

August 17, 2016

Chris Bozakis  
**VIA E-MAIL**

**Re: Safekeeping**

Dear Mr. Bozakis:

ISSUE: This is in response to your e-mail received July 13, 2016, wherein you inquire about the requirements in the event a licensed establishment is closed for an extended period of time. You state that, as a new licensee, you will need to close the licensed restaurant for thirty to thirty-five days in order to make improvements, and you were told that you would have to place the license “in escrow” if the licensed premises is closed for that long. You ask whether there are any alternatives to placing the license “in escrow,” such as selling alcoholic beverages and food to friends and family until the establishment reopens to the general public.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that you are the manager and a shareholder of High Stakes Hospitality Inc. t/a Gregory’s Roadhouse Grill, which holds Restaurant Liquor License No. R-9292 (LID 72982) for the premises located at 2201 Schoenersville Road, Allentown, Pennsylvania.

OPINION: If a licensed establishment ceases operating for a period of fifteen consecutive days, then the licensee must place its liquor license in what the Liquor Code refers to as safekeeping. 47 P.S. § 4-474.1(a); 40 Pa. Code § 7.31(a). The license is held in safekeeping for the benefit of the licensee and is available for use when operations are resumed at the licensed premises, or for transfer. 40 Pa. Code § 7.31(a). A licensee may place a license in safekeeping through the “PLCB+” online regulatory system at <http://plcbplus.pa.gov>. For further instructions, or if you are unable to access the PLCB+ website, please contact the Bureau of Licensing at (717) 783-7637.

When a license is placed in safekeeping, the (formerly) licensed premises is treated as unlicensed premises for purposes of the Liquor Code, i.e., the licensee has no authority to sell alcohol on the premises. No other restrictions as to usage by

individuals or other entities would be imposed by the PLCB or the Liquor Code. However, it should be noted that any provisions of a Conditional Licensing Agreement applicable to the premises would still be in effect.

Accordingly, if your licensed establishment is not in operation for fifteen consecutive days, you are required to place your license in safekeeping. While the license is in safekeeping, nothing would prohibit your establishment from selling food or non-alcoholic beverages to your friends and family or to the general public, but any sales of alcohol during that time would constitute the sale of alcohol without a license, in violation of the Liquor Code. 47 P.S. §§ 4-491(1), 4-492(2). A “sale” is defined as “any transfer of liquor, alcohol or malt or brewed beverages for a consideration.” 47 P.S. § 1-102.

If you have any additional questions regarding the Liquor Code or the PLCB’s regulations, feel free 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.

Sincerely,



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