December 2, 2014

Michael Shondeck
Controller/Key Accounts
Nittany Beverage
139 North Patterson Street
State College, PA 16801
erage.com

Re: Dual Employment

Dear Mr. Shondeck:

ISSUE: This is in response to your e-mail sent November 11, 2014, wherein you request an advisory opinion regarding the legality of one of Nittany Beverage's salespeople, Tom Katancik, serving on the board of directors of Centre Hills Country Club. You explain that this board position is a non-compensated position.

You also indicate that, based on your reading of Advisory Opinion No. 14-567, it appears that Mr. Katancik can hold the board position at Centre Hills Country Club as long as he does not hold an ownership interest in the club's license and is not compensated for serving as a director of the club.

The Pennsylvania Liquor Control Board's ("Board") records indicate that UNA, Inc., t/a Nittany Beverage, holds Importing Distributor License No. ID-1194 (LID 8751) for use at the premises located at 139 North Patterson Street, State College, Pennsylvania.

The Board's records also indicate that Centre Hills Country Club holds Catering Club Liquor License No. CC-5650 (LID 4025) for use at the premises located at 153 Country Club Road, State College, Pennsylvania.

OPINION: Section 493(11) makes it unlawful for any distributor or importing distributor, or any officer, servant, agent, or employee of such licensee, to be at the same time employed directly or indirectly, by any other distributor, importing distributor, manufacturer, importer, vendor, out-of-state manufacturer, hotel,

restaurant, or club liquor licensee, or malt or brewed beverage licensee. [Id.]. Similarly, section 493(11) of the Liquor Code makes it unlawful for any hotel, restaurant or club liquor licensee, or any malt or brewed beverage license, or any officer, servant, agent of such licensee, to be at the same time employed directly or indirectly, by any distributor, importing distributor, manufacturer, importer or vendor licensee or any out-of-state manufacturer. [47 P.S. § 4-493(11)]. For purposes of this subsection, an officer, servant, agent, or employee of a licensee is someone who has either an ownership interest in the licensee or who receives compensation for his/her work on behalf of the licensee. [Id.].

Therefore, you are correct that as long as Mr. Katancik does not hold an ownership interest in Centre Hills Country Club's license and is not compensated for serving on the board of directors, he would not be prohibited from at the same time holding employment with your importing distributorship.

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. 14-610