

**Advertisement:** High Noon Vodka Seltzer and New Amsterdam Pink Whitney promotional materials

**Advertiser:** Spirit of Gallo (DISCUS Member)

**Complainant:** Private citizen

This complaint covers four distinct advertising and/or marketing executions featuring Spirit of Gallo products and Barstool Sports:

- [High Noon Vodka Seltzer / Barstool Beach House Series Complaint](#)
- [High Noon Vodka Seltzer / Barstool Sports “King of the Felt” Video Complaint](#)
- [High Noon Vodka Seltzer College Football Show Complaint](#)
- [Pink Whitney Promotional Materials Complaint](#)

#### **High Noon Vodka Seltzer / Barstool Beach House Series Complaint Summary:**

The complainant alleges that the Barstool Beach House web series that includes depictions of High Noon Vodka Seltzer violates Responsible Content Provision Nos. A1, A2, B1, B2, B3, C5, C7, C13, and C14 and Responsible Placement Provision No. A1.

The complainant states that “[I] am submitting an urgent complaint regarding egregious violations of the DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing by High Noon, a hard seltzer product of E. & J. Gallo Winery, a DISCUS member. The violations occur in an ongoing live show hosted by Barstool Sports - @stoolbeachhouse, promoted across X, TikTok, Instagram, and YouTube, which has garnered hundreds of millions of views. The show, which began recently and will continue for three more weeks, explicitly aims to depict participants getting ‘blackout drunk’ (their words) while prominently featuring High Noon in nearly every clip, functioning as brand advertising due to its product placement and endorsement by associated influencers.”

The complainant relays that “[t]he show’s content, as seen in clips posted by @stoolbeachhouse (e.g., X posts, TikTok videos, Instagram Reels, and YouTube uploads violates multiple sections of the DISCUS Code. Regarding Responsible Content Provision No. B1 and the Promotion of Excessive and Irresponsible Drinking, the show’s stated goal is to depict participants achieving “blackout drunk” status, with High Noon cans or branding prominently displayed in nearly every clip. Participants are shown consuming excessive amounts, with some unable to walk, stand, or speak coherently, yet encouraged to drink more. This violates the regulations, which prohibits depicting excessive or irresponsible consumption. Blackout drunkenness, a dangerous level of intoxication, is glorified as the show’s central theme, undermining responsible drinking standards.”

The complainant states that “[r]egarding Responsible Content Provision No. C5 and depicting intoxication, clips show participants in visibly intoxicated states, including slurred speech and impaired mobility, with High Noon branding front and center. This violates the regulations, which prohibits portraying intoxicated individuals in advertising. The show’s focus on ‘blackout drunk’ behavior explicitly showcases severe intoxication, as seen in social media posts across platforms.”



The complainant states that “[r]egarding Responsible Content Provision No. C14 and encouraging illegal activity, the show encourages and glorifies cocaine and other drug use while participants are intoxicated by High Noon, violating the regulations, which prohibits advertising that depicts or encourages illegal activities. Cocaine is a controlled substance, and promoting its use alongside High Noon consumption is reckless and illegal, as evident in clips where drug use is referenced or encouraged with High Noon visible.”

The complainant relays that “[r]egarding Responsible Content Provision No. C13 and an association with antisocial or dangerous behavior, the show promotes ‘making bad decisions’ while blackout drunk, including reported accusations of sexual assault linked to High Noon consumption. This violates the regulations, which prohibits associating alcohol with antisocial or dangerous



behavior. Sexual assault is a serious crime, and linking it, even indirectly, to High Noon consumption is highly irresponsible, as seen in clips and related social media commentary.”

The complainant states that “[r]egarding Responsible Content Provision No. C7 and claiming alcohol enhances performance, the show implies that High Noon enhances social or physical performance (e.g., partying, social charisma), as seen in clips where consumption is tied to ‘fun’ or high-energy activities. This violates the regulations, which prohibits claims that alcohol enhances physical, mental, or social capabilities. Alcohol impairs coordination and judgment (per CDC guidelines), making such implications misleading.”

The complainant adds that “[r]egarding Responsible Content Provision No. B2 and the lack of responsible consumption messaging, the show includes no messaging about responsible or age-appropriate consumption, despite its focus on blackout drunkenness and reckless behavior. This violates the regulations, which encourages advertising to promote responsible drinking. The absence of such messaging is evident across @stoolbeachhouse posts, which instead glorify excessive drinking.”

The complainant adds that “[r]egarding Responsible Content Provision No. A1 and A2, the show’s humorous, youth-oriented style, featuring viral, meme-heavy content typical of @stoolbeachhouse, appeals to viewers under 21, violating the regulations prohibition on content with primary appeal to minors. With hundreds of millions of views on TikTok, Instagram, and YouTube, platforms known for large underage audiences (per Journal of Public Health, 2021), the content fails to meet requirement that 71.6% of the audience be 21+. The lack of effective age-gating on these platforms violates the regulations, as clips are publicly accessible without restrictions.”

The complainant relays that “[t]he show features influencers or personalities with material connections to High Noon (e.g., sponsorships or partnerships with E. & J. Gallo), but clips do not consistently disclose these relationships, violating regulations and aligning with FTC endorsement guidelines. For example, @stoolbeachhouse posts prominently feature High Noon without clear ‘ad’ or ‘sponsored’ labels, despite the brand’s central role.”

The complainant adds that “[a] review of @stoolbeachhouse’s X, TikTok, and Instagram accounts confirms the show’s focus on excessive drinking, with posts (e.g., Instagram Reels dated August 2025) showing High Noon cans in party scenes, drunken antics, and youth-oriented humor. Comments on X and TikTok mention ‘blackout’ goals and drug references, with no responsible drinking disclaimers. The massive viewership (hundreds of millions) amplifies the reach to underage audiences, and the lack of age-gating is evident in public posts.”

The complainant continues by noting that “[t]he show is live and ongoing, with three weeks remaining, posing an immediate risk of further harm due to its viral spread and glorification of dangerous behavior. The reported accusations of sexual assault and drug encouragement demand swift action to prevent additional violations and public safety risks.”

The complainant further states that “I respectfully urge the DISCUS Code Review Board to investigate this content immediately, given the show’s ongoing nature and massive reach. Please consider: (1) Requiring E. & J. Gallo Winery to remove or age-restrict all @stoolbeachhouse clips featuring High Noon; (2) Mandating clear sponsorship disclosures and responsible drinking messaging; (3) Issuing guidance to halt the show’s promotion of blackout drunkenness, drug use, and antisocial behavior, (4) Reviewing the show’s compliance with audience placement standards to prevent underage exposure; and (5) Take into consideration Barstool Sports position in a recent complaint where they claimed their regulation failures were a ‘one-off’ and then proceeded to create a whole show focused on breaking the regulations.”

The complainant notes that “[t]his content undermines the industry’s commitment to responsible advertising and poses significant public safety risks. Thank you for your prompt attention to this matter. While some clips directly showcase High Noon as the main focus, others have it appearing while other activities (against regulations) are occurring.”

The complainant adds that “[t]his complaint should be looked at in the greater context of Dave Portnoy, owner of Barstool Sports, whose financial interest in High Noon he has made very clear. Additionally, on numerous occasions, he has publicly made it clear to his employees that if they are drinking on camera at any time, even in their private lives, they need to be drinking High Noon or other sponsored beverages. This directive should be considered, as it indicates they have been instructed to consume High Noon for advertising purposes. Any time one of them is drinking High Noon on camera, it is at the direction of Dave Portnoy and should be considered a High Noon advertisement. See this clip where Portnoy does just that, instructing a cast member of the reality show as stated:

<https://x.com/barstoolsports/status/1903232844115091460?s=46>.”

The complainant mentioned that “a member of this show, ‘Ella,’ appeared on another Barstool show within the last couple of weeks (‘The Yak’). During this appearance, she admitted to having a drinking problem and also raised concerns about being sexually harassed by one of the men, Michael, who is participating in the reality show with her. (Here is commentary about that on the barstool show ‘The Kirk Minihane Show,’ where concerns about her and her statements are raised: <https://x.com/kirkminshow/status/1948031307805557104?s=46>.)

And here is the clip of Ella on ‘The Yak’ - (Start at 1:06:52) - [https://www.youtube.com/live/-J09E3HtJ\\_Y?si=oYogrmpdnW4gs\\_Ft](https://www.youtube.com/live/-J09E3HtJ_Y?si=oYogrmpdnW4gs_Ft). Despite this, she has been front and center in this reality show, consistently showing signs of intoxication while drinking High Noons, sometimes several at a time.”

The complainant adds that “[d]uring the reality show last weekend, and after the advertised consumption of High Noons, another member of the cast, Brianna, accused one of the men, Nicky, of being a rapist. The next night, a clearly intoxicated Ella, made comments to Nicky that he touched her inappropriately, all while high noon cans scattered the table in front of her. All of the clips are posted on the reality show social media pages. These are only a couple of the extremely large amount of concerning advertising issues occurring nonstop from this show. Please understand that this show is ongoing, so the regulatory violations are also ongoing and occurring minute by minute as new clips are posted.”

The complainant concludes by noting that “[y]ou can also now add that there has been the glorification of theft (that resulted in law enforcement intervention) that has been promoted on camera alongside high noon branding. These clips are still coming out. I hope that there is an urgency to this matter due to the nature of the marketing being live and ongoing. Any action taken after the fact will be too late as the damage will have been done.”

*DISCUS Code Provisions Identified (from the 2023 Code):*

Responsible Placement Provision No. A1 provides that “[b]everage alcohol advertising and marketing materials are intended for legal purchase age adults who choose to drink. Thus, these materials should primarily appeal to individuals 21 years of age or older and best efforts should be taken to ensure they are placed in broadcast, cable, radio, print, and internet/digital communications where at least 73.8 percent of the audience is reasonably expected to be 21 or older. In order to facilitate these placement commitments, advertisers should adhere to the best practices outlined in the Responsible Media Buying Guidelines.”

