

May 21, 1999

Robert C. Sanders, Manager
CORY V.F.W. POST #264
P.O. Box 154
1151 Mead Avenue
Corry, PA 16407

Dear Mr. Sanders:

ISSUE: In your letter dated April 12, 1999, you inquired on behalf of Lt. Archie W. Thompson Post No. 264 Veterans of Foreign Wars of the United States, holder of catering club license No. CC-3462, as to the legality of Clifford C. Bidwell, who holds an ownership interest in distributor license No. D-3746, also holding the position of a three-year trustee for the catering club. According to the documentation attached to your letter, it appears that the Board's Bureau of Licensing accepted the catering club's license renewal application which listed Mr. Bidwell's interest in a distributor license. By letter dated September 16, 1998, the Bureau of Licensing approved the catering club's change of officers as stated in its renewal application.

OPINION: Section 443 of the Liquor Code [47 P.S. Section 4-443] requires a separation of the financial and business interests between the various classes of licenses. Specifically, section 443(b) prohibits a distributor from also serving as an officer of a liquor licensee. [47 P.S. Section 4-443(b)]. While it appears that the Bureau of Licensing should not have approved the catering club's most recent change of officers, the law is clear that Mr. Bidwell is not permitted to hold an ownership interest in a distributor licensee and also serve as a trustee which, according to your organization's Congressional Charter and By-Laws, is considered an officer, for a catering club licensee.

It is suggested that Mr. Bidwell and the catering club take all necessary steps to rectify this situation as soon as possible. Mr. Bidwell may either divest himself of any interest in the distributor license or he may resign as a trustee for the catering club licensee. In any event, the catering club's records should indicate how the situation was resolved. Please be advised, however, that the catering club is not required to report the change of officer to the Board if Mr. Bidwell does resign as trustee since a club's change of officers only has to be reported with the renewal of its license.

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
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Advisory Opinion No. 99-190