

**BEER INSTITUTE
CODE COMPLIANCE REVIEW BOARD**

122 C Street NW, Suite 350
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Telephone: 202.737-2337; Fax: 202.737.7004

March 23, 2009

Mr. Rod Kovel
2116 Merrick Avenue
Merrick, NY 11566

RE: "Meeting" - violation of sec. 2c, 2d, and 4d of the Beer Institute Advertising and Marketing Code

Dear Mr. Kovel:

Thank you for using the Code Compliance Review process. You complain that the "Meeting" television ad violates sections 2c, 2d, and 4d of the Beer Institute Member Guidelines.

The board carefully considered your entire complaint while reviewing the ad itself. Our process allows us ample time and access to evaluate the impact of this ad on the viewer and discuss our individual reactions in the context of your complaint.

Section 2c states: "Beer advertising and marketing materials should not portray persons lacking control over their behavior, movement, or speech as a result of consuming beer or in any way suggest that such conduct is acceptable." The Code Compliance Review Board (CCRB) feels that everyone in the advertisement is in control of their behavior. Section 2c prohibits the use of people who are intoxicated from participating in advertisements. It is the unanimous opinion of the CCRB that "Meeting" does not portray intoxicated people and, as a result, it is the unanimous opinion of the CCRB that "Meeting" does not violate section 2c of the code.

Section 2d of the code states "Beer advertising and marketing materials should not portray or imply illegal activity of any kind by an individual prior to, during, or after the individual consumes, purchases, or is served beer, unless the portrayal or implication of illegal activity is a basic element or feature of a parody or spoof and is readily identifiable as such."

The Beer Institute Guidelines state (section 1) that "In applying these guidelines, creative elements are to be considered in the overall context of the advertisement or marketing materials. Humor, parody, satire, and all other advertising themes and devices should be readily identifiable as such by reasonable adults of legal drinking age."

It is the position of the CCRB that the contents of "Meeting" were "readily identifiable" by "reasonable adults of legal drinking age" to be a clear example of "humor, parody and satire." As a result, it is the unanimous opinion of the CCRB that "Meeting" does not violate section 2d of the Code.

Finally, the CCRB unanimously concludes that “Meeting” does not violate section 4d. This section of the code prohibits the use of beer advertising that “represent that individuals cannot obtain social, professional, educational, athletic, or financial success or status without beer consumption.” “Meeting” does not make this claim and, as a result, does not violate section 4d.

The CCRB spent a considerable amount of time reviewing the advertisement; studying the code sections in question; and debating the allegations of your complaint against the response of the brewer. My colleagues on the CCRB authorized me to advise you and the brewer that this was a case fraught with questions and argument. The debate anchors on whether the “parody or spoof” language of sections 1 and 2d will always be a defense to allegations of violation of 2d or 4d. The short answer is no. In this case, the advertisement is clearly a spoof or parody, but such may not always be true if the advertisement crosses the line. This time it did not.

The findings of the Board are final. They will be communicated to the company responsible for the advertisement cited in the complaint. Findings will be publicly available on the Beer Institute's web site and published in an annual report. This correspondence will conclude the complaint and review process.

Though the Board did not share your position on a violation of the guidelines, we appreciate your informed use of the review process.

Sincerely,

William H. Cunningham
Chairman

xc: CCRB Board Members:
Ms. Rory Davies
Mr. Paul Summers