Responsible Content Provision No. A1 provides that “[a]ll beverage alcohol advertising and marketing materials, regardless of placement, are intended for legal purchase age adults who choose to drink. The content of beverage alcohol advertising and marketing materials should primarily appeal to individuals 21 years of age or older.”

Responsible Content Provision No. A2 provides that “[m]arketing that primarily appeals to individuals under the age of 21 is inappropriate. Advertising and marketing materials are considered to ‘primarily appeal’ to persons below the legal purchase age if they have special attractiveness to such persons beyond the general attractiveness for persons of legal purchase age.”

Responsible Content Provision No. B1 provides that “[b]everage alcohol advertising and marketing materials should portray beverage alcohol products and drinkers in a responsible manner and reflect generally accepted contemporary standards of good taste.”

Responsible Content Provision No. B2 provides that “[i]t is critically important to remind consumers to enjoy beverage alcohol products responsibly. Accordingly, responsible drinking statements should be included in beverage alcohol advertising, marketing materials, and promotional events where practicable.”

Responsible Content Provision No. B3 provides that “[b]everage alcohol advertising or marketing materials should not portray beverage alcohol being consumed by a person who is engaged in, or is about to engage in, any activity that is illegal or requires a high degree of alertness or physical coordination, such as driving a vehicle.”

Responsible Content Provision No. C5 provides that beverage alcohol advertising and marketing materials that “[p]ortrays persons in a state of intoxication or in any way suggests that intoxication is socially acceptable conduct” would violate the Code.

Responsible Content Provision No. C7 provides that beverage alcohol advertising and marketing materials that “[m]akes claims or representations that individuals can attain social, professional, educational, or athletic success or status due to beverage alcohol consumption” would violate the Code.

Responsible Content Provision No. C13 provides that beverage alcohol advertising and marketing materials that have an “[a]ssociation with anti-social or dangerous behavior” would violate the Code.

Responsible Content Provision No. C14 provides that beverage alcohol advertising and marketing materials that “[d]epicts illegal activity of any kind” would violate the Code.

#### **Code Review Board Decision:**

In response to the complaint, the advertiser stated that “[u]pon receipt of the complaint on August 15, 2025, we immediately reviewed the content and contacted Barstool. We informed Barstool of the complaint and asked them to remove all content that was cited in the complaint. Barstool did so immediately, and those videos were removed and made inaccessible to the public. Upon investigation, we learned that Barstool had incorporated High Noon into the Barstool Beach House of its own accord. Gallo did not provide any product for inclusion in the Beach House series. We confirmed with Barstool our understanding that depictions of High Noon in the Beach House series were not part of any plan, paid programming, advertising order, or contract with Gallo. Barstool confirmed that to be true. We further instructed Barstool to remove any High Noon product from the Beach House and to cease including or showing High Noon in any way in their Beach House series or the content derived therefrom. Barstool agreed.”

The advertiser relayed that “[w]e consider it unacceptable for our products to be shown in association with the irresponsible conduct and activities depicted in the offending videos cited in the complaint. Such depictions violate Gallo’s commitment to creating advertising and marketing materials that meet the highest standards of appropriateness and responsibility and align with the DISCUS Code of Responsible Practices (‘DISCUS Code’). We take responsible advertising obligations seriously, including by ensuring that the parties we advertise with do too. In that vein, our Chief Commercial Officer reiterated this commitment and Gallo’s expectations to Barstool’s leadership in the enclosed letter. We made crystal clear that we will not tolerate any further depictions of Gallo brands in ways that violate industry advertising codes, whether paid programming or not, and that they were not authorized to depict High Noon in any further Barstool properties without informing Gallo. Upon being informed, we will run the advertising through our normal alcohol advertising compliance process.”

The advertiser concluded that “[w]e agree with the complainant that the offending videos violate multiple provisions of the DISCUS Code. We have made this abundantly clear to Barstool as well, to ensure continued clarity as to activities we see as completely outside of the boundaries of the DISCUS Code. However, since High Noon did not plan for, pay for, or contract for High Noon’s inclusion in Barstool’s Beach House series, and Barstool’s incorporation of High

Noon into the Beach House series offending videos was without Gallo's knowledge or consent, Gallo respectfully maintains that it did not violate the DISCUS Code."

In response to the complaint, the advertiser also shared the following letter to Barstool Sports:

As you may know, on Friday, August 15, 2025, Gallo was notified that a complaint had been submitted to the Distilled Spirits Council's Code of Responsible Practices for Beverage Alcohol Advertising and Marketing (the 'DISCUS Code') pertaining to a recent Barstool Sports Beach House video series featuring High Noon. Having reviewed the Barstool Beach House video series, we agree that the complaint properly cites multiple violations of the responsible content provisions of the DISCUS Code, which you and the Barstool team have been provided since inception of this business relationship.

In carrying out our internal investigation into this issue, we learned that Gallo had in fact not contracted for any kind of placement in the Beach House videos and was not involved in the activities depicted, despite High Noon being displayed throughout the video series. Unfortunately, High Noon was incorporated and featured in the offending videos without our knowledge or consent. Gallo would not have participated in the series had we had the opportunity to review it as it does not align with Gallo's unwavering commitment to responsible marketing for its products.

The behaviors displayed in the video series are unacceptable and do not adhere to Gallo's marketing and advertising practices. We do not, under any circumstances, promote excessive or irresponsible drinking of alcohol, nor do we condone depictions of intoxication in association with our products. We do not support any effort to showcase alcohol consumption and dangerous behavior or suggestions that the consumption of alcohol can enhance performance. We do not support any type of activity encouraging underage drinking. Whether it is a paid promotion or not, Gallo has no tolerance for any of our portfolio of brands being affiliated with these activities. What was displayed on that video series does not reflect our Company values, the brand attributes for High Noon, or the marketing and advertising standards that we abide by. Thank you for moving swiftly to remove the videos depicting High Noon off all broadcast channels immediately after we asked you to do so.

Gallo started from humble beginnings in 1933. We are a family-owned company. The hallmark of our business is an unwavering commitment to quality, enhancing and giving back to our communities, and delivering world class beverage alcohol brands for responsible occasions.

We take great pride in our brands and our commitment to being a responsible company in how we distribute, market and promote our products. It is imperative that Barstool Sports, as a standing partner with High Noon, do everything in its

power to uphold these same standards in any advertising that depicts or relates in any way to our products. Again, whether it is a Gallo-paid promotion or not, we need your assistance in upholding our commitment to high standards of marketing and promotional practices, as well as the standards set by DISCUS, and any of our other industry trade association partners.

After careful consideration of the complaint and the advertiser's response, the Code Review Board determined that the Barstool Beach House web series videos that featured depictions of High Noon Vodka Seltzer did violate Responsible Content Provision Nos. A1, A2, B1, B2, B3, C5, C7, C13, and C14 and Responsible Placement Provision No. A1.

While recognizing that this content depicting High Noon Vodka Seltzer was produced without the advertiser's knowledge, direction, or consent, the Board considered, in finding this violation, the advertiser's long-term paid relationship with Barstool Sports across multiple programs, verticals, and influencers, as well as the unique nature of Barstool Sports as a media production company that produces and controls all of its own content and encourages its employees and influencers to include sponsored products across programming as "value adds."

Given the extent of this relationship between the advertiser and Barstool Sports, the advertiser has a responsibility to put safeguards in place to ensure that the content creator, even in an unpaid or undirected manner, does not depict their products or brands in a way that could violate the Code.

The Board commends the advertiser for its swift responsive action, strong commitment to enhance brand partner Code compliance, and efforts to improve training requirements.

**Action by Advertiser:** Upon receiving the complaint, the advertiser proactively requested that the content identified in the complaint be removed from the Barstool Sports social media accounts, which the brand partner successfully removed. The advertiser also further communicated their expectations around Code compliance with the brand partner to ensure responsible depictions of their products going forward.

**Status:** Resolved. Responsive action taken.



## High Noon Vodka Seltzer / Barstool Sports “King of the Felt” Video Complaint Summary:

The complainant alleges that the depiction of High Noon Vodka Seltzer on the Barstool Sports “King of the Felt” poker livestreams detailed below violates Responsible Content Provision Nos. A1, A2, B2, B3, C7, C8, C13, and C14 and Responsible Placement Provision No. A1.

The complainant states that “[i] am submitting a complaint regarding the promotion of High Noon by Barstool Sports and spokesperson Dave Portnoy. The background connecting Portnoy and Barstool to High Noon contains information previously stated in a prior complaint but is included again to ensure this separate complaint is thorough. Immediate action is requested as the issues raised in this complaint may continue tomorrow as the event continues.”

The complainant states “[t]his complaint addresses violations of the DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing by High Noon, a vodka-based hard seltzer produced by E. & J. Gallo Winery (a DISCUS member), during a Barstool Sports poker livestream, specifically the ‘King of the Felt’ tournament and heads-up match on September 2, 2025 - September 3, 2025 broadcast on the Barstool Gambling YouTube channel. Dave Portnoy, a High Noon spokesperson, consumed High Noon on camera with purposeful product placement (e.g., High Noon cans prominently displayed on the poker table), as part of Barstool’s media partnership with High Noon. Additionally the commentators spoke about High Noon however not in an explicit advertising way within the regulations.”

The complainant relays that “Portnoy, being the High Noon spokesperson, and previously given the directive that Barstool employees must drink High Noon on camera confirms that this constitutes advertising, subject to DISCUS oversight. The livestream promotes High Noon in a gambling context, violating multiple Code provisions due to its depiction of alcohol consumption during an activity requiring alertness, association with potentially antisocial behavior, lack of responsible drinking messaging, underage appeal, and failure to disclose material connections. This complaint details these violations, emphasizing the urgency due to Barstool’s ongoing sports betting livestreams.”





Regarding Responsible Content Provision No. B3, the complainant states “[t]he ‘King of the Felt’ poker tournament and heads-up match (e.g., Ben Mintz, Dan ‘Big Cat’ Katz) playing poker, a game requiring mental alertness and strategic decision-making. Portnoy consumed High Noon on camera, with cans purposefully placed for advertising, as confirmed by his directive to promote High Noon. This depiction of alcohol use during poker violates the regulations as it suggests compatibility with an activity requiring cognitive focus.”

