

BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	
Proposed Suspension of the)	
Dispenser Class A (DA))	
License held by:)	FINAL
)	FINDINGS OF FACT,
Milton E. and Carol L. Korgan)	CONCLUSIONS OF LAW,
THE SHRIMP BUCKET RESTAURANT)	AND ORDER
9242 SW Beaverton-Hillsdale Highway)	
Beaverton, Oregon 97005)	
- - - - -)	
Washington County)	

A hearing in the above matter was held on the 16th and 18th days of August, 1983, in Portland, Oregon, before Hearings Examiner Jill Thompson. The Licensees appeared in person and were represented by Magar Magar, Attorney at Law, Portland. The Commission was represented by legal counsel.

RECORD OF PREVIOUS VIOLATIONS

<u>DATE</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
6-20-83	Maintaining lewd establishment; Permitting minor to consume; Permitting minor to enter and remain	27 days/\$1,755

On October 22, 1984, the Commission considered the record of the hearing, the applicable law and regulations, the Proposed Order of the Hearings Examiner, and Exceptions to the Proposed Order of the Hearings Examiner. Being fully advised, the Commission makes the following:

FINDINGS OF FACT

1. Milton and Carol Korgan held a Dispenser Class A (DA) license at THE SHRIMP BUCKET RESTAURANT, 9242 SW Beaverton-

Hillsdale Highway, Beaverton, Oregon at all times relevant to the facts herein.

2. The Commission staff charged Licensees with violation of OAR 845-08-015(4) (failure to meet minimum food requirement) and ORS 471.360(1)(b) (employee lacked service permit). At its meeting of October 22, 1984, the Commission dismissed the charge of violation of OAR 845-08-015(4).

3. On April 5, 1983, Inspector Wilkerson entered The Shrimp Bucket at about 11:35 p.m. He went to the bar and ordered a drink from the bartender on duty, Rex Hurley.

4. After being served Wilkerson requested to see the service permits of Licensees' employees. Hurley did not have one. A check of OLCC service permit files showed no record of an application or permit for Hurley.

5. Hurley began working as a bartender, selling and serving alcoholic liquor, for Licensees on November 3, 1982. At the time he started work he filled out an application and was told the application fee would be deducted from his paycheck.

6. On November 5, 1982, Licensees submitted a \$50.00 check with five service permit applications, none of which was Hurley's. The applications were dated 3/23/82, 5/15/82, 7/20/82, 8/19/82 and 10/14/82.

DISCUSSION

Licensees contended that they had submitted Hurley's service permit application with the others mentioned in Finding of Fact 6 but failed to send a fee, and that the OLCC mishandled

it and failed to notify Licensees or the applicant that it had been received without a fee. There was Commission testimony that service permit applications received without the proper fee were recorded and the applicant notified of the lapse; the Commission has no record of receiving Hurley's application with or without a fee.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

No Licensee of the Commission shall permit any person to mix, sell or serve any alcoholic liquor for consumption on licensed premises unless such person has a valid service permit issued by the Commission. ORS 471.360(1)(b).

Licensees' employee, Rex Hurley, mixed, sold and served alcoholic beverages without having a valid service permit. Licensees' argument that the application was transmitted without a fee and misplaced by the Commission is not persuasive, particularly in light of their practice of holding completed application forms for up to seven months before transmitting them to the Commission.

ULTIMATE CONCLUSIONS OF LAW

Licensees violated ORS 471.360(1)(b) (employee lacked service permit). No mitigating circumstances are presented.

FINAL ORDER

It is hereby ordered that the Dispenser Class A (DA) license held by Milton E. and Carol L. Korgan at The Shrimp Bucket Restaurant, 9242 SW Beaverton-Hillsdale Highway, Beaverton, Oregon, be SUSPENDED for ten days or that Licensees pay a \$650 fine in lieu of suspension; and,

It is further ordered that the charge of violating OAR 845-08-015(4) (minimum food requirement) be DISMISSED.

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

If you choose to pay the fine it must be paid within ten (10) days of the date of this Order, otherwise the suspension must be served.

Dated this 26th day of October, 1984.



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.