



U. S. Department of Justice
Drug Enforcement Administration

Washington, D.C. 20537

JUN 19 2003

The Honorable Joseph R. Biden, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Biden:

This is in response to your letter dated June 17, 2003 regarding the recent incident involving the Eagles Lodge in Billings, Montana. I greatly appreciate the opportunity to provide the perspective of the Drug Enforcement Administration (DEA) with respect to this issue, and to assure you that DEA has reviewed and enhanced existing measures to make certain that the legislative intent of the *Illicit Drug Anti-Proliferation Act of 2003* is properly observed by all DEA field personnel.

As a preliminary matter, on May 15, 2003 the DEA's Office of Chief Counsel issued guidance which was distributed to all DEA offices and posted on the agency's intranet. The guidance informed personnel that requirements of "knowledge" and "intent" were not changed by the Act. Accordingly, legitimate event promoters, such as bona fide managers of stadiums, arenas, performing arts centers, and licensed beverage facilities should therefore not be concerned that they will be prosecuted simply based upon or just because of illegal patron behavior.

On May 30, 2003, a DEA Special Agent serving as the designated Demand Reduction Coordinator for the Billings, Montana Resident Office contacted Ms. Kelly Killian, manager of the Eagles Lodge, to discuss the role of the Eagles Lodge as the venue for the referenced event. This contact was initiated by the DEA Special Agent to make certain that the management of the Eagles Lodge fully understood the purpose of the event, and to advise the manager that such an event, given its direct association with NORML, was likely to create an environment promoting the use of illegal drugs.

During the course of this meeting, the DEA Special Agent provided Ms. Killian with a copy of the *Illicit Drug Anti-Proliferation Act of 2003* to assist in familiarizing her with the potential problems associated with knowingly leasing a venue for the purpose of manufacturing, distributing, or using a controlled substance. I have determined that the DEA Special Agent, after misinterpreting the agency's initial guidance, reviewed each line of the statute with Ms. Killian, and incorrectly suggested to Ms. Killian that the provisions of the statute might be applicable to the proposed event at the Eagles Lodge. This interaction prompted a subsequent conversation between


the DEA Special Agent and Mr. Ralph Bechtold, President of the Eagles Lodge Board of Trustees, as well as with Mr. Roger Diehl, who is also a trustee. Regrettably, the DEA Special Agent's incorrect interpretation of the statute contributed to the decision of the Eagles Lodge to cancel the event.

On June 17, 2003, I distributed throughout the agency supplemental guidance which reiterates and expands upon the initial guidance. The guidance makes clear that property owners not personally involved in illicit drug activity would not be violating the Act unless they knowingly and intentionally permitted on their property an event primarily for the purpose of drug use. Legitimate property owners and event promoters would not be violating the Act simply based upon or just because of illegal patron behavior.

The guidance also establishes procedures within DEA to obtain Headquarters review of proposed enforcement activity under the Act. This will ensure that all DEA activity under the Act complies with its terms and the First Amendment.

If I can be of any further assistance, please do not hesitate to contact the Department of Justice:

Sincerely,


for William B. Simpkins
Acting Administrator