Regarding Responsible Content Provision No. C13, the complainant provides that “[g]ambling, particularly in a high-stakes, competitive context like the Barstool poker livestream, is a high-risk activity associated with addiction and financial harm. Portnoy, a known advocate of ‘degenerate’ gambling (<https://www.nytimes.com/2022/11/20/business/penn-entertainment-barstool-david-portnoy.html>), consumed High Noon during the livestream, with purposeful product placement tying the brand to gambling culture. The event’s irreverent tone, including Portnoy’s trash-talking and money risking behavior amplifies the association with reckless behavior, violating the regulations by portraying High Noon in a negative, antisocial context.”

The complainant added that “Portnoy’s role as a High Noon spokesperson and Barstool’s media partnership with High Noon since 2020, constitute material connections. The poker livestream, featuring High Noon cans prominently displayed, lacks clear ‘ad’ or ‘sponsored’ disclosures, despite Portnoy’s directive confirming promotional intent. This violates the regulations and FTC guidelines (16 CFR Part 255).”

Regarding Responsible Placement Provision No. A1, the complainant states that “Barstool’s audience, including the poker livestream’s viewership on YouTube, skews toward young males aged 18–35, with significant underage appeal due to its bro-culture content. The ‘King of the Felt’ livestream, featuring Portnoy drinking High Noon, likely reaches underage viewers, as YouTube’s age-gating is often ineffective (Journal of Public Health, 2021). Barstool’s 66 million monthly users amplify this. This violates the regulations.”

Regarding Responsible Content Provision No. B2, the complainant relays that “[t]he poker livestream, broadcast on the Barstool Gambling YouTube channel, features Portnoy consuming High Noon without any responsible drinking messaging, despite the brand’s prominent placement. Barstool’s content, including this event, often glorifies party culture without moderation warnings, violating the regulations.”

Regarding Responsible Content Provision No. C14, the complainant provides that “[w]hile the poker tournament was held at Foxwoods, a licensed venue, combining alcohol promotion with gambling could be problematic in jurisdictions with strict regulations. During the live stream the commentators conversed about one of the participants illegal poker game hosting. The livestream, accessible nationwide, may imply drinking during unlicensed gambling activities, potentially encouraging illegal behavior in restrictive states, violating the regulations.”

The complainant states that “High Noon’s promotion is inseparable from the poker livestream: Portnoy is a spokesperson, and Barstool has a media partnership with High Noon, including the ‘Our Pack Gives Back’ initiative tied to Portnoy’s dog, Miss Peaches. Portnoy’s directive mandates that Barstool employees drink High Noon on camera, making every appearance promotional. The livestream, presented by DraftKings, amplifies this advertising to Barstool’s 66 million monthly users, including underage viewers.”

The complainant continues by noting that “[t]he ‘King of the Felt’ poker livestream (September 2&3 2025) is part of Barstool’s ongoing sports betting livestreams, which occur weekly during sports seasons on the Barstool Gambling YouTube channel and other platforms. These streams frequently feature Barstool personalities consuming High Noon, with similar product placement and lack of disclosures or responsible messaging. This pattern, rooted in Portnoy’s directive, presents an immediate opportunity for the DISCUS Code Review Board to address these violations before they proliferate further, protecting public safety and industry standards.”

The complainant adds “I urge the DISCUS Code Review Board to investigate these violations urgently, requiring (1) Removal or age-restriction of the ‘King of the Felt’ livestream and similar Barstool Gambling content featuring High Noon; (2) Mandated disclosures of Portnoy’s spokesperson role and Barstool’s partnership in all High Noon-related content; (3) Inclusion of responsible drinking messaging in all future livestreams; (4) A public ruling to halt depictions of alcohol consumption during gambling or activities requiring alertness; and (5) Compliance with audience placement standards to prevent underage exposure. Alternatively - All sponsor/partnership money paid to Barstool/Portnoy for advertisements that violate the regulations be forfeited and donated to the charity of their choice. Thank you for addressing this serious breach of industry standards and leveraging this opportunity to regulate Barstool’s weekly sports betting livestreams featuring High Noon.”

The complainant provides “[e]vidence - Portnoy is consuming or positioning a High Noon in front of him through his entire appearance on the stream however for an example see 2:01:47 - <https://www.youtube.com/live/LZR0hbnUOFY?si=wZqlkei8aPZEUUN->. As I stated in my complaint the event is a two day event. Today the stream is ongoing and staring about half way through Portnoy has again begun displaying a High Noon in a prominent position, clearly to

advertise so the complaint should encompass yesterday and today's livestream. [https://www.youtube.com/live/l4F6Fez9ssk?si=cEyYggF7bRHU\\_dvy](https://www.youtube.com/live/l4F6Fez9ssk?si=cEyYggF7bRHU_dvy)."

*DISCUS Code Provisions Identified (from the 2023 Code):*

Responsible Placement Provision No. A1 provides that "[b]everage alcohol advertising and marketing materials are intended for legal purchase age adults who choose to drink. Thus, these materials should primarily appeal to individuals 21 years of age or older and best efforts should be taken to ensure they are placed in broadcast, cable, radio, print, and internet/digital communications where at least 73.8 percent of the audience is reasonably expected to be 21 or older. In order to facilitate these placement commitments, advertisers should adhere to the best practices outlined in the Responsible Media Buying Guidelines."

Responsible Content Provision No. A1 provides that "[a]ll beverage alcohol advertising and marketing materials, regardless of placement, are intended for legal purchase age adults who choose to drink. The content of beverage alcohol advertising and marketing materials should primarily appeal to individuals 21 years of age or older."

Responsible Content Provision No. A2 provides that "[m]arketing that primarily appeals to individuals under the age of 21 is inappropriate. Advertising and marketing materials are considered to 'primarily appeal' to persons below the legal purchase age if they have special attractiveness to such persons beyond the general attractiveness for persons of legal purchase age."

Responsible Content Provision No. B2 provides that "[i]t is critically important to remind consumers to enjoy beverage alcohol products responsibly. Accordingly, responsible drinking statements should be included in beverage alcohol advertising, marketing materials, and promotional events where practicable."

Responsible Content Provision No. B3 provides that "[b]everage alcohol advertising or marketing materials should not portray beverage alcohol being consumed by a person who is engaged in, or is about to engage in, any activity that is illegal or requires a high degree of alertness or physical coordination, such as driving a vehicle."

Responsible Content Provision No. C7 provides that beverage alcohol advertising and marketing materials that "[m]akes claims or representations that individuals can attain social, professional, educational, or athletic success or status due to beverage alcohol consumption" would violate the Code.

Responsible Content Provision No. C8 provides that beverage alcohol advertising and marketing materials that "[d]egrades the image, form, or status of women, men, or of any ethnic group, minority, sexual orientation, religious affiliation, or other such group" would violate the Code.

Responsible Content Provision No. C13 provides that beverage alcohol advertising and marketing materials that have an “[a]ssociation with anti-social or dangerous behavior” would violate the Code.

Responsible Content Provision No. C14 provides that beverage alcohol advertising and marketing materials that “[d]epicts illegal activity of any kind” would violate the Code.

**Code Review Board Decision:**

In response to the complaint, the advertiser stated that “[a]s noted, the Tournament was livestreamed on the Barstool Gambling YouTube channel on September 2 and September 3, 2025. Upon receipt of the complaint on September 5, 2025, we immediately reviewed the content and conducted our internal due diligence as to this placement. Upon review, we determined that Gallo had not planned, paid for, or contracted with Barstool to include High Noon in the Tournament. And Gallo did not provide any High Noon product to Barstool for inclusion in the Tournament.”

The advertiser relayed that “Gallo contracts for ads to run on specific Barstool programs and for sponsorship benefits at specific events. Since the inclusion of High Noon was not part of any paid programming or sponsorship, Barstool did not submit the Tournament content through our established procedure for review of advertising materials to ensure responsible content and execution. Barstool included the product in the livestream solely because Dave Portnoy, who was one of the players, chose to consume High Noon while playing in the Tournament. This was not a product placement.”

The advertiser continued by noting that “[e]ven if Gallo had paid for this placement, we respectfully disagree that any violation occurred based on the content of the Tournament. We have carefully considered each of the specific issues raised in the complaint and conclude that Gallo did not violate the DISCUS Code of Responsible Practices (‘DISCUS Code’), and while the CRB has no jurisdiction over the FTC Act and Guides, we are confident that Gallo is in full compliance with those requirements as well. Further details of our analysis and reasons for our conclusion are provided below.”

Regarding the alleged violation of Responsible Content Provision No. B3, the advertiser stated that “The complainant asserts that poker is a game requiring a high degree of alertness or physical coordination. The DISCUS Code identifies the following as activities requiring a high degree of alertness or physical coordination—driving a vehicle, swimming, jumping into water, or skiing. Any of the activities listed could be dangerous if executed in conjunction with consuming beverage alcohol. In contrast, gambling or playing poker is not an activity requiring a high degree of alertness or physical coordination nor could it lead to any dangerous situation if beverage alcohol is concurrently consumed. Therefore, we disagree with the complainant that cardplaying requires a high degree of alertness or physical coordination.”

Regarding the alleged violation of Responsible Content Provision No. C13, the advertiser stated that “[w]e disagree with the complainant that the activities shown in the livestreams (playing a

poker tournament) are either antisocial or violent. Gambling and cardplaying are legal activities, and card games are by their very nature, social activities. There is no evidence of any illegal activity, antisocial, or dangerous behavior depicted in any portion of the Tournament. Thus, we believe this complaint to be unfounded.”

