

February 2, 2017

Michael Rotunda  
Rotunda Brothers, Inc.  
**VIA E-MAIL**

**RE: Beer Sales by Couplet**

Dear Mr. Rotunda:

ISSUE: This office is in receipt of your e-mail dated December 1, 2016, wherein you explain that you wish to offer your brewery's beer at a new restaurant, "Irv's Pub." You ask for guidance on how to do this legally.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Rotunda Brothers, Inc., t/a Batdorf Restaurant, holds Restaurant Liquor License No. R-18656 (LID 55257) for use by it at the premises located at 239-245 West Main Street, Annville, Pennsylvania. Rotunda Brothers, Inc. also holds Brewery License No. G-575 (LID 70938) for use by it at premises located at 245 West Main Street, Annville, Pennsylvania. You are listed as secretary, director, and shareholder of Rotunda Brothers, Inc.

Additionally, PLCB records indicate that Rotunda Enterprises, Inc., t/a Irv's Pub, holds Restaurant Liquor License No. R-8201 (LID 82700) for use by it at the premises located at 814 East Chocolate Avenue, Hershey, Pennsylvania. You are listed as secretary, director, and shareholder of Rotunda Enterprises, Inc., as well as manager of the licensed premises.

OPINION: Initially, please note that a brewery ("G") license is considered a manufacturing license for purposes of the Liquor Code, and a restaurant ("R") license is considered a retail license for purposes of the Liquor Code. When a manufacturer obtains a retail license for the same location, which is referred to as a "couplet" arrangement, it becomes subject to section 446(a)(4) of the Liquor Code, which provides, in pertinent part, that couplet holders:

... shall not sell directly to any person licensed by this act, except if any malt or brewed beverage is to be distributed in this Commonwealth it shall be only through specific importing distributors who shall have first been given distributing rights for such products in designated geographical areas through the distribution system required for out-of-State

manufacturers under section 431(b) as well as all other pertinent sections of this act.

47 P.S. § 4-446(a)(4).

Accordingly, since Rotunda Brothers, Inc., holds a “couplet,” it may not sell beer directly to any retail establishment, including Irv’s Pub. It must distribute its beer through a licensed importing distributor in conformance with the above. If your other company, Rotunda Enterprises, Inc., wishes to acquire the beer for sale at Irv’s Pub, it would need to purchase the beer from a distributor or importing distributor under the three-tier distribution system.

However, please note that sales to unlicensed customers at your existing couplet location are unaffected by section 446(a)(4). Further, such sales may occur from either the brewery premises or the restaurant license premises since they are owned by the same legal entity.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB’s Regulations, please feel free to once 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  
Tisha Albert, Director, Office of Regulatory Affairs  
B.L. Peifer, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing