

August 30, 2016

Walter Bennett, Jr.
VIA E-MAIL

RE: R-13051

Dear Mr. Bennett:

ISSUE: This office is in receipt of your e-mail of July 29, 2016, wherein you advise you hold a Pennsylvania Liquor Control Board (“PLCB”) restaurant liquor license that you purchased from Carolyn W. Michaels. Ms. Michaels is allegedly threatening to “withdraw the license transfer.” You seek advice.

PLCB records indicate that Walter J. Bennett, Jr., holds Restaurant Liquor License No. R-13051 (LID 72387) for use by him at premises located at 113-115 South Main Street, Shenandoah, Pennsylvania.

OPINION: PLCB records indicate that the transfer of Restaurant Liquor License R-13051 was approved on February 3, 2016, and a certificate of completion was received on February 18, 2016. Thus, PLCB records indicate that Walter J. Bennett, Jr. is the current holder of R-13051.

Please be advised, while a license is property between a licensee and third parties, it is a privilege between the PLCB and the licensee. 47 P.S. § 4-468(d). Because a liquor license is considered property as between a licensee and a creditor/lender, the creditor/lender may perfect a security interest in the license as it would in any other type of intangible property (e.g., UCC-1, Security Agreement, etc.). However, because the license is not recognized as property as between the PLCB and the licensee, the PLCB does not recognize any security interests in the licenses that it issues. Therefore, while a license issued by the PLCB may be subject to security interest, the PLCB recognizes only the named licensee(s) as having an interest therein, unless and until the PLCB receives a court order or is otherwise informed that a third party has acquired the right to act on behalf of the license or license holder.

Additionally, please be advised that the PLCB will not become involved in resolving the property rights in a dispute between a licensee and third parties. Befwick of Philadelphia, Inc. v. Cobblestones, Inc., 353 A.2d 459 (Pa. 1976). Thus, absent receiving any of the above mentioned documents, the PLCB will only recognize Walter J. Bennett, Jr., as having an interest in the license.

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,

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. 16-333