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BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	
Application for a)	
Dispenser Class A (DA))	
License by:)	FINAL
)	FINDINGS OF FACT,
Richard and Barbara Holliday)	CONCLUSIONS OF LAW,
TIPPY CANOE)	AND ORDER
Route 3, Box 622)	
Troutdale, Oregon 97060)	
- - - - -)	
Multnomah County)	

A hearing in the above matter was held on the 11th day of February, 1983, in Portland, Oregon, before Hearings Examiner Douglas Crumme'. The record of the hearing was held open through February 25, 1983 for the receipt of additional documentary evidence from the Applicants. The Applicants appeared in person and were not represented by legal counsel. The Commission was not represented by legal counsel. The Commission having considered the record of the hearing, the Proposed Order of the Hearings Examiner, and the entirety of the Criteria for the Issuance and Maintenance of Licenses and applicable statutes and regulations, enters the following:

FINDINGS OF FACT

1. Richard and Barbara Holliday have applied for a Dispenser Class A (DA) license at TIPPY CANOE, Route 3, Box 622, Troutdale, Oregon. A DA license has been held by other licensees at the Tippy Canoe previously. Mr. and Mrs. Holliday seek to become approved by the Commission as the new owners of the business.

2. The Applicants seek to purchase the building, business and six acres at the Tippy Canoe location.

3. The Commission's License Staff has recommended that the Applicants' application be refused, citing the following:

- a. ORS 472.160(1) (granting of license in the locality set out in the application not demanded by public interest or convenience).
- b. ORS 472.160(4)(g) (applicant did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the Commission when previously licensed).

(Commission's Exhibit D.)

4. The Tippy Canoe is located on Highway 30 (the Sandy River Highway) about four miles south of Interstate 84.

5. The Applicants plan to live in a residence at the Tippy Canoe premises. Mr. Holliday will work at the premises full time. Mrs. Holliday will work at the premises in the evenings and on weekends.

6. The front door of the Tippy Canoe opens onto a semi-circular bar with 12 seats. A pool table area is located to one side of the bar and a dining area is located to the other side. If licensed at the premises, the Applicants intend to remove the pool table and replace it with dining seating. After the pool table is removed the premises would contain dining seating for approximately 65 persons.

7. The Applicants plan to initially offer live music and dancing at the Tippy Canoe on Friday and Saturday evenings. The Applicants may eliminate live music in the future after they make planned changes to turn the premises into more of a food-oriented establishment.

8. The Tippy Canoe has historically drawn an older crowd for dancing and evening entertainment. The Applicants would

anticipate a group of maybe 45 or so patrons for dancing on a Friday or Saturday evening.

9. The Applicants plan to offer a full menu of breakfast, lunch and dinner items at the Tippy Canoe. The dinner items would include the following: top sirloin steak (\$5.95 to \$7.75), ribeye steak (\$8.95), T-bone steak (\$9.95), Salisbury steak (\$5.95), tip steak dinner (\$6.95), oysters (\$7.95), scallops (\$5.95), prawns (\$7.95), salmon (\$5.95), seafood platter (\$7.75), halibut steak (\$5.95), fish and chips (\$5.95), steak and lobster (\$13.95 to \$19.95), chicken dinner (\$5.95), and chicken strip basket (\$2.75). In addition, the Applicants intend to offer a salad bar.

10. The Applicants were licensees at a Retail Malt Beverage licensed premises named successively Pat's Inn, The Spotted Skunk, and finally Doc Holliday's between April, 1971 and February, 1980. During their licensure at this premises, the Applicants incurred the following violations and warnings:

<u>DATE</u>	<u>NATURE OF VIOLATION OR WARNING</u>	<u>DISPOSITION</u>
11-28-72	Allowed minors to enter, remain and consume; sold to minors	\$100 fine
10-10-73	Prohibited hours	\$100 fine
7-21-74	Permitted minor to enter, remain and consume; sold to minor	\$300 fine
10-29-74	Minor; no Statement of Age	Verbal Warning
6-17-75	General sanitation	Verbal Warning
6-28-75	Permitted minor to enter, remain and consume	\$500 fine
9-25-75	Permitted minor to enter or remain	Verbal Warning

