

March 9, 1999

Bernard S. Shinko
389 Elm Avenue
Kingston, PA 18047

Dear Mr. Shinko:

ISSUE: I am in receipt of your letter dated February 8, 1999 wherein you posed the following questions on behalf of American Legion Post No. 395, holder of Catering Club Liquor License No. CC-3398:

1. Can an officer of a post also be the caterer of the same post even though he is licensed?
2. Does the club need a contract with the person or persons holding an affair/party on the licensed premises (e.g., wedding, graduation party, etc.)?
3. If the post rents out the licensed premises for a dance, can it sell tickets at the door?

OPINION: Regarding your first question, it is assumed that the officer of the club also holds a license issued by the Board. Section 5.83(a) of the Board's Regulations [40 Pa. Code Section 5.83(a)] defines 'catering' as the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises or brought onto the premises already prepared, for the accommodation of groups of nonmembers who are using the facilities of the club by prior arrangement, made at least 24 hours in advance of the time of the function and which is paid for by nonmembers of the club. There is nothing which would prohibit the club officer from serving as the caterer for a catered event or from bringing already-prepared food onto the premises for a catered event as defined above. However, the only entity permitted to sell alcoholic beverages on the club's licensed premises is the club or its servants, agents or employees. Licenses are issued by the Board to persons which permit them to sell alcoholic beverages only on their designated premises. Therefore, the caterer would not be permitted to sell alcoholic beverages on the club's licensed premises even if the caterer holds a license issued by the Board. It should be noted that a club may permit another entity or person to bring their own alcohol onto the club's licensed premises, but the club would still be liable for any violations of the liquor laws which occur on its licensed premises.

In addition, please be advised that while a club is permitted to designate a food concession to be operated on a permanent basis on the club's premises, that food concession may not be operated by an officer or employee of the club, and the concessionaire may not hire a person who is an officer or employee of the club or who is a licensee or employee of another licensee. As a result, the

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corporate officer would not be permitted to operate or be employed by a food concession that has been designated by the club licensee under section 5.82(a) of the Board's Regulations. [40 Pa. Code Section 5.82(a)].

With respect to your second question, section 5.83(b) of the Board's Regulations requires that a record must be maintained showing the date and time catering arrangements were made, the name of the person or organization making the arrangements, and the approximate number of persons to be accommodated. [40 Pa. Code Section 5.83(b)]. Even though this regulation does not specifically require a contract, it is a common business practice for a club licensee to enter into a contract containing the information required by the regulation as evidence of the catered event which it is holding on its licensed premises.

In regard to your final question, since a catered event is required to be arranged at least 24 hours in advance of the beginning time of the function, tickets to the event should not be sold at the door of the club's licensed premises.

I have enclosed sections 5.82 and 5.83 of the Board's Regulations for your review.

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

Enclosures

cc: Pennsylvania State Police-

Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454

FAX: (717) 787-8820

LCB Advisory Opinion No. 99-76