

November 8, 2016

Arielle J. Albert, Esq.
Danow, McMullan & Panoff, P.C.
275 Madison Avenue, Suite 1711
New York, N.Y. 10016
VIA E-MAIL

RE: Sale of Non-Alcoholic Beverages by an Importer

Dear Ms. Albert:

ISSUE: This office is in receipt of your letter dated October 18, 2016, wherein you indicate that you represent Capital Wine & Spirits Company, LLC, d/b/a Breakthru Beverage Pennsylvania (“Breakthru”). You explain that Breakthru, which holds an importer license, wishes to sell non-alcoholic beverages from its licensed premises. Therefore, pursuant to section 3.52(c) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations, 40 Pa. Code § 3.52(c), Breakthru is seeking permission from the PLCB to engage in the importation, sale, and/or marketing of non-alcoholic beverages from its licensed premises.

PLCB records indicate that Breakthru holds Importer License No. I-716 (LID 49405) for use by it at premises located at 129 Hartman Road, North Wales, Pennsylvania.

OPINION: An importer license permits the holder to bring or import wine and spirits into Pennsylvania from other states or United States possessions and foreign countries, and to purchase wine and spirits from manufacturers located outside of Pennsylvania which will be sold either outside of Pennsylvania or to the PLCB. All importation of wine and/or spirits into Pennsylvania by the licensed importer must be consigned to the PLCB or to the principal place of business or authorized place of storage maintained by the licensee. 47 P.S. § 4-410(e). Once the wine or spirits are properly imported into Pennsylvania via a licensed importer, the product may be stored by the importer at its warehouse or at storage facilities maintained by a bailee-for-hire licensee or a bonded warehouse licensee. 47 P.S. §§ 4-410, 5-501, 5-505.1.

Regarding a licensee’s premises, the licensed premises may not have an inside passage or communication to or with a residence other than the residence of the licensee, corporate officer or manager. 40 Pa. Code § 3.51. A licensee may not

permit other persons to operate another business on the licensed premises. 40 Pa. Code § 3.52(a). Licensed premises may not have an inside passage or communication to or with any business conducted by the licensee or other persons except as approved by the PLCB. 40 Pa. Code § 3.52(b). A licensee may not conduct another business on the licensed premises without PLCB approval. 40 Pa. Code § 3.52(c).

Here, Breakthru is requesting permission to conduct another business on its licensed premises. Therefore, this matter will be forwarded to the PLCB's Bureau of Licensing for investigation and submission to the Board pursuant to section 3.52 of the PLCB's Regulations.

Please do not hesitate to contact this office should you have additional questions.

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
Tisha Albert, Director of Office of Regulatory Affairs
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-444