

March 10, 2014

Telephone: (717) 783-9454

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Holly Harter

Subarashii Kudamono Company Inc.

Re: Limited Winery and Limited Distillery Licenses

Dear Ms. Harter:

ISSUE: This is in response to your e-mail sent on January 23, 2014, wherein you ask how much it would cost for your company to apply for a limited winery (“LK”) license and a limited distillery (“AL”) license, as well as what forms you would need to fill out. In previous e-mails to this office, you advised that your company already holds an importer’s license.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Subarashii Kudamono Company Inc. holds Importer License No. I-805 (LID 60556) for the premises located at 5452 Holstein Drive, Kempton, Pennsylvania.

OPINION: Section 438(c) of the Liquor Code provides that no person shall possess more than one (1) class of license. [47 P.S. § 4-438(c)]. Your company is currently licensed as an importer, which is treated like a manufacturing license for tied-house purposes. [47 P.S. § 4-411(b), (c)]. Therefore, your company may apply for and obtain manufacturing licenses.

Please note that it is possible for a single entity to hold both a limited winery license and as a limited distillery license. However, be aware that the Board’s Bureau of Licensing (“Licensing”) will not typically dual-license a location, absent specific statutory authority. Thus, only one (1) license may be in effect at one (1) time at any particular portion or location.

In addition, the Board has, in the past entered into a Conditional Licensing Agreement (“CLA”) with a licensee that wishes to place two (2) manufacturing licenses at the same location. However, such an arrangement would require the consent of both Licensing and the Board, and a decision on whether such an arrangement is acceptable is not a decision made by this office. Thus, this office cannot provide any further guidance other

than suggesting that if you wish to pursue this matter, you should submit an application to Licensing.

The application form for both licenses is the same, PLCB Form 1350, Application for License Manufacture, Storage or Transportation. Forms are available on the Board's website at www.lcb.state.pa.us. Click on the link labeled "Licensees" and then "Forms."

Both licenses require an application fee of seven hundred dollars (\$700.00) and a renewal fee of thirty dollars (\$30.00). The limited winery license fee is three hundred eighty-five dollars (\$385.00), which is prorated quarterly, meaning that the maximum license fee is three hundred eighty-five dollars (\$385.00). The limited distillery license fee is one thousand, five hundred dollars (\$1,500.00); note that this fee is not pro-rated.

If you have any further questions or concerns regarding this matter, please do not hesitate to contact this office.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS 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. 14-054