<u>DATE</u>	<u>NATURE OF VIOLATION OR WARNING</u>	<u>DISPOSITION</u>
10-23-75	Permitted minor to enter or remain; sold to minor	Letter of Warning
1-5-76	Permitted minor to enter or remain; sold to minor	Letter of Warning
5-18-77	Sanitation	Verbal Warning
8-25-78	Allowed minor to enter, remain and consume; no Statement of Age	Letter of Warning
10-5-79	Employee drinking on duty; employee without service permit	\$150 fine
12-12-79	Permitted minors to enter, remain and consume; No Statement of Age	\$375 fine
11-30-80	Operated during prohibited hours; Permitted minor to enter or remain	\$325 fine

11. The Applicants' last violation at Doc Holliday's listed in Finding of Fact No. 10 above occurred in part because an employee who learned he was about to be laid off acted in bad faith and held an after hours activity at the Applicants' premises contrary to the Applicants' general instructions.

12. The Enforcement Division's procedures through 1978 did not include giving a licensee notice of an opportunity for hearing where a verbal warning or letter of warning was issued as evidenced by the testimony of License Division Regional Supervisor Steve Brinkhoff.

13. The Commission takes official notice that the Letters of Warning listed in Findings of Fact No. 10 above were issued by the Commission's Enforcement Division and did not involve or follow administrative hearings before the Commission.

14. Richard and Barbara Holliday also held a Restaurant license from the Commission at the Iron Lady, 1730 SE Holgate

Boulevard, Portland, Oregon, from July, 1974 to June, 1975. Mr. and Mrs. Holliday incurred no violations at the Iron Lady. The Iron Lady was a railroad car that the Hollidays had converted to a restaurant.

15. During the Applicants' operation of Doc Holliday's, the premises was a large tavern that had a very strong following with persons under 25 years of age. The premises featured live music and dancing. Crowds of over 200 persons were frequently on hand at the premises on Friday and Saturday evenings.

16. The licensees that succeeded Mr. and Mrs. Holliday at Doc Holliday's have continued to have problems with violations involving minors, as evidenced by a November 4, 1982 letter received from Richard D. Martin, Oregon City Chief of Police. Chief Martin is consequently of the opinion that some of the problems that occurred at the premises have been associated with the clientele that frequents the premises rather than the abilities of the different licensees to manage the business.

17. The following circumstances detracted from Mr. and Mrs. Hollidays' ability to oversee the operation of Doc Holliday's as closely as possible when they were Licensees at the premises:

- 1974 - The Licensees closed the Iron Lady Restaurant due to the recession and Mrs. Holliday's illness. The Hollidays lost \$100,000 in this venture.
- 1974 to 1975 - Mrs. Holliday suffered an emotional breakdown with a three-month hospitalization at Holladay Park Hospital.
- 1976 - Mrs. Holliday's father died after requiring six months of care by Mr. and Mrs. Holliday prior to his death.

- 1977 - Mrs. Holliday's mother died of cancer. Mr. and Mrs. Holliday cared for Mrs. Holliday's mother prior to her death.
- 1979 to 1980 - Applicant Barbara Holliday suffered cancer. She is now cured.

18. Licensee Barbara Holliday was engaged in several activities in Oregon City directed towards the problems of drug and alcohol abuse. Mrs. Holliday served on the Clackamas County Advisory Board on Alcohol and Drug Abuse. In 1977 Mrs. Holliday became involved in preliminary studies to provide young persons a recreational facility in Oregon City that would provide an alternative to keg parties and suburban anomie. Mrs. Holliday's efforts led to the formation of Kaleidoscope Enterprises, which she directed. In early 1978 Kaleidoscope Enterprises opened a 4,000-square-foot facility in Oregon City that provided dancing, games and other entertainment for minors in an environment where alcoholic beverages were not available. The facility operated until 1981 when it was closed due to a cut-off of funds from the federal government. When it operated, the Kaleidoscope facility attracted as many as 300 teenagers a weekend.

