

November 25, 1998

Nicholas G. Mayernik
33 Orchard Avenue
Ridgeview Terrace
Monongahela, PA 15063

Dear Mr. Mayernik:

ISSUE: This office is in receipt of your letter dated October 4, 1998 requesting an advisory opinion about whether an unpaid officer (financial secretary) of a club licensee may concurrently be an officer (recording secretary) of a second club licensee and an officer (adjutant) of a third club licensee.

OPINION: Section 493(11) of the Liquor Code [47 P.S. Section 4-493(11)] as amended by Act 86, approved June 18, 1998, effective August 17, 1998, provides in relevant part that:

It shall be unlawful --

* * *

(11) Licensees Employed by Others. For any hotel, restaurant or club liquor licensee, or any malt or brewed beverage licensee, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any distributor, importing distributor, manufacturer, importer or vendor licensee or any out-of-State manufacturer. It shall also be unlawful for any distributor or importing distributor, or any officer, servant, agent or employe of such licensee to be at the same time employed, directly or indirectly, by any other distributor, importing distributor, manufacturer, importer, vendor, out-of-State manufacturer, hotel restaurant, malt or brewed beverage licensee, or club liquor licensee. It shall also be unlawful for any manufacturer, importer, or vendor licensee, or any out-of-State manufacturer or any officer, servant, agent or employe of such licensee, or manufacturer, to be at the same time employed, directly or indirectly, by any hotel, restaurant or club liquor licensee or any malt or brewed beverage licensee or any distributor or importing distributor licensee. Nothing in this subsection shall be construed to prohibit a manufacturer or limited winery licensee or any officer, servant, agent or employe of such licensee to be employed at the same time by a hotel, restaurant or retail dispenser licensee, if the hotel, restaurant or retail dispenser licensee is located at the manufacturer or limited winery premises pursuant to section 443. For the purposes of this subsection, an officer, servant, agent or employe of a licensee or manufacturer is an individual who has either an ownership interest in the licensee or manufacturer or who receives compensation for his or her work on behalf of the licensee or manufacturer.

Please be advised that nothing in section 493(11) prohibits an officer of a club licensee from serving as an officer in a second or third licensed club. Therefore, it is permissible for you to hold the position of recording secretary at St. Dominic Men's Club while serving as financial secretary of the Slovak Political & Beneficial Association and adjutant of American Legion Post 212. Additionally, holding these positions concurrently is permissible with or without pay.

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

Refer to: (717) 783-9454
FAX: (717) 787-8820

Advisory Opinion No. 98-380