

October 17, 2013

Telephone: (717) 783-9454

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Dawson E. Flinchbaugh
Flinchy's LLC
1833 Hummel Avenue
Camp Hill, PA 17011

Re: Definition of "band"

Dear Mr. Flinchbaugh:

ISSUE: This is in response to your e-mail sent on October 11, 2013, wherein you ask about the Pennsylvania Liquor Control Board's ("Board") definition of the word "band." You assume that it specifies the number of band members, such as more than two (2) or more than four (4), but you cannot find the definition.

Records of the Board indicate that you are a member of Flinchy's, LLC, which holds Restaurant Liquor License No. R-18650 (LID 52004) for the premises located at 1833 Hummel Avenue, Camp Hill, Pennsylvania.

OPINION: Board records indicate that you recently signed a Conditional Licensing Agreement ("CLA") that includes the following prohibition: "Flinchy's shall not permit live bands to perform on any outside portion of the premises after 11:00 p.m." As you are aware, violating the terms and conditions of the conditional licensing agreement can result in a citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement, and/or non-renewal of the license and/or amusement permit by the Board.

Since neither the Liquor Code, nor the Board's Regulations, provide a statutory definition of the word "band," it is recommended that you interpret the word "band" as conservatively as possible, meaning two (2) or more performers. In addition, it is recommended that you request, from the Board's Bureau of Licensing, that the CLA be amended so as to incorporate a mutually agreed upon definition of "band."

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR

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OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS 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. 13-451