Regarding the alleged failure to disclose material connections, the advertiser relayed that “[t]he complainant expresses concern that the Tournament should have provided sponsored disclosures and suggests that the livestreams violate the Federal Trade Commission (FTC) Guides that advertising ‘should clearly disclose any material connection between a brand and an endorser or influencer.’ While Gallo does partner with Barstool on specific advertising and marketing initiatives, in this instance, Gallo did not plan, pay for or contract with Barstool for any product placement in the Tournament livestreams. Here, Barstool made the independent decision to feature Dave Portnoy consuming High Noon at a livestreamed poker tournament. At most this is a Barstool-directed product placement. The FTC’s Endorsement Guides specify that sponsorship disclosure for mere product placement in media platforms is not required: ‘The FTC has expressed the opinion (that is, merely showing products or brands in third party entertainment content as distinguished from sponsored content or disguised commercial) doesn’t require a disclosure that the advertiser paid for the content.’<sup>1</sup> In the Tournament, Gallo did not pay for advertising, nor does Dave Portnoy endorse High Noon. We find the complainant's issue lacks merit.”

Regarding the alleged violation of Responsible Placement Provision No. A1, the advertiser relays that “[t]he complainant suggests that the Tournament likely reaches an underage audience but provides no substantiation for this assertion. The DISCUS Code requires that best efforts be made for beverage alcohol advertising to only be placed in media, including internet digital communications, where at least 73.8% of the audience is expected to be 21-years-of-age or older. Gallo met its obligation. The Barstool Gambling YouTube channel demographics are 93% over legal drinking age and audience viewership demographics for the Tournament itself far exceeded the requisite 73.8%. Specifically, the viewership data for the September 2<sup>nd</sup> livestream was 97.78% over 21 and 97.47% for the September 3<sup>rd</sup> livestream. Beyond meeting and exceeding the required audience demographics, Gallo believes a poker tournament featuring adults (between 35-50 years old) primarily appeals to an audience of legal drinking age adults, in alignment with the DISCUS Code. Thus, we find the complaint to be meritless.”

Regarding the alleged violation of Responsible Content Provision No. B2, the advertiser relays that “[w]e note again that Gallo did not pay for or contract with Barstool for this activity. Gallo adheres to the DISCUS Code and does include responsibility messaging in advertising its spirits products. And, in our ongoing robust Barstool training program, we highlight the importance of adhering to DISCUS Code provision B2 in their digital programming portraying paid placements of Gallo products.”

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<sup>1</sup> <https://www.ftc.gov/business-guidance/resources/ftcs-endorsement-guides-what-people-are-asking>.

Regarding the alleged violation of Responsible Content Provision No. C14, the advertiser states that “[t]he complainant erroneously alleges that gambling is an illegal activity yet concedes that the poker tournament takes place at a licensed facility. No illegal conduct is present in the livestreams and therefore, we see no basis for a violation.”

The advertiser concludes that “Gallo respectfully maintains that it did not violate the DISCUS Code, the FTC Act or FTC Endorsement Guides because the Tournament was not a paid placement for High Noon. Moreover, even if the depiction of Dave Portnoy enjoying a High Noon is found to be an advertisement, there would be no violation of the Code for the reasons articulated above. We note that the complainant has recommended several specific actions to address their complaints. We respectfully disagree with their proposed remediations.”

After careful consideration of the complaint and the advertiser’s response, the Code Review Board did not find that the Barstool Sports “King of the Felt” poker livestreams that included depictions of High Noon Vodka Seltzer violated any of the identified provisions of the Code. In the Board’s view, the Barstool “King of the Felt” poker livestreams merely portrayed a poker event held at a licensed establishment where High Noon Vodka Seltzer happened to be consumed in a responsible manner by someone who coincidentally is a paid spokesperson. The Board did not find that these livestreams held any special attractiveness to underage individuals, portrayed antisocial or dangerous behavior, displayed activities that require a high degree of alertness, showed illegal activity, or were placed inappropriately.

**Action by Advertiser:** None required.

**Status:** Not applicable.



## High Noon Vodka Seltzer / College Football Show Complaint Summary:

The complainant alleges that the High Noon Vodka Seltzer promotion during the Barstool College Football Show video detailed below violates Responsible Placement Provision Nos. A1, A2, A3, Responsible Content Provision Nos. A1, A2, A3, B1, B2, C1, C6, C13, and C14, and Other Provision A1.

The complainant states that “[t]he following is a complaint regarding the advertising of High Noon seltzers and iced tea by Barstool Sports and Dave Portnoy. On September 6, 2025, Barstool's college football show was broadcast live from Iowa and live-streamed across all Barstool Sports media platforms. The show is sponsored by High Noon. You can access the broadcast here: <https://www.youtube.com/live/pj8hzh4hePM?si=xo7J8D3WJoMfF-9P>.”

The complainant relays that “[d]uring the event, High Noon cans were placed prominently in front of all Barstool hosts, including Dave Portnoy, who delivered the advertisement live in front of an audience of all ages. At 8 a.m., Portnoy instructed the crowd to start drinking High Noons, despite the early hour, which violates regulations requiring the promotion of responsible drinking at sponsored events. Additionally, Portnoy made a therapeutic claim about drinking High Noon while delivering his advertisement read. Barstool's camera captured children standing in the front row during the event. Furthermore, this college football show advertised High Noon on a college campus, which is against regulations.”







The complainant added that “[d]uring the High Noon-sponsored event, they discussed sports gambling, which is considered an anti-social and dangerous activity, especially when combined with alcohol consumption. Here is a link to an ad from Barstool's main X page that encompasses multiple issues: <https://x.com/barstoolsports/status/1964323866299314210?s=46>. The ad clearly states it is presented by High Noon, displays graphics and alcohol cans, features a child front and center, and promotes gambling simultaneously in the presence of the child and alcohol promotion. The child also appears to have been strategically placed, or the Barstool personality chose to stand beside the child with him in the camera frame on purpose.”



*DISCUS Code Provisions Identified (from the 2023 Code):*

Responsible Placement Provision No. A1 provides that “[b]everage alcohol advertising and marketing materials are intended for legal purchase age adults who choose to drink. Thus, these materials should primarily appeal to individuals 21 years of age or older and best efforts should be taken to ensure they are placed in broadcast, cable, radio, print, and internet/digital communications where at least 73.8 percent of the audience is reasonably expected to be 21 or

older. In order to facilitate these placement commitments, advertisers should adhere to the best practices outlined in the Responsible Media Buying Guidelines.”

Responsible Placement Provision No. A2 provides that “[a]ppropriate measures and best efforts should be taken so that fixed beverage alcohol advertising and marketing materials are placed at venues used primarily for adult-oriented events defined as where at least 73.8 percent of the audience attending those venue events is reasonably expected to be of legal purchase age.”

Responsible Placement Provision No. A3 provides that “[b]everage alcohol products may not be advertised/marketed on college/university campuses or in college/university publications. The following activities, however, are permitted: (1) beverage alcohol product advertising/marketing and supplier-sponsored beverage alcohol promotions may be conducted in an on-campus licensed location; and (2) beverage alcohol products may be advertised/marketed at events where substantially all attendees are of legal purchase age, such as events organized by or for graduate or alumni organizations.”

Responsible Content Provision No. A1 provides that “[a]ll beverage alcohol advertising and marketing materials, regardless of placement, are intended for legal purchase age adults who choose to drink. The content of beverage alcohol advertising and marketing materials should primarily appeal to individuals 21 years of age or older.”

Responsible Content Provision No. A2 provides that “[m]arketing that primarily appeals to individuals under the age of 21 is inappropriate. Advertising and marketing materials are considered to ‘primarily appeal’ to persons below the legal purchase age if they have special attractiveness to such persons beyond the general attractiveness for persons of legal purchase age.”

Responsible Content Provision No. A3 provides that “[b]everage alcohol products should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age. To help ensure that individuals in beverage alcohol advertising are and appear to be above the legal purchase age, models, and actors employed should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be 21 years of age and older. For clarity in applying this provision, athletes, celebrities, spokespersons, and influencers of legal purchase age that are generally recognizable to the intended audience are not considered models or actors under this provision; however, such individuals should reasonably appear to be 21 years of age or older in any beverage alcohol advertising and should not primarily appeal to persons below the legal purchase age.”

Responsible Content Provision No. B1 provides that “[b]everage alcohol advertising and marketing materials should portray beverage alcohol products and drinkers in a responsible manner and reflect generally accepted contemporary standards of good taste.”

Responsible Content Provision No. B2 provides that “[i]t is critically important to remind consumers to enjoy beverage alcohol products responsibly. Accordingly, responsible drinking statements should be included in beverage alcohol advertising, marketing materials, and promotional events where practicable.”

Responsible Content Provision No. C1 provides that beverage alcohol advertising and marketing materials that “[d]epicts a child or portrays objects, images, or cartoon figures that primarily appeal to persons below the legal purchase age” would violate the Code.

Responsible Content Provision No. C6 provides that beverage alcohol advertising and marketing materials that “[m]akes curative or therapeutic claims, except as permitted by law” would violate the Code.

Responsible Content Provision No. C13 provides that beverage alcohol advertising and marketing materials that have an “[a]ssociation with anti-social or dangerous behavior” would violate the Code.

Responsible Content Provision No. C14 provides that beverage alcohol advertising and marketing materials that “[d]epicts illegal activity of any kind” would violate the Code.

Other Responsible Advertising Provision No. A1 provides that “[o]n-premise supplier sponsored promotions should encourage responsible consumption by those adults who choose to drink and discourage activities, such as drinking games, that reward or encourage excessive or abusive consumption.”

#### **Code Review Board Decision:**

In response to the complaint, the advertiser stated that “[t]he complaint against High Noon involves High Noon’s sponsorship of the Barstool College Football Show (‘CFB Show’), which was livestreamed over the Barstool Sports You Tube Channel (‘Sports Channel’) on September 6, 2025. As noted, above, Gallo contracts for sponsorship of specific programs and events with Barstool and this placement was a paid sponsorship. The complainant asserts that the sponsorship of the CFB Show violates Sections 2A 1 (Adult Audience), 2 (Fixed Advertising and Marketing Materials) and 3 (College Campus Marketing) of the DISCUS Code because High Noon cans were placed in front of the Barstool hosts with the advertising sponsorship message delivered to an audience of all ages. While we humbly admit a violation of the prohibition against college campus marketing in the DISCUS Code, we disagree with the complainant’s other allegations for the reasons stated below.”

