



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL  
HARRISBURG, PA. 17120

THOMAS W. CORBETT, JR.  
ATTORNEY GENERAL

ATTORNEY  
STRASBURG BUILDING  
HARRISBURG, PA. 17120  
717-787-1111

December 30, 1996

Honorable John E. Jones, III  
Chairman  
Pennsylvania Liquor Control Board  
Northwest Office Building  
Harrisburg, PA 17124-0001

Dear Chairman Jones:

You have requested my opinion regarding the constitutionality of Section 210(g) of the Liquor Code, 47 P.S. §2-210(g), as applied to attorneys formerly employed by the Pennsylvania Liquor Control Board. Section 210 provides that "[n]o former member or employee of the board or enforcement bureau may represent a person, with or without compensation, on any matter before the board or enforcement bureau for one year after leaving the board or enforcement bureau."

Under Section 204(a)(1) of the Commonwealth Attorneys Act, 71 P.S. §732-204(a)(1), the Attorney General is authorized to render legal advice to the head of a Commonwealth agency, but only with respect to matters "arising in connection with the exercise of the official powers or the performance of the official duties of the...agency." I am presented, therefore, with the threshold question of whether the Liquor Control Board has the power or duty to enforce Section 210(g). If it does not, then I am not authorized to render the advice that you have requested.

Pursuant to Section 210(m)(3) of the Liquor Code, 47 P.S. §2-210(m)(3), a violation of Section 210(g) is a misdemeanor, punishable by a fine or imprisonment or both. Since the violation of Section 210(g) is a crime, the authority to enforce Section 210(g) lies not with the Liquor Control Board, but rather with appropriate law enforcement authorities. Accordingly, I am not authorized to provide you with legal advice regarding the constitutionality of Section 210(g).

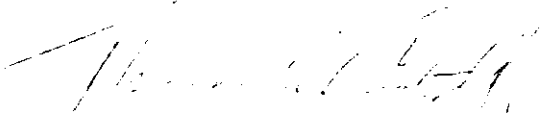
Chairman John E. Jones  
Page Two  
December 30, 1996

In Pennsylvania Public Utility Commission Bar Association v. Thornburgh, 62 Pa. Cmwlth. 88, 434 A.2d 1327 (1981), aff'd per curiam, 498 Pa. 589, 450 A.2d 613 (1982), the Commonwealth Court held that a provision of the Ethics Act virtually identical to Section 210(g) of the Liquor Code is unconstitutional as applied to attorneys formerly employed by the Public Utility Commission, because it intrudes impermissibly upon the Supreme Court's power to regulate the conduct of attorneys. That decision, presumably, would present an obstacle to the prosecution of any alleged violation of Section 210(g). It suggests, moreover, that the Court would invalidate any rule or order of the Liquor Control Board that would exclude from practice before the Board any attorney duly licensed to practice law in Pennsylvania.

Of course, the Board has proffered no such rule or order, nor have you requested my opinion regarding the Board's authority to do so. It is sufficient, therefore, that I should advise you that the Liquor Control Board has no power or duty to enforce Section 210(g) of the Liquor Code.

You are further advised that, pursuant to Section 204(a)(1) of the Commonwealth Attorneys Act, 71 P.S. §732-204(a)(1), you are required to follow the advice set forth in this Opinion and shall not in any way be liable for doing so.

Sincerely yours,



Thomas W. Corbett, Jr.  
Attorney General

TWC/LJR/bjm