

December 17, 2015

Frank Karnouskos  
2052 Blue Mountain Parkway  
Harrisburg, PA 17112-9586

**RE: School Board Director as Board-approved Manager**

Dear Mr. Karnouskos:

ISSUE: This office is in receipt of your letter dated November 16, 2015, wherein you indicate that Mr. Ellis R. Roy, who is the manager of your licensed establishment, was recently elected to serve on the Board of School Directors for the Harrisburg School District. You ask if Mr. Roy can maintain his employment as manager while serving as a school board director.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that D.G. Angelopoulos Inc. (“D.G.”) holds Restaurant Liquor License No. R-9362 (LID 52151) for use by it at premises located at 1105 Herr Street, Harrisburg, Pennsylvania. Board records further reflect that Ellis R. Roy is the Board-approved manager for D.G.

OPINION: As you are aware, section 5.23(a) of the Board’s Regulations [40 Pa. Code § 5.23(a)] provides that a licensee shall appoint an individual as manager for each licensed establishment and the manager shall devote full time and attention to the licensed business. [Id.]. This individual must be approved by the Board.

The requirement that a manager devote full time and attention to the licensed business does not necessarily require forty (40) hours per week, and may require less than or more than forty (40) 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 Board. [40 Pa. Code § 5.23(d)]. It should be noted that while the Board’s Bureau of Licensing (“Licensing”) evaluates the specifics of each application on a case-by-case basis, Licensing typically approves those applications in which a manager is scheduled to work at the licensed premises at least thirty-five (35) hours per week.

Please note that 401(a) of the Liquor Code prohibits any person with a direct or indirect interest in a restaurant liquor license from holding, either by appointment or election, any public office which involves the duties to enforce any of the penal laws of the

United States of America or the penal laws of the Commonwealth of Pennsylvania or any penal ordinances or resolution or any political subdivision of this Commonwealth. [47 P.S. §4-401(a)].

Historically, this office determines this issue on a case-by-case basis after reviewing the specific powers and duties language of the pertinent code, regulation, or other controlling authority with respect to a particular elected position. Generally, if the position of school board director does not involve the duty to enforce penal laws, but rather, involves duties such as performing executive and administrative functions, making and adopting policies for the school district, and employing persons to conduct the business of the school district, section 401(a) of the Liquor Code would not prohibit an individual from simultaneously having an interest in a restaurant liquor license and serving as a school board director.

Your correspondence has been forwarded to Licensing for consideration of your request to allow Mr. Roy to remain as manager and hold the position of school board director.

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.**

Very truly yours,

**RODRIGO J. DIAZ  
EXECUTIVE DEPUTY CHIEF COUNSEL**

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

LCB Advisory Opinion No. 15-499