BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the Proposed Suspension of the Retail Malt Beverage (RMB) License held by: Donald Read SCROOGE'S TAVERN 112 East Main Street Sheridan, Oregon 97378 - - - - - - - - - - - - - - Yamhill County	)	FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing in the above matter was held on the 30th day of May, 1984, in McMinnville, Oregon, before Hearings Examiner Allen R. Scott. The Licensee appeared in person and was not represented by legal counsel. The Commission was not represented by legal counsel.

The Hearings Examiner, having considered the record of the hearing, the applicable law and regulations and being fully advised, issued a Proposed Order dated June 21, 1984.

No Exceptions were filed to the Proposed Order within the fifteen (15) day period specified in OAR 845-03-050.

RECORD OF PREVIOUS VIOLATIONS

NONE.

Now, therefore, the Commission hereby adopts the Proposed Order of the Hearings Examiner as the Final Order of the Commission, and enters the following:

FINDINGS OF FACT

1. Donald R. Read held a Retail Malt Beverage license at SCROOGE'S TAVERN at the time of the incidents described in these Findings of Fact.

2. Licensee has been charged with violation of OAR 845-06-045(4) (permitted criminal activity by promoting unlawful gambling on March 11, 1983), and OAR 845-06-045(4) (permitted criminal activity by promoting unlawful gambling on March 1, 1983).

3. On March 1, 1983, at approximately 5:30 p.m., reserve Police Officer Daniel Delobel, while in an undercover capacity at Scrooge's Tavern, won 20 free games on a draw poker machine in the tavern. Carol Stutheit, an employee of the tavern, paid Mr. Delobel $5.00 for winning the free games.

4. Ms. Stutheit was convicted in District Court for Yamhill County of violation of ORS 167.122, "Promoting Gambling in the Second Degree," as a result of this incident.

5. On March 11, 1983, at approximately 4:40 p.m. Mr. Delobel again accumulated 20 free games on the draw poker machine at Scrooge's Tavern. Norma Pettit, the bartender on duty, paid him $5.00 as a result.

6. Later on March 11, 1983, at approximately 11:00 p.m., Mr. Delobel won 20 games on the poker machine and was paid $5.00 by Connie Reid, an employee on duty.

7. Ms. Pettit and Ms. Reid were both convicted of violation of ORS 167.122, "Promoting Gambling in the Second Degree," in District Court for Yamhill County as a result of their payoffs to Mr. Delobel.

8. Licensee Donald Read was aware that payoffs were made to patrons who accumulated free games on the draw poker machine.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. No licensee shall permit any gambling activity made unlawful by ORS 167.117 to 167.162, or any other criminal conduct, to occur on the licensed premises. The criminal conviction of the licensee or an employee of the licensee is required to establish a violation of this section by reason of unlawful gambling activity. OAR 845-06-045(4).

The record establishes that on March 11, 1983, at the approximate times of 4:40 p.m. and 11:00 p.m. Licensee's employees, for whose acts Licensee is responsible, permitted gambling activity made unlawful by ORS 167.122 (promoting gambling in the second degree) on the licensed premises of Scrooge's Tavern.

2. No licensee shall permit any gambling activity made unlawful by ORS 167.117 to 167.162, or any other criminal conduct, to occur on the licensed premises. A criminal conviction of the licensee or an employee of the licensee is required to establish a violation of this section by reason of unlawful gambling activity. OAR 845-06-045(4).

The record establishes that on March 1, 1983, at approximately 5:30 p.m., Licensee's employee, for whose acts Licensee is responsible, permitted gambling activity made unlawful by ORS 167.122 (promoting gambling in the second degree) to occur on the licensed premises.

ULTIMATE CONCLUSIONS OF LAW

The Commission may cancel or suspend any license, or impose a monetary penalty in lieu of or in addition to suspension as provided by ORS 471.322, if it finds or has reasonable ground to believe that the licensee has violated any provision of this chapter or any rule of the Commission adopted pursuant thereto. ORS 471.315(1)(a).

It is hereby concluded that Licensee violated OAR 845-06-045(4) (permitted criminal activity by promoting unlawful gambling on the licensed premises on March 1, 1983, and March 11, 1983).

It is noted that Licensee and the Commission entered into a "Stipulation" whereby Licensee paid to the Commission the amount of the proposed fine ($650) and the Commission agreed to process a Change of Ownership application.

FINAL ORDER

It is hereby ordered that a fine of $650 be imposed against Donald R. Read, holder of a Retail Malt Beverage (RMB) license in the trade name Scrooge's Tavern, 112 East Main Street, Sheridan, Oregon, for the violations noted in this Final Order.

It is further ordered that due notice of such action, stating the reasons therefor, be given as provided by law.

The fine must be paid within ten (10) days of the date of this Order.

Dated this 17th day of July, 1984

Allen R. Scott
Hearings Examiner
Hearings Division

William A. Thomas for C. Dean Smith
C. Dean Smith
Administrator
OREGON LIQUOR CONTROL COMMISSION

NOTICE: You are entitled to Judicial Review of this Order. Judicial Review may be obtained by filing a Petition for Review within 60 days from the service of this Order. Judicial Review is pursuant to the Provisions of ORS Chapter 183.