

October 14, 1999

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Dear Mr. Bevevino:

ISSUE: This is in response to your September 2, 1999 letter which you wrote on behalf of the Elks Club in Warren, Pennsylvania, holder of club liquor license No. C-251. In your letter, you indicated that there are two inter-related entities, the B.P.O.E., Inc., known as the Corporation, and B.P.O.E. #223, known as the Lodge. The license is currently held by the Corporation. You have been reminded by a Pennsylvania State Police, Bureau of Liquor Control Enforcement Officer, who was at your premises for an unrelated matter, that your two organizations needed to establish two separate membership rules, two sets of fees and that a member of the Lodge does not have membership privileges in the Corporation unless he or she was admitted to the Corporation. You are inquiring whether this requires the merging of the Corporation and the Lodge or whether there is an exception to the law which would allow the Corporation and the Lodge to continue to operate in the manner in which they are currently operating.

OPINION: While this office will not issue a legal opinion in any matter in which the Enforcement Bureau is conducting an investigation, it appears from your letter that you are not currently being investigated but rather are inquiring about a comment that an enforcement officer made while on the premises for a different matter. Section 102 of the Liquor Code requires the holder of a club liquor license to admit its members through application, investigation and ballot. [47 P.S. Section 1-102]. Members must pay dues to the club although the amount of dues is not set forth in the Liquor Code. Only those who are members of the licensed entity - in this case, the corporation - may purchase alcohol at the premises.

There is nothing in the Liquor Code that would require the Lodge and the Corporation to merge into one entity. Rather, all that is required is that individuals who wish to purchase alcohol be properly admitted into the licensed corporation as members. This could be done by admitting all individuals who are Lodge members but are not officially Corporation members into the Corporation as members. Likewise, all members must pay some annual fee to the Corporation. Finally, you must maintain accurate records for the Corporation. A summary of those records, as set forth in PLCB Advisory Opinion No. 99-88, is enclosed.

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

Enclosure:
c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-342