Regarding the alleged violations of Responsible Placement Provision Nos. A1 and A2, the advertiser stated that “High Noon has sponsored the CFB Show in the past, where Barstool filmed such shows at local bars and livestreamed the broadcast on its Sports Channel. Exercising its due diligence, High Noon had determined media placement for sponsorship of the CFB Show was appropriate as the audience demographics for the Sports Channel exceed the 73.8% threshold required by the DISCUS Code -- measuring at 87.2%. Moreover, the viewership

data for the specific CFB Show on September 6 was significantly above the overall platform demographics with an audience of 97.64% over legal purchase age adults. The live audience demographics must be considered in combination with the 97.64% overall broadcast demographics when evaluating whether High Noon met the adult audience requirements.”

The advertiser further relayed that “[i]n addition, while the hosts did have High Noon cans in front of them, that would not constitute “fixed advertising” at a venue. There was no component part of material that remained at the location after the filming of the event. Therefore, we disagree that there’s been a violation of the provisions of the Code requiring Adult Audience placement and likewise disagree that there’s been a violation of the provisions surrounding Fixed Advertising and Marketing Materials.”

Regarding the alleged violation of Responsible Placement Provision No. A3, the advertiser stated that “[h]aving said that, we regret that the CFB Show was filmed live on the Iowa State University campus outside of licensed premises and acknowledge that misstep by Barstool was in violation of the prohibition against college campus advertising in the DISCUS Code. We have engaged in re-training of the Barstool team to underscore the importance of upholding all provisions of the DISCUS Code, emphasizing Gallo will have zero tolerance for any advertising of its brands on a college campus outside of licensed premises.”

Regarding the alleged violation of Responsible Content Provision Nos. A1, A2, A3, B1, and B2, the advertiser relayed that “[t]he complainant suggests that Dave Portnoy’s ‘delivery’ of the High Noon sponsorship message is irresponsible content because it portrays beverage alcohol consumption in the morning, makes a therapeutic claim, and has particular appeal to youth because it captures children ‘standing in the front row’ during the filming of the CFB Show. Section A addresses primary appeal to underage and the age of models/actors. Those provisions require that models/actors be at least 25-years old and that beverage alcohol advertising content should not primarily appeal to persons under legal purchase age, citing portrayal of children themselves as an example of primary appeal to persons under 21 years of age. However, the DISCUS Code also defines ‘primary appeal’ to under-age to mean having a ‘special attractiveness beyond the general attractiveness to persons of legal purchase age.’”

The advertiser stated “[a]s noted above, the audience demographic for the Barstool Sports Channel is 87.2% LPA+ and David Portnoy himself is 48 years old. There was also no other content included in this segment that would have any special appeal to an underage audience. The only fact noted to support this allegation is that bystander children were inadvertently captured by the camera. This is no more a violation than a product placement in a movie that also inadvertently has a child walking through the room where that product is depicted.”

The advertiser continued by noting “[l]ikewise, the portrayal of beverage alcohol consumption by the Barstool personalities at an early morning show is akin to a cocktails segment on the Today Show depicting a cocktail being made and tasted by an adult commentator on a show with and adult viewership, like the CFB Show broadcast.”

Regarding the alleged violation of Responsible Content Provision Nos. C6, C13, and C14, the advertiser relayed “[t]he complainant further asserts that Dave Portnoy makes a therapeutic claim but again provides no substantiation for this assertion. We assume the complainant is referring to the High Noon sponsorship message for this claim. Portnoy’s delivery of the sponsorship message contains no more than a factual description of the product as under 100 calories, made with real spirits, and natural flavors. All those statements are truthful and accurate and therefore, we see no basis for any allegation of a therapeutic claim.”

The advertiser added that “[w]e likewise see no basis for the remainder of the assertions made by the complainant, including that the content of the CFB Show was inappropriate because there was discussion of sports betting during the segment. A discussion by the Barstool personalities’ expressing their opinions as to the possible scores in a variety of college football games does not amount to sports betting or portrayal of illegal conduct. It does not depict illegal activity, and it certainly does not constitute or display anti-social or dangerous behavior.”

Regarding the alleged violation of Responsible Content Provision No. C1 related to the Barstool Sports X re-post of a clip from the CFB Show, the advertiser stated “[f]inally, the complainant asserts that a Barstool Sports X post that repurposes a clip of the CFB Show ‘encompasses multiple issues’ but fails to identify the issues with any specificity. We assume the complainant is referring to the portrayal of children at the beginning of the re-purposed clip. As noted above, the camera inadvertently captured children who were part of the crowd for a fleeting 3 seconds. The clip is from the CFB Show with over 97% legal purchase age adult audience and was posted on the Barstool Sports X page, which has an audience demographic of 92.5% over purchase age adults. Given those audience demographics, the post was appropriately placed and most likely would not have been viewed by an underage person on the Barstool Sports X platform. Even if an underage person did view the post, a transitory camera shot of children in the crowd does not amount to children promoting beverage alcohol nor have particular appeal to youth. However, we recognize and agree that best efforts should be made to not portray children in beverage alcohol advertising and have emphasized this point in our re-training of Barstool Sports personnel.”

After careful consideration of the complaint and the advertiser’s response, the Code Review Board found that the High Noon Vodka Seltzer promotion during the Barstool Sports College Football Show violated Responsible Placement Provision Nos. A1, A2, and A3 and Responsible Content Provision Nos. B1, B2, and C1.

Regarding the violation of Responsible Placement Provision Nos. A1, A2, and A3, the Board determined that the live in-person demographics of the college football program filming on campus likely would not meet the Code’s demographic standard given that the majority of Iowa State University students are under the legal drinking age (approximately 57%<sup>2</sup>). Regarding Responsible Placement Provision No. A2, the Board found that the High Noon Vodka Seltzer signage on the stage constituted fixed advertising that was not placed in accordance with the

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<sup>2</sup> Iowa State University Enrollment by Age.  
[https://www.ir.iastate.edu/files/documents/factbook/EN03\\_Enrollment\\_Age.pdf](https://www.ir.iastate.edu/files/documents/factbook/EN03_Enrollment_Age.pdf)

73.8% demographic placement standard. The Board also agreed with the advertiser that High Noon Vodka Seltzer was advertised on a college campus outside of a licensed premises or an event where substantially all attendees are of legal purchase age in contravention of the Code.

Regarding the violation of Responsible Content Provision Nos. A1 and A2, the Board did not agree that the High Noon Vodka Seltzer promotion during the Barstool Sports college football program primarily appealed or had special attractiveness to individuals under the legal drinking age. The Board also did not find a violation of Responsible Content Provision No. A3 given that the individuals under the legal drinking age who appear in the video were merely event attendees and not models or actors hired by the advertiser to promote the brand.

Regarding the violation of Responsible Content Provision Nos. B1 and B2, the Board agreed with the complainant that Dave Portnoy's commentary during the High Noon Vodka Seltzer ad read directing the event attendees to "drink early because there's nothing else to do on this campus" did not portray beverage alcohol products or drinkers in a responsible manner and did not include any responsible drinking messaging.

Regarding the violation of Responsible Content Provision No. C1 related to the depiction of children, the Board took into account that this footage was deliberately reposted as part of the paid sponsorship activation and seemed to prominently include multiple individuals below the legal purchase age, rather than merely an incidental panning of the crowd during the live event that happened to display a child in the crowd. The Board noted that, while it is not practical to completely avoid displaying individuals under the legal purchase age during a promotion at an event such as a football game, best efforts should be made to ensure that any depictions of children in promotional materials resulting from the sponsored event are purely incidental and not prominent in nature.

The Board did not agree that the program included any therapeutic or curative claims, anti-social or dangerous behavior, or illegal activities that would violate Responsible Content Provision Nos. C6, C13, or C14.

**Action by Advertiser:** Upon receiving the complaint, the advertiser proactively requested that the X post identified in the complaint be removed, which the brand partner successfully effectuated. The advertiser has committed to further training around Code compliance with its brand partners and strongly emphasized the prohibition on campus marketing and advertising.

**Status:** Resolved. Responsive action taken.

### **Pink Whitney Promotional Materials Complaint Summary:**

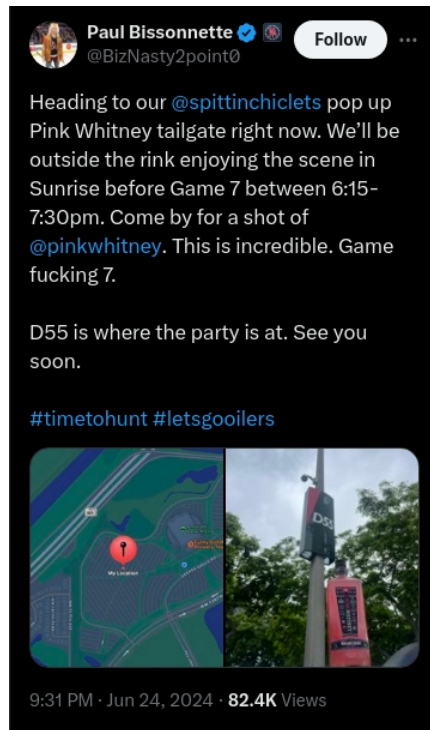
The complainant alleges that the various New Amsterdam Pink Whitney social media and podcast marketing materials described below violate Responsible Placement Provision Nos. A1 and A2; Responsible Content Provision Nos. A1, A2, A3, B1, B2, B3, C1, C5, C6, C7, C13, and C14; and Other Provision A1.

