakes Period, regardless of the method of entry. Violation of this entry limit will result in

only the initial entry being accepted. But, Sponsor reserves the right to void all entries (and disqualify entrant from the Sweepstakes altogether as well as to prohibit such entrant from participating in future promotions offered by Sponsor) if Sponsor determines in its sole discretion that a given person has engaged in egregious, blatant or repeated violations of the entry limit. Proof of submission of entry does not constitute proof of receipt of same or proof of entry. All entries become the sole property of the Sponsor. Sponsor and its agencies assume no responsibility for late, lost, illegible/garbled, incomplete, damaged, inaccessible, corrupted or jumbled entries/text message/SMS transmissions or mail entries (as applicable), regardless of cause; and, all such entries are void. Sponsor and its agencies are also not responsible for postage due mail.

5. Prizes: 100 Prizes will be awarded. Winners will each receive one (1) White Claw® branded Insulated Cooler Backpack. **Alcohol beverages are not part of a prize.** Approximate Retail Value of each Prize: \$55.00. Total Retail Value of all Prizes: \$5,500.00.

6. Winners' Determination/Odds: 100 Prize winners will be determined via random drawing from all eligible entries received, as per the chart below. Non-winning entries will be retained for subsequent Prize random drawing(s), as applicable. All drawings will be conducted by HP2 Promotions, an independent judging organization, whose decisions will be final in all matters relating to this Sweepstakes. Odds of winning will be determined by the total number of eligible entries received for each random drawing. Winners will be notified by text message, e-mail or phone (specific method[s] of notification being of Sponsor's sole choosing) on or about the designated drawing date as set forth herein and will be required to sign an affidavit of eligibility, liability release and publicity release (where lawful) within **three (3) business days** of notification or a prize will be forfeited and may be awarded to another winner at Sponsor's sole discretion. In the event of noncompliance with this requirement or if a potential winner cannot be contacted for any reason, a prize will be forfeited without compensation of any kind and an alternate winner may be selected. **One (1) prize per person.**

Drawing No.	*No. of Prizes Available	Entry Deadline Date	Approx. Drawing Date
1	12	November 17, 2020	November 18, 2020
2	12	November 24, 2020	November 25, 2020
3	12	December 1, 2020	December 2, 2020
4	12	December 8, 2020	December 9, 2020
5	12	December 15, 2020	December 16, 2020
6	12	December 22, 2020	December 23, 2020
7	12	December 29, 2020	December 30, 2020
8	16	January 5, 2021 for Text Entry January 6, 2021 for Mail Entry	January 19, 2021

*If any prizes remain unawarded in any weekly random drawing(s), Sponsor reserves the right to include such unawarded prizes in subsequent weeks' random drawings. As such, the actual number of prizes available in a given week's random drawing may differ from the number indicated in the chart.

7. General Conditions: Entry in the Sweepstakes constitutes an entrant's full and unconditional agreement to abide by and accept the terms and conditions of these Official Rules. No prize substitution except at Sponsor's sole discretion. A prize is not redeemable/exchangeable for cash. A prize is not transferable except with Sponsor's prior consent which may be granted or withheld in its sole discretion without liability of any kind. All federal, state and local taxes a prize are a winner's sole responsibility. By accepting a prize, a winner waives the right to assert as a cost of winning a prize, any and all costs of redemption or travel to redeem a prize and any and all liability that might arise from redeeming or seeking to redeem a prize. All costs and expenses associated with prize acceptance and use that are not specified herein are the sole responsibility of a winner. A winner also accepts sole responsibility for any miscellaneous costs relating to acceptance of a prize.

Taxes on a prize are a winner's sole responsibility. If value of a prize is \$600 or more, a winner will be issued W-9

IRS Tax Form with the Affidavit of Eligibility and Release and a subsequent 1099 IRS Form. Upon receipt of a prize, a winner shall be required to comply with any and all applicable federal, state and local law, rules and regulations.

Sponsor makes no warranties, and hereby disclaims any and all warranties, express or implied, concerning prizes furnished in connection with the Sweepstakes. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PRIZES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND SPONSOR HEREBY DISCLAIMS ALL SUCH WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NON-INFRINGEMENT.

