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February 4, 2021

*VIA ELECTRONIC MAIL*

Mr. Joshua Newton  
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Kentucky Department of Alcoholic Beverage Control  
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500 Mero Street 2NE33  
Frankfort, KY 40601

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RE: Sazerac Company Request for Advisory Opinion

Dear Mr. Newton:

I represent Sazerac Company ("Sazerac") and am writing to follow up on your January 26, 2021 email to Sazerac's counsel Eric Anderson, requesting additional information in order to respond to Sazerac's January 14, 2021 Request for Advisory Opinion. Sazerac's request deals with a proposed production of malt-based products in Kentucky. Sazerac currently manufactures these products in Indiana and Maine, and believes that expansion of this production to Kentucky will be beneficial to the Commonwealth and its citizens.

As Mr. Anderson previously noted, it is Sazerac's desire to ensure that its activities are compliant with the Commonwealth's laws and regulations regarding alcoholic beverage control. Accordingly, please see the additional information below in accordance with your request.

**(a) Statement of Relevant Facts**

As you are likely aware, the Sazerac Company maintains multiple licenses with the Kentucky Department of Alcoholic Beverage Control ("ABC"). At issue is Sazerac's rectifier license (030-RT-178). It is Sazerac's desire to commence certain rectifying activities on malt-based products at one or more of its Kentucky facilities. The applicable statutes raise some question regarding whether Sazerac may, pursuant to its rectifier license, rectify malt-based products. Out of an abundance of caution, Sazerac is seeking an advisory opinion on this discreet issue.

**(b) Applicable Statutes**

KRS § 241.010(49) provides that a “Rectifier” means any person who “rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises.” While wine and malt beverages are specifically excluded from the definition of “distilled spirits” in KRS § 241.010(25), the statute’s definition of “rectifier” also describes any person who, “*without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials*, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.” *Id.* at (49) (emphasis added). Notably, liquor is not defined in KRS Chapter 241. Accordingly, malt-based products presumably are included as a liquor given their regulation by the ABC.

**(c) Question to Be Addressed**

The question of statutory interpretation at issue is whether KRS § 241.010(49) is broad enough to allow Sazerac to rectify malt beverages under its rectifier license.

**(d) Sazerac’s Proposed Response**

Sazerac believes that because its proposed activities do not involve the rectification of distilled spirits, they are permitted to mix alcoholic beverages with any materials and manufacture liquor for sale pursuant to the definition of rectifier in KRS § 241.010(49) without seeking any additional license from the ABC.

**(e) Other Evidence Related to Sazerac’s Request**

As noted above, Sazerac is optimistic that if the ABC permits it to bottle these products in Kentucky, the Commonwealth and the Owensboro region will benefit from economic development and job creation. Sazerac has consulted with Kentucky Distillers Association, the Wine and Spirits Wholesalers of Kentucky, The Craft Brewers Guild, The Kentucky Beer Wholesalers Association and the Kentucky Liquor Retailers Association. Each of these groups supports Sazerac’s request.

To the extent that the ABC wishes to have any additional evidence or information, Sazerac is happy to provide this information.

**(f) Statement Regarding Pending Matters of Law**

To Sazerac’s knowledge or belief, the requested question is not pending before, under investigation by, or recently determined by any court of law or governmental entity.

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While Sazerac is interested in expanding its operations in the Commonwealth to include the rectification of malt beverages, its primary objective is to comply with the statutes and regulations governing its activities. For this reason, Sazerac appreciates your consideration of this matter. Please feel free to contact me if you have any questions or would like to discuss this issue further. I appreciate your attention to this matter and look forward to hearing from you.

Very truly yours,  
Stoll Keenon Ogden PLLC



Paul C. Harnice

cc: Mary Tortorice, General Counsel and Chief Compliance Officer, Sazerac Company