

December 23, 1998

Harry Hayman, Director of Operations

Seven Arch, Inc.

t/a Brave New World

720 Arch Street

Philadelphia, PA 19106

Re: 'The Player's Ball'

Dear Mr. Hayman:

ISSUE: In your letter dated December 9, 1998, you inquired on behalf of Seven Arch, Inc. t/a Brave New World, the holder of restaurant liquor license No. R-4609, as to whether Brave New World could conduct a self-sponsored promotion, 'The Player's Ball,' on January 9, 1999 at its licensed premises. According to your letter, two contests would be conducted as part of the proposed promotion whereby the best dressed male and the best dressed female would be awarded a prize of \$500.00 each from Brave New World. Brave New World will also be featuring Johnny Walker Black at a special price from 9:00 p.m. to 10:00 p.m. on the evening of the promotion. The promotion would be advertised by Brave New World over local radio stations and on Brave New World's licensed premises. All advertising will include the following statement: 'featuring Johnny Walker Black.' Tickets to this promotion will be sold for \$10.00 each. Johnny Walker Black, an out-of-state manufacturer, will be purchasing 80 tickets in 1998 and 80 tickets in 1999 for its guests to attend the promotion.

OPINION: Section 5.32(e)(5) of the Board's regulations [40 Pa. Code Section 5.32(e)(5)] permits a restaurant licensee to conduct a self-sponsored contest on its own licensed premises. Self-sponsorship requires that the licensee must conduct and pay for the contest. Any contest conducted by the restaurant licensee must comply with the following requirements. First, the contest may not involve unlawful gambling or the consumption of alcohol. Second, the price of a ticket for admission to the contest may not include a charge for alcoholic beverages or entitle the ticket holder to receive alcoholic beverages. Third, the total value of all prizes for each contest may not exceed \$500.00 and no more than \$5,000.00 in prizes can be awarded by a licensee in any seven day period. Fourth, the licensee must maintain on its licensed premises for two years from the date of the contest an itemized list of all prizes awarded for each contest indicating each prize, its value and the name and address of the recipient. Finally, the conduct of the contests as proposed may be in violation of the Pennsylvania Human Relations Act [43 P.S. Sections 951-963] since each contest is conducted specifically for one gender. It is suggested that you contact the Pennsylvania Human Relations Commission to request its opinion as to whether the contests would constitute unlawful

HARRY HAYMAN, DIRECTOR OF OPERATIONS

December 23, 1998

Page Two

discrimination. If only one contest is permitted, the total value of prizes cannot be more than \$500.00. Provided Brave New World complies with the requirements set forth in this paragraph, it could conduct the two contests as proposed on its licensed premises.

Section 13.102 of the Board's regulations [40 Pa. Code Section 13.102] permits Brave New World to discount the price of Johnny Walker Black from 9:00 p.m. to 10:00 p.m. during the promotion so long as it is not offered as a condition to the receipt of routine business entertainment from Johnny Walker Black. Furthermore, section 498 of the Liquor Code [47 P.S. Section 4-498] permits restaurant licensees to advertise their products according to the requirements of this section. Enclosed is a copy of section 498 for your review. If Brave New World complies with section 498, it would be permissible to advertise the availability or price of Johnny Walker Black.

Finally, there is nothing in the Liquor Code or the Board's regulations which would prohibit Johnny Walker Black from purchasing tickets to the promotion as proposed.

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.

Very truly yours,

FAITH S. DIEHL

CHIEF COUNSEL

cc: Bureau of Liquor Control Enforcement,

 Pennsylvania State Police

Enclosures

Refer to: (717) 783-9454

FAX: (717) 787-8820

Advisory Opinion No. 98-415