

August 27, 2015

John P. Weaver

VIA E-MAIL: jpweav27@comcast.net

RE: Financial Records of Clubs

Dear Mr. Weaver:

This is in response to your e-mail of August 19, 2015, wherein you identify yourself as a member of a club that is encountering financial distress. You state that a district court imposed a judgment against the club in an amount of over four thousand dollars (\$4000.00), which is the amount of the club's funds in the bank. At the most recent member meeting, members were informed that the club would no longer provide a treasurer's report but would simply announce the bank balance; also, members were informed that the Pennsylvania Liquor Control Board ("Board") mandates that clubs not post or distribute monthly financial statements to members. You state that your attempts to review the club's books have been rebuffed.

Your inquiry is two-fold:

1. Are the club's actions legal? Are clubs required to post financial reports?
2. As the treasurer of another club, monthly financials are distributed to members at monthly meetings. This practice has been regarded as illegal by the first club. You inquire as to which club/practice is correct.

Initially, please be advised that it is the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("Bureau"), and not the Board that enforces the liquor laws in Pennsylvania. This office issues opinions that are binding on the Bureau to licensees of the Board or their representatives. Since you are not a Board licensee, the following is offered for your information and guidance only.

The recordkeeping rules for clubs are found primarily in section 102 of the Liquor Code and sections 5.71-5.75 of the Board's Regulations. [47 P.S. § 1-102; 40 Pa. Code §§ 5.71-5.75]. You can access the Liquor Code, 47 P.S. § 1-101 *et seq.*, and the Regulations, 40 Pa. Code § 1.1 *et seq.*, via the Board's website at www.lcb.state.pa.us. The Code and Regulations can be found under the "Legal" link on the right-hand side of page.

Section 5.73 of the Board's Regulations specifically sets forth the requirements for keeping financial records:

(a) Income record. A cashbook currently showing income in detail shall be maintained and posted. It shall be separated into dues, income from malt or brewed beverages and liquor, income from food and a miscellaneous column. This cashbook shall be totaled each month and used when the bank account is reconciled by the treasurer. The total entries under "dues" should balance with the dues recorded in the membership records. The record shall be maintained in columnar form.

(b) Expenditures record. An expense ledger or record showing expenditures, separated by payments for malt or brewed beverages, liquor, food, detailed payroll, entertainment, rent, heat, light, water, equipment and other expenditures, shall be maintained. The record shall be in columnar form with the proper headings at the top, and balanced each month with the bank account and the records of the treasurer. Every expenditure must be supported by delivery tickets, invoices, receipted bills, cancelled checks, petty cash vouchers or other sustaining data or memoranda.

(c) Bank account. A bank or cash account shall be maintained which shows income and expenditures as a control account on the income and expenditures records. The account shall be balanced each month by the treasurer with proper record made in the minutes of the recording secretary.

(d) Electronic or automated recordkeeping. Electronic or automated recordkeeping, or both, maintained and based upon generally accepted accounting principles, are permitted in lieu of hard copy financial records required by subsections (a)—(c). This type of recordkeeping system utilized by the licensee shall have the capability to provide for the

reconciling of required data. Entries shall be verifiable by supporting original documents.

[40 Pa. Code. § 5.74].

Failure to comply with the recordkeeping may result in the issuance of citations to the club. The Commonwealth Court, for example, has held that entering all income as a lump sum rather than breaking it down as to source, together with other acts of inadequate bookkeeping, is sufficient to find a violation of this section. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

Further, section 5.74 specifies that financial reports of the treasurer are a mandated component of the minute book. [40 Pa. Code. § 5.74(3)]. All records required by the Board's Regulations shall be maintained in the English language and shall be available for inspection by authorized employees of the Board or the Pennsylvania State Police, Bureau of Liquor Control Enforcement, at any time during business hours. [40 Pa. Code §§ 5.71, 5.75].

Please be advised that section 5.81 of the Board's Regulations requires a club licensee to adhere to the provisions of its constitution and/or bylaws. [40 Pa. Code § 5.81]. Therefore, if the club's constitution and/or bylaws have rules pertaining to the method for reporting/disseminating financial information to its members, then the club must adhere to these rules or there could be a violation of the Liquor Code.

In response to your questions, all clubs must comply with the aforementioned recordkeeping requirements and with the provisions of their constitutions and bylaws. Neither the Liquor Code nor the Board Regulations specifies rules as to member access to financial records or as to publication/dissemination of such materials. There is no mandate that precludes clubs from posting or distributing financial reports to members. Accordingly, each club is free to operate as it deems fit provided that it does so within the aforementioned parameters.

Should you wish to report suspected violations, you may do so via the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("Bureau") complaint hot line at 1-800-932-0602, an online complaint through its website at: www.psp.state.pa.us, or in person at one of the nine district offices.

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Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once again contact this office.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

By: _____
BARBARA MAY
Assistant Counsel

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-379