



May 10, 2016

David B. Kacprowicz
Kacprowicz Bowling, Inc.
d/b/a Eastland Bowl
VIA E-MAIL

RE: Non-Profit Fundraiser

Dear Mr. Kacprowicz:

ISSUE: This office is in receipt of your e-mail correspondence of March 29, 2016, wherein you seek the position of the Pennsylvania Liquor Control Board (“PLCB”) regarding non-profit organizations that sell tickets to a fundraising event which includes beer and/or wine as part of the ticket/entry fee relative to a special occasion permit (“SOP”). Specifically, you inquire if the organization is required to obtain an SOP for the event and for subsequent events.

Records of the PLCB indicate that Kacprowicz Bowling, Inc. holds Restaurant Liquor License No. R-2727 (LID 67690) for use by it at 3729 McClelland Avenue, Erie, Pennsylvania.

OPINION: The sale of alcohol is illegal in Pennsylvania unless the entity selling the alcohol has a license or permit from the Board. 47 P.S. §§ 4-491(1), 4-492(2), (3). The Liquor Code defines a “sale” as any transfer of liquor, alcohol, or malt or brewed beverages for consideration. 47 P.S. § 1-102. If access to alcohol is included within the price of a ticket to an event, this would constitute the sale of alcohol by an unlicensed entity which is unlawful. 47 P.S. § 4-491(1).

If an organization intends to conduct an event that includes the sale of alcohol, it may have an option to do so via an SOP, pursuant to section 408.4 of the Liquor Code. 47 P.S. § 4-408.4. To obtain an SOP, the applicant must qualify as an eligible entity. Please note that only “eligible entities,” as defined in section 102 of the Liquor Code, 47 P.S. § 1-102, may hold an SOP. It is the PLCB’s Bureau of Licensing, and ultimately the three-member Board, and not this office, which decides whether an entity meets the statutory definition of an “eligible entity.” Entities that qualify are authorized to sell liquor and/or malt or brewed beverages

to persons twenty-one years of age or older who are not visibly intoxicated. [47 P.S. §§ 4-408.4, 4-493(1)].

SOPs are generally issued for a period of not more than six consecutive or non-consecutive days during a calendar year unless the eligible entity falls within certain limited categories. 47 P.S. § 4-408.4(i). The SOP is to be used as a means of raising funds for the holder, but can be used in conjunction with activities or events involving other entities. 47 P.S. § 4-408.4(m). The holder of an SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. of the following day. 47 P.S. § 4-408.4(k). This includes sales of any type of alcohol for consumption on or off the licensed premises. 47 P.S. § 4-408.4. All proceeds from the sale of alcohol pursuant to an SOP must be collected by the holder of the SOP.

Please be advised, however, that if the proposed event will be conducted on licensed premises, it would be necessary to de-license the area to be used for the SOP, as dual licensing of a particular premises, absent specific statutory authority, is generally prohibited. There is an exception if the applicant owns the premises and is a volunteer fire company, volunteer rescue company or volunteer ambulance squad. 47 P.S. § 4-408.4(l).

Another option is for the ticketed event to be conducted as a catered event at your licensed premises. A "catered event," which is an event that has been arranged at least twenty-four (24) hours in advance, and is paid for by a third party. 40 Pa. Code § 5.83(a). Tickets for the catered event could be sold in advance or at the door. A record must be maintained showing the date and time catering arrangements were made, the name of the person or organization making the arrangements, and the approximate number of persons to be accommodated. 40 Pa. Code § 5.83(b). The catered event must be conducted for a third party. In other words, a licensee may not self-sponsor a catered event. Be advised that during a catered event, the licensee remains accountable for violations of the Liquor Code that may occur on the licensed premises, including but not limited to, sales or furnishing alcohol to minors and the sale or furnishing of alcohol to a visibly intoxicated person. 47 P.S. § 4-493(1).

Should you have any further questions or concerns regarding the Liquor Code or the Board's Regulations, please do not hesitate to again 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,

RODRIGO J. DIAZ
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. 16-143