

July 18, 2014

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Steve Herman  
Account Executive  
Temple Sports Properties – Liacouras Center  
1776 North Broad Street  
Philadelphia, PA 19121

**Re: Public Venue Choice of Beer**

Dear Mr. Herman:

ISSUE: This is in response to your e-mail sent on June 25, 2014, wherein you advise that your office handles the sponsorships and marketing on behalf of Temple University athletics. You have been told by one (1) of your beer distributor partners that you cannot have an exclusive agreement where only one (1) brand of beer is poured/sold in a public venue location, in this case your basketball arena, the Liacouras Center. You ask for clarification on this law and ask if you have the freedom to choose which distributors and brands you want to sell in your building. You also ask if you can make the choice to sell only one (1) brand.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Global Spectrum, L.P. holds Public Venue License No. PV-23 (LID 48828) for the premises at 1776 North Broad Street, Philadelphia, Pennsylvania.

OPINION: The Liquor Code’s provisions on interlocking business practices prohibit distributors and manufacturers from providing money or other things of value to equip or otherwise help the operation of the licensed business of a retail licensee. [47 P.S. § 4-443]. Also, section 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)] prohibits a licensee from offering or giving anything of value as a prize, premium, or present, to induce the purchase of alcoholic beverages, except advertising novelties with a wholesale value of fifteen dollars (\$15.00) or less. [See 40 Pa. Code § 13.52(c); Board Advisory Notice No. 10 (6<sup>th</sup> Edition)]. Section 493(22) of the Liquor Code provides that it is unlawful for a licensee to “offer, pay, make or allow, or for any licensee...to solicit or receive any allowance or rebate, refunds or concessions, whether in the form of money or

otherwise, to induce ... the purchase liquor or malt or brewed beverages.” [47 P.S. § 4-493(22)]. In addition, section 13.51 of the Board’s Regulations prohibits a licensee of one (1) class, such as a wholesale licensee, from providing anything of value to licensees of another class, such as a retail licensee. [40 Pa. Code § 13.51].

As a retailer, you do have the independence to choose which distributors and brands you want to sell in your building. You may also choose to sell only one (1) brand. However, you cannot be compensated by a manufacturer or distributor for this decision.

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. 14-422