The complainant states “[t]his is a follow up complaint that addresses ongoing violations of the DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing by Pink Whitney, a flavored vodka produced by New Amsterdam Vodka, through its deep integration with the Spittin’ Chiclets podcast and its social media channels (@spittinchiclets on X, Instagram, TikTok, YouTube). Pink Whitney is the presenting sponsor, with hosts Ryan Whitney and Paul Bissonnette as part-owners, and its logo is embedded in the podcast’s branding (e.g., podcast artwork, social media headers). As a result of this connection, every 3+ hour episode and social media post constitutes advertising for Pink Whitney, subject to DISCUS oversight. The podcast and @spittinchiclets consistently promote excessive drinking, intoxication, illegal activities, activities requiring alertness, and underage appeal, violating multiple Code provisions. This complaint details these violations with examples from the podcast and social media, emphasizing the urgency due to weekly episodes and daily posts.”

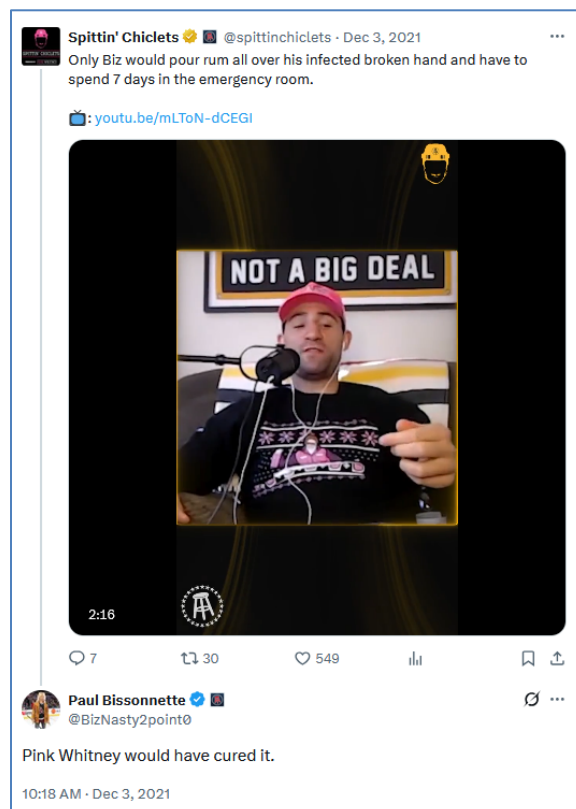
The complainant relays that “Spittin’ Chiclets podcast glorifies excessive drinking, with Pink Whitney as a central focus. Episodes feature hosts and guests discussing ‘blackout’ drinking sessions, encouraging binge drinking without moderation. Social media posts on @spittinchiclets showcase Pink Whitney in high-energy drinking scenarios, such as hockey tailgates or bar crawls, often captioned with phrases that normalize binge drinking. They consistently violate the regulations which prohibit depicting excessive or irresponsible consumption, amplified by the podcast’s half million downloads per episode.”

The complainant provided the following examples of alleged violations.

Regarding Post 1 (set forth below), the complainant states that this post violates Responsible Placement Provision No. A1 and Other Provision No. A1, noting that “the public invite with free shots and no age restriction ties the brand to an on-premise promotion that encourages excessive consumption and lacks age-targeting/age-affirmation controls.”



Regarding Post 2 (set forth below), the complainant states that this post violates Responsible Content Provision No. C6, noting that “the post asserts a medical or curative benefit attributable to the product, which the Code identifies as inappropriate.”





Regarding Post 3 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. B1, B2, and C5, noting that “the host describing blacking out on the product portrays intoxication as acceptable and the post contains no responsible-drinking message.”



Regarding Post 4 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. B3 and C14, noting that “the content links the brand to sporting activities and references to illicit drug use, implicating both illegal behaviour and consumption tied to activities requiring alertness.”



Regarding Post 5 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. A1, A2, and A3, noting that “the promotion features people who appear under 25, raising concerns that the content may primarily appeal to those below legal purchase age and fails the age-of-talent expectation.”



Regarding Post 6 (set forth below), the complainant states that this post violates Responsible Content Provision No. C13 and Other Provision No. A1, noting that “a branded party that promotes gambling and heavy consumption associates the brand with potentially anti-social behaviour and encourages excessive drinking at an event.”



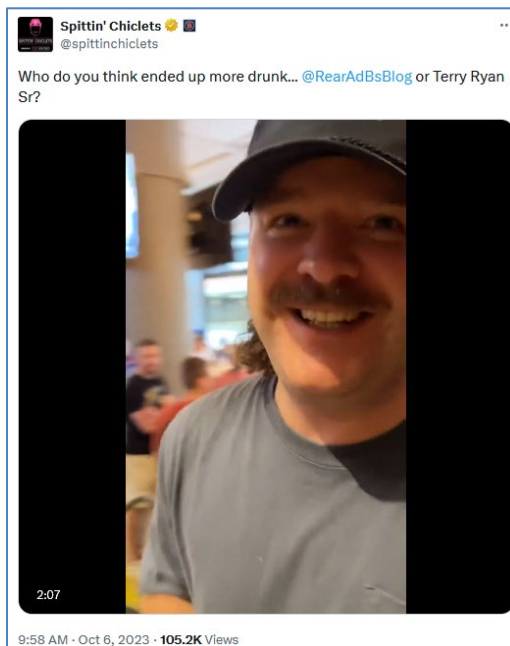
Regarding Post 7 (set forth below), the complainant states that this post violates Responsible Content Provision No. C5 and Other Provision No. A1, noting that “the post advertises a party with commentary implying extreme consumption, which the Code forbids portraying as acceptable.”



Regarding Post 8 (set forth below), the complainant states that this post violates Responsible Placement Provision No. A1 and Responsible Content Provision No. C1, noting that “the event promotion shows children present, which is explicitly inappropriate in beverage alcohol marketing.”



Regarding Post 9 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. C5, C13, and C14, noting that “the post promotes excessive drinking and references illicit drug use under the brand header, implicating multiple examples of inappropriate content.”



Regarding Post 10 (set forth below), the complainant states that this post violates Responsible Content Provision No. C5 and Other Provision No. A1, noting that “the post normalizes or celebrates excessive drinking under the product branding without responsible-drinking messaging.”



Regarding Post 11 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. B3 and C7, noting that “the post ties the product to athletic clothing and performance, implying alcohol is compatible with or enhances athletic activity.”



Regarding Post 12 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. B3 and C7, noting that “similar product association with athletic performance or apparel suggests enhancement of social or physical capabilities.”



Regarding Post 13 (set forth below), the complainant states that this post violates Responsible Content Provision Nos. B3 and C7, noting that “linking the brand with athletic performance or gear implies inappropriate performance enhancement messaging.”





Regarding Post 14 (set forth below), the complainant states that this post violates Responsible Content Provision No. C7, noting that “ties between the brand and athletic performance are inconsistent with the Code prohibition on suggesting alcohol improves athletic or other capabilities.”



Regarding Post 15 (set forth below), the complainant states that this post violates Responsible Content Provision No. C14, noting that “Ryan Whitney, while wearing a Pink Whitney hat and shirt, asks Paul Bissonnette about the amount of psilocybin mushrooms he has taken (an illicit narcotic). Bissonnette responds that he has taken a lot and even announces the distasteful name of the specific drugs. Within a minute or two, Bissonnette makes another claim about how impaired he is by the drugs. This occurs during the podcast, which Pink Whitney sponsors, and throughout the segment the Pink Whitney logo remains on screen as part of its role as presenting sponsor.”



*DISCUS Code Provisions Identified (from the 2023 Code):*

Responsible Placement Provision No. A1 provides that “[b]everage alcohol advertising and marketing materials are intended for legal purchase age adults who choose to drink. Thus, these materials should primarily appeal to individuals 21 years of age or older and best efforts should be taken to ensure they are placed in broadcast, cable, radio, print, and internet/digital communications where at least 73.8 percent of the audience is reasonably expected to be 21 or older. In order to facilitate these placement commitments, advertisers should adhere to the best practices outlined in the Responsible Media Buying Guidelines.”

Responsible Placement Provision No. A2 provides that “[a]ppropriate measures and best efforts should be taken so that fixed beverage alcohol advertising and marketing materials are placed at venues used primarily for adult-oriented events defined as where at least 73.8 percent of the audience attending those venue events is reasonably expected to be of legal purchase age.”

Responsible Content Provision No. A1 provides that “[a]ll beverage alcohol advertising and marketing materials, regardless of placement, are intended for legal purchase age adults who choose to drink. The content of beverage alcohol advertising and marketing materials should primarily appeal to individuals 21 years of age or older.”

Responsible Content Provision No. A2 provides that “[m]arketing that primarily appeals to individuals under the age of 21 is inappropriate. Advertising and marketing materials are considered to ‘primarily appeal’ to persons below the legal purchase age if they have special attractiveness to such persons beyond the general attractiveness for persons of legal purchase age.”

Responsible Content Provision No. A3 provides that “[b]everage alcohol products should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age. To help ensure that individuals in beverage alcohol advertising are and appear to be above the legal purchase age, models, and actors employed should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be 21 years of age and older. For clarity in applying this provision, athletes, celebrities, spokespersons, and influencers of legal purchase age that are generally

recognizable to the intended audience are not considered models or actors under this provision; however, such individuals should reasonably appear to be 21 years of age or older in any beverage alcohol advertising and should not primarily appeal to persons below the legal purchase age.”

Responsible Content Provision No. B1 provides that “[b]everage alcohol advertising and marketing materials should portray beverage alcohol products and drinkers in a responsible manner and reflect generally accepted contemporary standards of good taste.”

Responsible Content Provision No. B2 provides that “[i]t is critically important to remind consumers to enjoy beverage alcohol products responsibly. Accordingly, responsible drinking statements should be included in beverage alcohol advertising, marketing materials, and promotional events where practicable.”

Responsible Content Provision No. B3 provides that “[b]everage alcohol advertising or marketing materials should not portray beverage alcohol being consumed by a person who is engaged in, or is about to engage in, any activity that is illegal or requires a high degree of alertness or physical coordination, such as driving a vehicle.”

Responsible Content Provision No. C1 provides that beverage alcohol advertising and marketing materials that “[d]epicts a child or portrays objects, images, or cartoon figures that primarily appeal to persons below the legal purchase age” would violate the Code.