8. Releases: By participating, entrant indemnifies, releases and agrees to hold harmless (a) Mark Anthony Brands Inc., its parent companies, subsidiaries, divisions, affiliates, prize suppliers, and advertising and promotion agencies (including HP2 Promotions); and (b) the directors, officers, agents, representatives, shareholders, employees, successors and assigns of any of the above organizations; from any and all liability arising from participating in the Sweepstakes, any Sweepstakes-related activity and/or the acceptance, receipt, possession or use/misuse of any prize (as applicable). Without limiting the foregoing, Mark Anthony Brands Inc., makes no representation, warranty or guarantee of any kind regarding a prize; this includes but is not limited to the warranty of merchantability or fitness for intended purpose. Except where prohibited by law, acceptance of a prize constitutes a winner's agreement to the use of his/her name, address (city, state), likeness, voice, photograph or other indicia of persona and/or statements regarding the Sponsor or the Sweepstakes for advertising, publicity and trade purposes by Sponsor and its designees, without further compensation or any notice or approval of any kind.

9. Text Message Entry Conditions: By participating in the Sweepstakes, you authorize Sponsor to communicate with you by text messaging solely regarding Sweepstakes participation for the duration of the Sweepstakes. In case of dispute as to identity of a text message entrant, entry will be declared made by the authorized account holder of the cellular provider. "Authorized Account Holder" is defined as the natural person who is assigned a number by the cellular provider or as shown on the cellular provider's records. Sponsor and its agencies are not responsible for text message communications/entries not received due to lost, failed delayed or interrupted connections or miscommunications, or due to other electronic malfunctions, delays, or errors of any kind in the transmission or receipt of text message communications/entries. Sponsor is not responsible for incorrect or inaccurate entry information, whether caused by any human or technological error that may occur in the processing of text message communications/entries in this Sweepstakes. Any other attempted form of entry not specified herein is prohibited; no automatic, programmed, robotic or similar means of entry are permitted.

10. Caution: ANY ATTEMPT BY A PERSON TO DELIBERATELY UNDERMINE THE LEGITIMATE OPERATION OF THIS SWEEPSTAKES IS A VIOLATION OF CRIMINAL AND CIVIL LAWS AND SHOULD SUCH AN ATTEMPT BE MADE, SPONSOR RESERVES THE RIGHT TO DISQUALIFY SUCH PERSON FROM THE SWEEPSTAKES (IF APPLICABLE), PROHIBIT SUCH PERSON FROM PARTICIPATING IN FUTURE PROMOTIONS OFFERED BY SPONSOR, AS WELL AS TO SEEK DAMAGES FROM ANY SUCH PERSON TO THE FULLEST EXTENT PERMITTED BY LAW.

11. Improper Conduct: Sponsor, in its sole discretion, may disqualify any entrant from participation in or use of any or all portions of this Sweepstakes, and refuse to award a prize if entrant engages in any conduct Sponsor deems to be improper, unfair, otherwise adverse to the operation of the Sweepstakes or detrimental to other entrants of the Sweepstakes. Such improper conduct includes, without limitation, falsifying personal information required during entrant registration or prize claim, violating any term or condition stated here, accumulating entries through methods such as automated computer scripts or any other programming techniques, allowing others to use entrant's personal information for the purpose of accumulating entries, or intentionally trying to defraud, reverse engineer, disassemble or otherwise tamper with the computer programs/technology in connection with this Sweepstakes. Entrants agree that Sponsor may void a prize that entrant may have won and/or require the return of a prize that entrant may have won as a result of such improper conduct. Entrant further acknowledges that any forfeiture of a prize and/or return

of a prize shall in no way prevent Sponsor from pursuing other avenues of recourse such as criminal or civil proceedings in connection with such conduct.

