

January 9, 2017

John M. Hampton, Esquire
VIA E-MAIL

RE: Manager Inquiry

Dear Mr. Hampton:

ISSUE: This office is in receipt of your e-mail dated December 12, 2016, wherein you advise that the Eagle Rock Resort (“the resort”) seeks to lessen the frequency with which the resort must file a new application for appointment of manager with the Pennsylvania Liquor Control Board (“PLCB”) due to employee turnover. As a solution, the resort wants to have its general manager named as the PLCB-approved manager for the liquor license. The general manager of the resort oversees all of the resort’s facilities, which include various recreational areas, maintenance, as well as the resort’s food and beverage operations and staff. You ask whether the general manager, with job responsibilities involving the entire resort, could be the PLCB-approved manager, and still fulfill the legal requirement to devote full time and attention to the operations of the licensed business.

Records of the PLCB indicate that Eagle Rock Resort Club Corp. holds Restaurant Liquor License No. R-21246 (LID 41961) for the premises located at 191 Turnberry Lane, Hazle Township, Pennsylvania.

OPINION: As you are aware, section 5.23(a) of the PLCB’s Regulations provides that the operation of a licensed business requires a manager, and that a licensee shall appoint an individual as manager for each licensed establishment. 40 Pa. Code § 5.23(a). Section 5.23 further provides that the manager shall devote full time and attention to the licensed business. Id.

Only one person may be appointed as manager at any one time, and that person must be approved for the position by the PLCB. The requirement that a manager devote full time and attention to the licensed business does not necessarily require forty hours per week, and may require less than or more than forty hours per week. Further, a designated manager may not be employed or engaged in another business unless he or she applies for prior written approval from the PLCB. 40 Pa.

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Code § 5.23(d). If you wish to have your general manager approved as manager by the PLCB, you will need to submit the appropriate written application to the PLCB's Bureau of Licensing ("Licensing").

Upon submission of the above information, Licensing conducts an investigation and recommends to the three-member Board whether a person should be permitted to serve as manager for the licensee. If it is determined that the individual could not serve as manager for the licensee, the licensee may be required to appoint another individual as manager, subject to PLCB approval. Said decision is made by the three-member Board itself and not by this office.

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, Office of Regulatory Affairs
B.L. Peifer, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-566