Responsible Content Provision No. C5 provides that beverage alcohol advertising and marketing materials that “[p]ortrays persons in a state of intoxication or in any way suggests that intoxication is socially acceptable conduct” would violate the Code.

Responsible Content Provision No. C6 provides that beverage alcohol advertising and marketing materials that “[m]akes curative or therapeutic claims, except as permitted by law” would violate the Code.

Responsible Content Provision No. C7 provides that beverage alcohol advertising and marketing materials that “[m]akes claims or representations that individuals can attain social, professional, educational, or athletic success or status due to beverage alcohol consumption” would violate the Code.

Responsible Content Provision No. C13 provides that beverage alcohol advertising and marketing materials that have an “[a]ssociation with anti-social or dangerous behavior” would violate the Code.

Responsible Content Provision No. C14 provides that beverage alcohol advertising and marketing materials that “[d]epicts illegal activity of any kind” would violate the Code.

Other Responsible Advertising Provision No. A1 provides that “[o]n-premise supplier sponsored promotions should encourage responsible consumption by those adults who choose to drink



and discourage activities, such as drinking games, that reward or encourage excessive or abusive consumption.”

**Code Review Board Decision:**

In response to the complaint, the advertiser stated that “[t]he complaints against the Pink Whitney brand revolve around various Pink Whitney social media posts and/or podcasts that span from April 7, 2021-September 9, 2025. As an initial matter, we must correct the complainant’s erroneous assertion that Ryan Whitney and Paul Bissonnette are ‘part-owners’ of the Pink Whitney brand. That is not true. Gallo solely owns the New Amsterdam Vodka brand and has an exclusive licensing arrangement with media company Barstool Sports to license the name PINK WHITNEY and the Pink Whitney designs used on the packaging for the Pink Whitney product. Gallo developed the product, owns the formula, owns the New Amsterdam name and bottle, as well as, the Pink Whitney labels, excluding the Barstool designs. In addition, Gallo licenses the publicity rights of Ryan Whitney for advertising of the Pink Whitney brand.”

The advertiser further noted that “[t]he complainant is correct in their statement that Pink Whitney is the presenting sponsor of the Spittin’ Chiclets podcast. However, the Spittin’ Chiclets Podcast itself is a Barstool property. The logos and podcast branding are the intellectual property of media company Barstool Sports and Ryan Whitney is a Barstool personality. The only advertising of the Pink Whitney brand and/or New Amsterdam Vodka takes place when Ryan Whitney depicts the Pink Whitney brand specifically or mentions it as part of the sponsorship message. Therefore, we disagree with the complainant’s assertion that every episode of the podcast constitutes, in its entirety, advertising for Pink Whitney.”

The advertiser relayed that “[f]or the sake of addressing the complaints, however, we will speak to each of the alleged DISCUS Code violations the complainant cites as if it constitutes advertising for Pink Whitney. The complainant suggests that all Spittin’ Chiclets podcasts and/or social media posts have underage appeal, portray illegal activities or activities requiring alertness, and promote excessive consumption. We address each of these items in our analysis of each alleged example of DISCUS Code violations, below.”

Regarding Post 1, the advertiser stated that “[t]he complainant argues that the post by Paul Bissonnette announcing that he is heading to the Spittin Chiclets Pink Whitney tailgate that will take place between 6:15-7:30 p.m. is a ‘public invite with free shots and no age restrictions that ties the brand to an on-premises promotion that encourages excessive consumption and lacks age-affirmation controls.’ The Barstool Sports X account has an audience demographic of 92.5% over legal purchase age adults. As such, it meets and exceeds the adult audience demographic required by the DISCUS Code for media placement.”

The advertiser noted that “[t]he post is nothing more than appropriate publicizing of a promotional event that the complainant him/herself acknowledges is an on-premises promotion, thereby taking place in a licensed premises. There is no mention of ‘free shots’ and all entrants to the event would be appropriately age-checked. We assume the complainant claims that excessive consumption is encouraged by use of the phrase ‘come by for a shot of

@pinkwhitney.’ But merely using the term ‘shot’ does not encourage excessive consumption. A “shot” of any beverage alcohol is a single serve of spirits. The post does not encourage or speak to consumption of multiple shots. Therefore, we disagree with the complainant’s characterization of this promotional event announcement as appealing to underage consumers and encouraging over-consumption. Nevertheless, we have instructed Barstool to remove this post and they did so immediately on September 9, 2025.”

Regarding Post 2, the advertiser stated that “[t]he complainant states that Bissonnette’s post makes a curative or therapeutic claim because Bissonnette states that Pink Whitney would have ‘cured’ or prevented infection in his hand that occurred after he poured Captain Morgan Rum on an injury. The statement is made in jest and no reasonable person would believe he is seriously claiming Pink Whitney would cure or prevent infection of a wound. Thus, we believe this claim to be unfounded. Nevertheless, we did instruct Barstool to remove this post and Barstool did so on September 9, 2025.”

Regarding Post 3, the advertiser stated that “[t]he complainant asserts that the response posted by Bissonnette to the video posted by Spittin’ Chiclets suggests that intoxication is socially acceptable and cites the absence of responsibility messaging as violations of the DISCUS Code. Section 2B 3(a) requires affirmative responsibility messaging where practicable. The video of the entire golf game was not and is not an advertisement for Pink Whitney. In fact, as we stated in our response to the complaint regarding Pink Whitney and the ‘Spittin Chiclets vs. Fore Play’ Video, Gallo was unaware of the video before it learned of a complaint being submitted to DISCUS on June 9, 2025. Therefore, no responsibility messaging was included. And, as we stated when addressing the complaint related to the Fore Play Video, upon learning of the complaint we requested that Barstool edit out all content depicting consumption and general intoxication and any reference or portrayal of Pink Whitney.”

The advertiser further relayed that “[t]he shared video clip depicts Bissonnette making a birdie in the first hole during the golf game. Bissonnette comments in response to the post that he ‘blacked out.’ Bissonnette is not, however, describing ‘blacking out’ on beverage alcohol. Rather, he is applying an expression used in sports by athletes to describe being in ‘the zone’ or ‘unconscious,’ which is in reference to the body taking over and doing what it is trained to do in competition. In this state, they perform exceptionally well without consciously processing their actions, with the memory of the event being spotty or absent afterward. One can see in the video that he makes the ‘blacked out’ comment in reference to what happened to him as he made the shot. He is clearly not inebriated, or he would have been unable to make that shot. Of course, we agree that any advertising of beverage alcohol that suggest over-consumption is acceptable conduct is inappropriate content and we have taken corrective action with Barstool and our internal marketing teams to underscore the importance of complying with the DISCUS Code. We also instructed Barstool to remove this post, which they did on September 9, 2025.”

Regarding Post 4, the advertiser stated that “Bissonnette shares a video trailer for the ‘Sandbagger Invitational’ golf game and suggest ‘bring some @pinkwhitney for all the action.’ The complainant alleges that the content links the brand to sporting activities, references illicit drug use, which implicates illegal behavior, and ties consumption to activities requiring

alertness. There are no provisions in the DISCUS Code that prohibit any association of alcohol beverage brands with sporting activities, so we find this claim lacks merit. While one of the men in the video does reference going to a concert and ‘popping some tabs,’ it is just as reasonable to assume they are referring to legal conduct like popping the tab of can of intoxicating hemp or beverage alcohol or ‘popping’ some tabs of a cannabis product that has been legal in Nevada since 2017.”

The advertiser further noted that “[i]n addition, Section 2B 3b. iii of the DISCUS Code identifies driving a vehicle, swimming, jumping into water, or skiing as examples of activities requiring a high degree of alertness or physical coordination. Again, any of those activities could be dangerous if performed in conjunction with consuming beverage alcohol. In contrast, it is common practice throughout golf courses in the United States for golf players to enjoy beverage alcohol while playing golf, without it being or becoming a dangerous situation. Therefore, we disagree with the complainant that playing golf is an activity like those listed in the Code that require a high degree of alertness and coordination. Nevertheless, we agree that the two seconds depicting the players consuming 50 mls. of Pink Whitney is not responsible content and should not have been displayed. We also took immediate action on September 9, 2025 and instructed Barstool to take down the post.”

Regarding Post 5, the advertiser stated that “[i]n this post Bissonnette shares a Spittin’ Chiclets post thanking people for attending a Pink Whitney bottle signing event in Las Vegas. The people pictured in the post were shoppers already in the liquor store where the event took place and are mere bystanders or participants at the bottle signing. They are not models or actors and therefore need not meet the age-of-talent requirement. Moreover, it is a licensed premises, and all individuals depicted appear to be of legal drinking age or much older. For that reason, we see this claim as unfounded. Nevertheless, we asked Barstool to remove this post on September 9, 2025.”

Regarding Post 6, the advertiser stated that “[i]n this post, Bissonnette invites viewers to join the Spittin Chiclets personalities at an event in Las Vegas. The complainants asserts that the content promotes gambling, heavy consumption and associates the brand with anti-social or dangerous behavior. The reality is the video merely showcases an event space and merchandising materials for Pink Whitney. We assume the complainant’s assertion that there is promotion of gambling stems from the event taking place in Las Vegas. But there is no mention or call to action to gamble in the post at all. Likewise, a simple invitation to join the event ‘for some @pinkwhitney’ is not promotion of heavy consumption. Gambling in Las Vegas is a completely legal activity. If gambling alone was deemed ‘anti-social behavior’ or ‘dangerous,’ Las Vegas would cease to exist. And in any event, there is no promotion of gambling. Therefore, we believe this complaint lacks merit. But again, we asked Barstool to remove this post on September 9, 2025, given how dated the material was.”

Regarding Post 7, the advertiser stated that “[t]he complainant asserts that a post by Bissonnette inviting viewers to join the Spittin’ Chiclets personalities at a meet and greet event at Fort Liquordale is an advertisement for a party with commentary implying extreme consumption. We disagree with the complainant that this announcement has anything to do

with a party or is pushing overconsumption. This is nothing more than a meet and greet opportunity at an account literally named 'Fort Liquordale.' There is no play on words being made by Bissonnette and merely referencing having 'fun' in Edmonton does not imply 'extreme consumption.' Thus, we find no basis for this complaint. Nevertheless, we did ask Barstool to take down the post on September 9, 2025."

