

December 22, 1998

R. Scot Feeman, Esq.

SIEGRIST, KOLLER, BRIGHTBILL & LONG

315 South Eighth Street

Lebanon, PA 17042

Re: The Quentin Riding Club, License No. CC-2762

Dear Mr. Feeman:

ISSUE: Your letter dated November 13, 1998 has been forwarded to this office for a response. In your letter, you requested an opinion as to whether the subject catering club liquor licensee could establish a new classification of membership to be known as 'Business/Organization Membership.' You describe the 'Business/Organization Membership' as consisting of the following. A valid business organization could join the club as a group if a two-thirds (2/3) majority vote of the board of directors of the club agrees to accept the business/organization as a member. One person of the business/organization, as determined by the business/organization, would be designated as the primary member for club purposes. The primary member of the business/organization would be subject to the same application procedure as any prospective non-business/organization member. Prospective associate members would be submitted for membership to the club through the business/organization and must be under the employ of the business/organization. Associate members would have the rights and privileges of membership as stated in the bylaws of the club with the exception of voting privileges and the privilege of signing for credit in the clubhouse. Further, associate members would not be allowed to board horses. Both primary and associate members must pay an initiation fee which has to accompany the application for membership. Also each primary and associate member would have to pay annual dues. Primary members must purchase a minimum of \$15.00 during each month at the club restaurant. There will be no minimum monthly restaurant charge for associate members. In addition, primary members must pay a monthly assessment charge of \$5.00 for ongoing improvements while associate members are not required to pay a monthly assessment charge.

OPINION: With respect to the membership of a club, the Liquor Code requires that a licensed club must admit members by written application, investigation and ballot and charge and collect dues from elected members. [47 P.S. Section 1-102]. These requirements apply to both primary and associates members; it is impermissible to grant membership status to an individual who has not gone through this process. Other than the requirements set forth in section 102, the Board does not mandate specific membership requirements for licensed clubs. However, 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

R. SCOT FEEMAN, ESQ.

December 22, 1998

Page Two

bylaws. [40 Pa. Code Section 5.81]. Therefore, any membership requirement set forth in the club's constitution and bylaws must be adhered to according to this regulation. As long as the 'Business/Organization Membership' complies with the requirements set forth in section 102 of the Liquor Code and in the club's constitution and bylaws, such new classification of membership would be permissible.

It should be noted that club licensees are required to maintain a complete membership record showing the date of application of the proposed member, the date of admission after election, the date initiation fees and dues are paid and the amounts. This record must also reflect the sponsor's name for the member, the name and address of the member and the serial number of the membership card issued to the member. Dues collected from members must be posted to income records maintained by the club. Finally, the club must maintain a minute book containing the names and dates of applicants for membership and the dates the members were admitted and whether ballots were taken. [40 Pa. Code Sections 5.72 - 5.74].

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

David C. Martin

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Advisory Opinion No. 98-414