

STATE OF NEW YORK: LIQUOR AUTHORITY

2009-00615

Application of the “tied-house” and gifts & services” laws
on Sponsorship Agreements

DECLARATORY
RULING

Preliminary Statement

Section 98.1 of the Rules of the State Liquor Authority, (9 NYCRR subtitle B) provides that any person may request the Authority to issue a declaratory ruling on the application of the Alcoholic Beverage Control Law, or the Rules of the Authority, on any person, property or state of facts. Section 101(1)(a) of the Alcoholic Beverage Control Law prohibits a licensed manufacturer or wholesaler from having any interest, direct or indirect, in any premises where alcoholic beverages are sold at retail. Section 101(1)(b) prohibits a licensed manufacturer or wholesaler from making any gift or rendering any service to any other licensee if, in the judgment of the Authority, such gift or service might tend to influence the licensee to purchase the manufacturer’s or wholesaler’s product. Section 106(13) of the Alcoholic Beverage Control Law prohibits a retail on-premises licensee from having any interest, direct or indirect, in any premises where alcoholic beverages are manufactured or sold at wholesale. Section 86.1 of the Rules of the Authority prohibits retail licensees from accepting any gift or service from a manufacturer or wholesaler unless permitted by the Authority’s rules.

By letter dated November 25, 2008, a request was submitted by Kevin B. McGrath, Esq., on behalf of Legends Hospitality LLC (“Legends”) and the New York Yankees partnership (“the Partnership”). These two entities will be jointly applying for an on-premises liquor license at the newly constructed Yankee Stadium¹. Mr. McGrath requests a declaratory ruling as to whether certain sponsorship agreements involving manufacturers and wholesalers of alcoholic beverages (hereinafter referred to as ‘suppliers’) would be prohibited under either the “tied-house” laws [Sections 101(1)(a) and 106(13)] or the “gifts & services” law [Section 101(1)(b)]. After considering the record before the Full Board in this matter, as well as the relevant statutory and case law, the Members of the

¹ At the time this request for a declaratory ruling was considered by the Members of the Authority at the February 4, 2009, Full Board meeting, the application had not yet been acted on by the Authority. Subsequent to the Full Board’s oral approval of the request, the application was also approved by the Full Board.

Authority find that sponsorship agreements, as described herein, are permissible under the aforesaid provisions of the Alcoholic Beverage Control Law.

The proposed Sponsorship Agreement

A new Yankee Stadium has been constructed and is anticipated to open in the spring of 2009. Yankee Stadium LLC holds the lease for the stadium and has sublet the stadium to the Partnership. The sublease includes the right to operate the concessions (including the sale of alcoholic beverages) in the stadium. The sublease also allows the Partnership to contract with other entities to operate the concessions for the Partnership. The Partnership has entered into an agreement with Legends for that purpose. Since Legends does not have a leasehold interest in the stadium, the Partnership and Legends will jointly hold the liquor license.

The Partnership has also entered into an agreement with Yankee Global Sponsorship LLC ("YGS"). The agreement gives YGS the ability to sell sponsorship rights for certain venues and areas inside the stadium. Put another way, YGS can sell the "naming rights" and other signage rights to other companies. Some of these venues and areas will be part of the premises licensed for the retail sale of alcoholic beverages and it is anticipated that suppliers of alcoholic beverages may seek to obtain the naming and signage rights for those locations.

As recited in Mr. McGrath's letter, neither the Partnership nor Legends have any ownership interest in either YGS or its parent company, Yankee Global Enterprises LLC ("YGE") nor neither YGS nor YGE have any ownership interest in the Partnership or Legends.

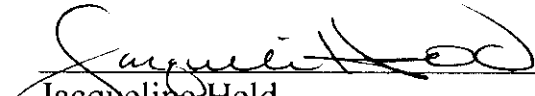
Determination of the Authority

The purpose of the "tied-house" and "gifts & services" laws is to prevent suppliers of alcoholic beverages from having an interest in, or undue influence over, retailers. As presented to the Authority, the parties have created a structure whereby the Partnership, one of the joint licensees, is selling the naming rights to YGS, which is neither a manufacturer nor a wholesaler of alcoholic beverages. YGS has no common ownership with either of the entities that will be licensed. YGS will then contract with suppliers to sell the naming rights. None of the proceeds from that contract will go to either the Partnership or Legends. While the Partnership will obtain a payment from YGS for the naming rights, it will have no control over whether the naming rights are then re-sold to a supplier of alcoholic

beverages or to some other entity not associated with the distribution of alcoholic beverages.

In this specific case, given the contractual separation between the retailer and the supplier, the Authority finds that the proposed sponsorship agreements do not violate either the "tied-house" or "gift or services" law.

Dated: June 11, 2009



Jacqueline Held
Secretary to the Authority