Regarding Post 8, the advertiser stated that "[t]he complainant asserts that this post by Bissonnette, where he shares a video depicting him entering a liquor store in Minnesota as content with underage appeal because a child is briefly caught on camera. As noted, the audience demographics for the Barstool Sports X account is 92.5% over legal purchase age adults. Therefore, it is highly unlikely that a child would be viewing the post and finding it to be particularly appealing. In addition, the child is not an actor or model in the video, she is a mere bystander in a small crowd of fans of the Spittin' Chiclets podcast. We find the complainant's issue lacks merit. However, we did ask Barstool to remove the post on September 9, 2025."

Regarding Post 9, the advertiser stated that "[t]he complainant states that the October 6, 2023 post by and on the Barstool platform 'Spittin' Chiclets' promotes 'excessive drinking and references illicit drug use under the brand header.' While we agree that the content of this clip, which focuses on interviews of bar patrons predicting which of two personalities will be most inebriated, this is not a Pink Whitney advertisement. There is no mention of Pink Whitney in the clip or tagging of the brand. The phrase and design 'Spittin Chiclets' are the intellectual property of Barstool Sports. While the design is used on the Pink Whitney label, it is not the Pink Whitney brand and therefore, we disagree with the complainant's claim that it is advertising that can be attributed to Pink Whitney. Even though this was not Pink Whitney advertising, considering the complaint, we asked Barstool to take down the post, which they did on September 9, 2025."

Regarding Post 10, the advertiser stated that "[t]he complainant states that the August 14, 2022 post by and on the Barstool platform 'Spittin' Chiclets' celebrates excessive drinking under the product branding without responsible drinking messaging. Again, while we agree that this post contains inappropriate content in that it depicts a man that appears to be inebriated, this is again, not a Pink Whitney advertisement. The brand is not tagged or verbally mentioned in any way. While there is a one-second view of Pink Whitney consumption, that was a Barstool-directed product placement and not placed by Gallo. We also disagree with the complainant that this post can be attributed to Pink Whitney. Nevertheless, we do not want depictions of Pink Whitney as shown in this post and instructed Barstool to remove the post on September 9, 2025."

Regarding Posts 11-13, the advertiser stated that "[t]he complainant claims these three posts advertising Pink Whitney branded wearable merchandise sold by Barstool on its on-line store amounts to representations that individuals can attain social, professional, educational or athletic success or status due to beverage alcohol consumption in violation of the DISCUS Code. The DISCUS Code recognizes that member companies have a right to produce apparel with brand identification marks displayed. Section 2A 6 of the Code only prohibits that such merchandise appeal to underage persons and requires that branded apparel be limited to adult

sizes. Here Barstool is selling apparel and sunglasses with Pink Whitney logos or designs in adult sizes. There are no claims or representations of social or athletic success occurring based on selling Pink Whitney logos on apparel. Therefore, there is no basis for a violation. Nevertheless, as of September 9, 2025, Barstool has removed these posts since they no longer have the pictured apparel for sale.”

Regarding Post 14, the advertiser stated that “[t]he complainant argues that this post, which is the announcement of a hockey game sponsored by Pink Whitney, suggests that consuming Pink Whitney will result in improved athletic success. However, the post depicts nothing more than normal sports adversarial puffery and a basic representation that Pink Whitney is sponsoring the event. There is zero suggestion that consumption of Pink Whitney will lead to athletic or other success. Therefore, we see no basis for a claim of violation of the DISCUS Code.”

Regarding Post 15, the advertiser stated that “[w]e agree that portrayal of beverage alcohol products and consumers should not be portrayed in an irresponsible manner with materials that contain inferences of illicit-drug related content. However, the fact that the podcast is ‘presented by Pink Whitney’ does not mean that the entire, over 3-hours long, podcast is an advertisement for Pink Whitney. Certainly the 1 minute 28 second delivery of the sponsorship messaging with display of the bottled product is an advertisement for Pink Whitney. But the remainder of the content is just a podcast, where the host and guest discuss a variety of topics in the sports world and two guest interviews. Advertising as the ‘presenting sponsor’ does not indicate that said ‘sponsor’ endorses the content of the podcast or show. It is akin to placing an advertisement in Playboy magazine, for example, which many spirits companies have done in the past and continue to do, despite Section 2B 4. b of the DISCUS Code that cites ‘graphic or gratuitous nudity’ as examples of violations of the provision of the Code requiring ‘generally accepted contemporary standards of good taste.’”

The advertiser continued by noting “[a]ccordingly, and respectfully, we disagree that there was a violation in this instance. Nevertheless, we did immediately ask Barstool to remove the content related to drug-use from the podcast, which they did immediately on September 9, 2025, which was the day they released episode 581.”

The advertiser concluded by stating that “Gallo is committed to responsible advertising and takes these complaints very seriously. We moved swiftly to remove all content included in the complaint, including materials we did not see as a violation. In addition, we have implemented more robust and quarterly trainings with all involved parties to ensure adherence to the DISCUS Code. Furthermore, we have had extensive conversations with leadership of Barstool and emphasized our contract requires strict adherence to the Code and that any content produced in violation of the Code is in breach of our contract and will not be tolerated.”

After careful consideration of the complaint and the advertiser’s response, the Code Review Board found one violation each of Responsible Content Provision Nos. C5 and C14 across the various posts included in the complaint. The Board commends the advertiser for its swift responsive action and its commitment to enhance training with brand partners to increase Code compliance.

Regarding Post 1, the Code Review Board did not agree that this post violated Responsible Placement Provision No. A1 and Other Provision No. A1. The Board believed the post merely advertised a licensed promotion and did not promote overconsumption.

Regarding Post 2, the Code Review Board did not find a violation of Responsible Content Provision No. C6. In making this determination, the Board noted that the original video posted by the Spittin' Chiclets account did not include a reasonable therapeutic or curative claim and was unrelated to New Amsterdam Pink Whitney. Further, the Board relayed that the repost and unfortunate additional commentary by Mr. Bissonnette was posted in his personal capacity and did not constitute marketing given that the advertiser does not have a relationship with Mr. Bissonnette.

Regarding Post 3, the Code Review Board did not agree that this post violated Responsible Content Provision Nos. B1, B2, and C5 of the Code. In making this determination, the Board considered the context of the video and how the term "blackout" was used, which clearly referred to his performance on the golf course and was not related to consuming alcohol. The Board did note, however, that advertisers should take care to ensure marketing materials do not include language that might encourage overconsumption.

Regarding Post 4, the Code Review Board found this post violated Responsible Content Provision No. C14 but did not violate Responsible Content Provision No. B3. The Board stated that the video, which was posted on the Spittin' Chiclets account and featured New Amsterdam Pink Whitney consumption, did include numerous references to illegal drug use in violation of Responsible Content Provision No. C14, but disagreed that playing golf was an activity that required a high degree of alertness.

Regarding Post 5, the Code Review Board did not agree that this post violates Responsible Content Provision Nos. A1, A2, and A3. The Board agreed with the advertiser that this post merely depicted attendees who appear to be of legal drinking age at a promotional event on a licensed premises.

Regarding Post 6, the Code Review Board did not agree that the post violates Responsible Content Provision No. C13 and Other Provision No. A1. In the Board's view, the post included a video that simply showcased a promotional area for Pink Whitney located at a stadium and did not promote overconsumption.

Regarding Post 7, the Code Review Board did not find the post violates Responsible Content Provision No. C5 and Other Provision No. A1. In the Board's view, the post referenced an event at a licensed establishment and did not promote irresponsible consumption.

Regarding Post 8, the Code Review Board did not find the post violates Responsible Placement Provision No. A1 and Responsible Content Provision No. C1. In the Board's view, the post included a video of a Pink Whitney event at a licensed establishment where the camera happens to incidentally capture a child in the crowd while panning across the promotional event. The Board determined that because the child only appeared in the video for a moment

and was in no way related to the activities being highlighted that it was purely incidental and not in violation of the Code.

Regarding Post 9, the Code Review Board did not find that the post violates Responsible Content Provision Nos. C5, C13, and C14. In making this determination, the Board noted that this post did not reference New Amsterdam Pink Whitney and did not meet the criteria to fall under the scope of the Code.

Regarding Post 10, the Code Review Board did find the post in violation of Responsible Content Provision No. C5 but did not find a violation of Other Provision No. A1. In making this determination, the Board specified that the post, while not an officially sponsored engagement with the advertiser, displayed irresponsible consumption of New Amsterdam Pink Whitney when taken in the context of the clip of hockey players consuming a shot quickly during a break in periods. The Board further noted that advertisers have a responsibility to ensure influencers under contract with the brand are not depicting use with their products in an irresponsible manner, even in content that the advertiser has not explicitly commissioned or sanctioned.

Regarding Posts 11, 12, and 13, the Code Review Board did not agree that the posts violate Responsible Content Provision Nos. B3 and C7. In the Board's view, these posts simply referenced New Amsterdam Pink Whitney licensed merchandise and did not make claims related to athletic success due to beverage alcohol consumption or involve activities that require a high degree of alertness.

Regarding Post 14, the Code Review Board did not find the post violates Responsible Content Provision No. C7. In making this determination, the Board noted that the video did not contain claims or representations that individuals can attain athletic success or status due to beverage alcohol consumption.

Regarding Post 15, the Code Review Board did not find that the post violates Responsible Content Provision No. C14. In the Board's view, while the podcast hosts did discuss illegal drugs briefly during the episode, the advertiser is only a sponsor of the podcast and cannot be held responsible for everything said during a broadcast, particularly content unrelated to the brand or beverage alcohol consumption.

**Action by Advertiser:** Upon receiving the complaint, the advertiser proactively requested that the content identified in the complaint be removed from the social media accounts, which the brand partner successfully removed.

**Status:** Resolved. Responsive action taken.