

August 16, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

Lou Cavaliere
Naoj & Mot, Inc.

Re: Limited Distillery Manager Requirements

Dear Mr. Cavaliere:

ISSUE: This office is in receipt of your e-mail of July 24, 2013, in which you ask whether there is a requirement that a manager be present during the operating hours of a retail store established by a Pennsylvania licensed limited distillery. If so, you ask about the requirements to become such a manager, and whether such a manager must be Responsible Alcohol Management Program (“RAMP”)-certified.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that Naoj & Mot, Inc., t/a Pollyodd, is the holder of Limited Distillery License No. AL-165 (LID 61190) for use by it at its premises located at 2519-21 Moore Street #B and #C, Philadelphia, Pennsylvania.

OPINION: As you may know, a limited distillery license allows the holder to produce not more than one hundred thousand (100,000) gallons of distilled liquor per year. [47 P.S. § 5-505.4]. Limited distilleries can manufacture and sell bottled liquor produced on the licensed premises to the Board, to licensees, and to the public between 9:00 a.m. and 11:00 p.m., operate and maintain up to two (2) Board-approved, additional satellite locations, apply for and hold a restaurant, hotel, or eating place retail dispenser license to sell alcoholic beverages for on-premises consumption at the licensed distillery premises, sell food and liquor for consumption on or off the licensed premises, and offer on-premises tastings. [Id.].

In response to your question as to whether there is a requirement that a manager be present during the operating hours of a retail store established by a Pennsylvania licensed limited distillery, please be advised that pursuant to section 5.23(a) of the Board’s Regulations, the operation of a licensed business requires a manager, who shall devote full time and attention to the licensed business. [40 Pa. Code § 5.23(a)]. A limited distillery manager may not be employed or engaged in another

business without prior Board approval. [40 Pa. Code § 5.23(d)]. However, a licensee, without Board approval, may designate one of its employees in charge of the business for a period of time not to exceed fifteen (15) calendar days, when the approved manager is absent from the licensed premises. [40 Pa. Code § 5.23(h)].

In response to your question as to the requirements to be appointed as the manager of a Pennsylvania licensed limited distillery, be advised that pursuant to section 5.23(c) of the Board's Regulations, the manager appointed by a licensee shall be a reputable person. [40 Pa. Code § 5.23(c)]. The licensee shall notify the Board in writing of the name and home address of the manager and the date and place of birth. [Id.]. If the manager changes, the licensee shall give the Board written notice within fifteen (15) days of the change together with full information for the new individual who is appointed as manager, along with the required fee. [Id.]. The Board's Regulations further state that when a background investigation is conducted regarding an individual appointed as manager, a total fee of one hundred thirty-five dollars (\$135.00) will be assessed. [40 Pa. Code § 5.23(d)]. The Board may rescind its approval for any cause deemed sufficient. [40 Pa. Code § 5.23(f)].

You can download manager appointment form PLCB-706 via the Board's website, at <http://www.lcb.state.pa.us/cons/groups/licensing/documents/form/000371.pdf>. For application questions, please call the Board's Bureau of Licensing at (717) 783-8250.

In response to your question as to whether the manager of a Pennsylvania licensed limited distillery must be Responsible Alcohol Management Program ("RAMP")-certified, be advised that subsection 471.1(g) of the Liquor Code states, in pertinent part, that unless successfully completed prior to appointment, a manager appointed by any limited distillery licensee shall be required to complete RAMP manager/owner training within one hundred eighty (180) days of approval of appointment by the Board. [47 P.S. § 4-471.1(g)]. Therefore, any such manager would be required to successfully complete RAMP manager/owner training. [Id.].

Please feel free to again contact this office if you have any further questions concerning the Liquor Code or the Board's Regulations.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS

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BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-384