19. Mrs. Holliday's formation of a recreation center for youth in Oregon City was endorsed and supported by William E. Strance, Chief of Alcohol and Drug Services, Clackamas County Mental Health Department. (Applicants' Exhibit No. 5.)

20. Mrs. Holliday's proposal to initiate a center similar to the Kaleidoscope Center in the 82nd Avenue area of Portland was endorsed by Commissioner Gordon E. Shadburne, Multnomah County Board of Commissioners. (Applicants' Exhibit No. 4.)

21. The Multnomah County Commission received a letter of endorsement for Mr. and Mrs. Holliday's application at the Tippy Canoe from Ralph Groener, Chairman, Clackamas County Board of Commissioners. In his letter of endorsement, Commissioner Groener states in part as follows:

"Barbara [Holliday] owned and operated Doc Holliday's in Oregon City for ten years. Through these years, I found her operation to be an especially good one abiding by all the ordinances and an asset to the community and would welcome her back in the community.

"Therefore, I would like to take this opportunity to recommend her to you and trust you will approve her application in Multnomah County."

(Applicants' Exhibit No. 1.)

22. The Multnomah County Sheriff's Department initially recommended on October 14, 1982 that the Multnomah County Board of Commissioners vote against issuance of a DA license to the Applicants at Tippy Canoe because of the Applicants' previous record of violations at Doc Holliday's in Oregon City. (Commission's Exhibit E.)

23. After the Multnomah County Sheriff's Department made its initial recommendation described in the Finding of Fact above, subsequent investigation and discussions between the Sheriff's Office and the Applicants revealed more favorable information. In a November 9, 1982 appearance before the Multnomah County Board of Commissioners, the Sheriff's Office withdrew its earlier unfavorable recommendation against the Applicants. (Applicants' Exhibit No. 7.)

24. Multnomah County has recommended that the Hollidays' application for a DA license at the Tippy Canoe be granted. (Commission's Exhibit A.)

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission may refuse to license any applicant if it has reasonable grounds to believe that the applicant did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the Commission when previously licensed. ORS 472.160(4)(g).

The Applicants' record of violations listed in Findings of Fact No. 10 is quite extensive. Even if the Applicants did not have the opportunity to request a hearing on the Letters of Warning or Verbal Warnings, these warnings should have put the Applicants on notice about potential violation problems. The warnings issued to the Applicants do not seem to have had this effect, however. For example, the Applicants had violations involving minors on December 12, 1979 and November 30, 1980, despite having received numerous earlier warnings from the Commission about minors. On the whole then, the Commission finds that the Applicants had a bad violation record at Doc Holliday's.

The Applicants have not shown good cause to overcome their bad record at Doc Holliday's. They incurred their violation record at Doc Holliday's notwithstanding Mrs. Holliday's work in the Kaleidoscope Enterprises program aimed at providing solutions to teenager alcohol use.

Because the Applicants' violation record at Tippy Canoe was bad and because good cause to overcome the bad record has

not been shown, the Commission concludes the application should be denied under ORS 472.160(4)(g).

ULTIMATE CONCLUSIONS OF LAW

The application by Richard and Barbara Holliday for a DA license at Tippy Canoe is not demanded by the public interest and convenience and should be denied because of the Applicants' bad violation record (see Findings of Fact No. 10) when previously licensed by the Commission at Doc Holliday's. ORS 472.160(4)(g).

FINAL ORDER

It is hereby ordered that application by Richard and Barbara Holliday for a Dispenser Class A (DA) license at Tippy Canoe, Route 3, Box 622, Troutdale, Oregon, be DENIED.

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

Dated this 20th day of June, 1983.

William A. Thomas for CDS

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.