12. Sponsor's Rights: Sponsor reserves the right, in its sole discretion, to cancel, abbreviate, or suspend this Sweepstakes should it be compromised by computer virus, program bugs, non-authorized human intervention or other causes beyond the control of the Sponsor, including but not limited to fire, flood, epidemic, pandemic, earthquake, explosion, labor dispute or strike, act of God or public enemy, satellite or equipment failure, riot or civil disturbance, war (declared or undeclared), terrorist threat or activity, or any federal, state or local government law, order or regulation, order of any court or jurisdiction, without any compensation or liability to any entrant. Sponsor is not responsible for any typographical, technical, or other error in the printing of the offer, administration of the promotion or in the announcement of the prizes. In the event there is a discrepancy or inconsistency between the disclosures or other statements contained in any sweepstakes materials and the terms and conditions of the official rules, the official rules shall prevail, govern and control.

Sponsor assumes no responsibility for any damage to an entrant's, or any other person's, mobile device (or data/information stored therein) which is occasioned by participating in the Sweepstakes, or for any computer system, phone line, hardware, software or program malfunctions, or other errors, failures, delayed computer transmissions or network connections that are human or technical in nature. Without limiting the generality of the foregoing, Sponsor is not responsible for lost, interrupted, inaccessible or unavailable networks, servers, satellites, Internet service providers, or other connections; or for miscommunications, failed, jumbled, scrambled, delayed, or misdirected computer, telephone or cable transmissions; or for any technical malfunctions, failures, difficulties or other errors of any kind or nature; or for the incorrect or inaccurate capture of information, or the failure to capture any information. The preceding expressly includes but is not limited to any text message communications sent by or sent to Sponsor which is not properly and timely received and accessible by Sponsor or its agencies for any reason. Sponsor reserves the right to modify, suspend, or terminate the Sweepstakes if it determines, in its sole discretion, that the Sweepstakes is technically impaired or corrupted or that fraud or technical problems, failures or malfunctions or other causes beyond Sponsor's control have destroyed or severely undermined or to any degree impaired the integrity, administration, security, proper play and/or feasibility of the Sweepstakes as contemplated herein. If the Sweepstakes is modified, terminated or suspended, Sponsor will select the winners for affected random drawing(s) from all eligible, non-suspect text message entries received for affected random drawing(s) prior to Sponsor's action as well as all eligible mail entries received for affected random drawing(s) or otherwise in a manner determined by Sponsor in its sole discretion to be fair, appropriate and consistent with these Official Rules. Inclusion in such drawing (for text message entries, to the extent feasible) shall be each entrant's sole and exclusive remedy under such circumstances; and, if not feasible (for text message entries), Sponsor shall not have any liability of any kind. Only the type and quantity of prizes described in these Official Rules are available to be won in the Sweepstakes. These Official Rules cannot be modified or amended in any way except in a written document issued in accordance with law by duly authorized representatives of Sponsor. The invalidity or unenforceability of any provision of these rules shall not affect the validity or enforceability of any other provision. In the event that any provision is determined to be invalid or otherwise unenforceable or illegal, these rules shall otherwise remain in effect and shall be construed in accordance with their terms as if the invalid or illegal provision were not contained herein.

13. Disputes: This Sweepstakes is governed by the laws of the State of Illinois, without respect to conflict of law/choice of law doctrines of Illinois (or of any other jurisdiction which would lead to the application of the law of any jurisdiction other than Illinois). To the fullest extent permitted by law, as a condition of participating in the Sweepstakes, entrant agrees (a) that any and all disputes regarding the Sweepstakes which cannot be resolved between the parties shall be resolved individually, without resort to any form of class action, exclusively before a federal or state court located in Cook County, Illinois; (b) to the personal jurisdiction of such courts and to waive any right of inconvenient forum, change of venue or any like right; (c) that any claims, judgments and awards shall be limited to actual out-of-pocket costs incurred in entering the Sweepstakes (if any), but in no event attorney's fees, with all other forms of remedy – including but not limited to punitive, incidental, or consequential damages and injunctive relief – being expressly waived.

14. Winners' List: For winners' list, please send a self-addressed stamped envelope to "BACKPACK", 328 S. Jefferson Street, Suite 1050, Chicago, IL 60661. All requests must be received by February 19, 2021. Winners' list will be available after March 5, 2021.

Sponsor: Mark Anthony Brands Inc., Chicago, IL 60661

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PLEASE DRINK RESPONSIBLY. HARD SELTZER WITH FLAVORS.