

BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	
Proposed Suspension of the)	
Dispenser Class B (DB))	
License held by:)	FINAL
)	FINDINGS OF FACT,
Elks, Inc. BPOE Portland)	CONCLUSIONS OF LAW,
ELKS LODGE #142)	AND ORDER
1515 SW Morrison)	
Portland, Oregon 97205)	
- - - - -)	
Multnomah County)	

A hearing in the above matter was held on the 18th day of January, 1984, in Portland, Oregon, before Hearings Examiner Allen R. Scott. The Licensee appeared in person and was represented by Michael J. Rune, Attorney at Law, Portland. The Commission was represented by legal counsel. The Commission's case was presented through stipulation.

The Hearings Examiner, having considered the record of the hearing, the applicable law and regulations and being fully advised, issued a Proposed Order dated March 7, 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. Licensee has held a Dispenser Class B (DB) license at all times relevant to these Findings of Fact.

2. Licensee has been charged with the violation of OAR 845-06-045(4) (member of Board of Trustee and other members permitted criminal activity (unlawful gambling) to occur on the licensed premises), and OAR 845-06-045(2) (employes permitted lewd conduct in the licensed premises).

3. On July 22, 1982, illegal gambling in the form of poker and dice games occurred on the licensed premises of ELKS CLUB #142. As a result, the following three individuals were convicted of "Unlawful Gambling": James Zimmer, who was an officer of the Lodge at the time; William Powers, who was a member of the Board of Trustees of the Lodge at the time; Thomas Caputo, who was a member-at-large. All received small fines as a result.

4. On this same occasion, various persons in the licensed premises fondled and sucked the bare breasts of female cocktail waitresses.

5. As a result of this incident, the "Leading Knight" of the Lodge, one of the higher officers, resigned. Mr. Zimmer also resigned his office of "Tiler".

6. The Grand Lodge of the State Elks and the Grand Lodge of the National Elks organization have put Elks Lodge #142 on notice that further legal problems will result in serious consequences to members or officers involved.

7. The Exalted Ruler of the Elks Lodge #142 was away at a convention when these events occurred.

8. Elks Lodge #142 no longer has any form of gambling on the premises.

9. The Lodge also no longer permits lewd activity on the premises.

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. 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(1).

Licensee acknowledges violation of this regulation.

2. No licensee shall permit, tolerate, participate, or encourage any lewd conduct in or upon licensed premises. OAR 845-06-045(2).

Licensee also acknowledges violation of this regulation.

Licensee points out that it is presently under the scrutiny of the National Elks organization and that it is aware that stringent penalties will be imposed if further violations occur. Licensee also notes that it is aware that any further violations may result in loss of its liquor license. Licensee further points out that it has "learned its lesson" and no longer permits the activities involved in this matter.

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).

The Commission concludes that the Licensee has violated OAR 845-06-045(2), (4).

The Commission believes that the circumstances provide for some mitigation in the penalty.

FINAL ORDER

It is hereby ordered that the Dispenser Class B license held by Elks, Inc., BPOE Portland in the trade name Elks Club #142, 1515 SW Morrison, Portland, Oregon 97205 be SUSPENDED for nine (9) days or that the Licensee pay a fine of \$585 in lieu of the suspension.

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 23rd day of March, 1984.

Allen R. Scott
Allen R. Scott
Hearings Examiner
Hearings Division

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.