

August 19, 2016

Lisa M. Miller, Esq.
Skene Law Firm, P.C.
2614 Route 516, 2nd Floor
Old Bridge, NJ 08857
VIA E-MAIL

RE: Airport Lounge Licensing

Dear Ms. Miller:

ISSUE: This office is in receipt of your e-mail of June 28, 2016, wherein you seek clarification on behalf of Sodexo Operations, LLC (“Sodexo”) regarding its pending application for the person-to-person transfer of an airport restaurant liquor license currently held by United Airlines, Inc. (“United”). United has contracted with Sodexo to handle food and beverage services in a passenger club lounge located within a terminal at the Philadelphia International Airport that is leased and operated by United. Specifically, you inquire whether Sodexo, as operator of the proposed licensed premises, may hold the license in its name, or whether the license must be held by the operator of the airport terminal, i.e., United.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Sodexo holds Public Venue License No. PV-149 (LID 67047) for the premises located at 510 West Station Square Drive, Pittsburgh, Pennsylvania. Additionally, PLCB records indicate an application is pending for the person-to-person transfer of Airport Restaurant Liquor License No. AR-128 (LID 81090) from United to Sodexo.

OPINION: The Liquor Code authorizes the PLCB to issue an airport restaurant liquor (“AR”) license to an “airport restaurant,” defined as:

... restaurant facilities at any airport for public accommodation, which are owned or operated directly or through lessees by the

Commonwealth of Pennsylvania, by any municipal authority, county or city, either severally or jointly, with any other municipal authority, county or city, but shall not include any such restaurant facilities at any airport situated in a municipality where by vote of the electors the retail sale of liquor and malt or brewed beverages is not permitted.

47 P.S. § 4-461(d).

Accordingly, if Sodexo is otherwise qualified and has the right to occupy the currently licensed premises, the PLCB's three-member Board could approve the transfer of United's AR license to Sodexo.

Please note, however, that the Liquor Code prohibits anyone other than the named licensee and the licensee's management company or companies, if any, from having a pecuniary interest in a license. 47 P.S. § 4-404(a). A management company, as defined by the Liquor Code, is "any entity employed or otherwise contracted by a licensee to operate, manage or supervise all or part of the operation of the licensed premises." 47 P.S. § 1-102. If an applicant or licensee intends to use a management company, the applicant or licensee must file an application with the PLCB for approval of the management company. 47 P.S. § 4-404(b).

Therefore, if the Board were to approve the transfer of United's AR license to Sodexo, United would thereafter be precluded from having a pecuniary interest in the license, unless it were serving as a Board-approved management company. In the alternative, if United were to retain its license and enter into a management contract with Sodexo, then both entities would be permitted to have a pecuniary interest in the license, subject to Board approval.

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

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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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 16-311