

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Skyline Management, Inc.)
John Loumbardias, President)
Licensee/Suspension)
for the premises located at)
303 West Erie Street)
) Case No. 14 LA 49
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Gregory Steadman, Commissioner)

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

The licensee received a Notice of Hearing that pursuant to 235 ILCS 5/7-5 and Title 4, Chapter 4, Section 280 of the Municipal Code of Chicago that a hearing would be held in connection with disciplinary proceedings regarding the City of Chicago retail liquor license issued for the premises located at 303 W. Erie Street, Chicago, Illinois. This hearing was based on the following charges that were upheld by the Deputy Hearing Commissioner:

2. That on June 15, 2013, the licensee, by and through its agent, knowingly delivered or possessed with intent to deliver on the licensed premises a controlled substance, to wit: 2 pills of ecstasy, in violation of 720 ILCS 570/401(d).
3. That on or about June 15, 2013, the licensee, by and through its agent, knowingly delivered or possessed with intent to deliver on the licensed premises a controlled substance, to wit: 1 pill of ecstasy, in violation of 720 ILCS 570/401(d).
4. That on June 15, 2013, the licensee, by and through its agent, knowingly possessed on the licensed premises a controlled substance, to wit: ecstasy, in violation of 720 ILCS 570/402(c).

6. That on June 15, 2013, the licensee, by and through its agent, maintained a public nuisance on the licensed premises in violation of 720 ILCS 5/37-1, in that the premises were used for the commission of offenses prohibited by, the Illinois Controlled Substances Act, 720 ILCS 570 et seq.
7. That on or about June 22, 2013, the licensee, by and through its agent, knowingly delivered or possessed with intent to deliver on the licensed premises a controlled substance, to wit: 4 pills of ecstasy, in violation of 720 570/401(d).
8. That on or about June 22, 2013, the licensee, by and through its agent, knowingly delivered or possessed with intent to deliver on the licensed premises a controlled substance, to wit: 1 pill of ecstasy, in violation of 570/401(d).
9. That on or about June 22, 2013, the licensee, by and through its agent, knowingly possessed on the licensed premises a controlled substance, to wit: ecstasy, in violation of 720 ILCS 570/402(c).
11. That on or about June 22, 2013, the licensee, by and through its agent, maintained a public nuisance on the licensed premises in violation of 720 ILCS 5/37-1, in that the premises were used for the commission of offenses prohibited by, the Illinois Controlled Substances Act, 720 ILCS 570 et seq.

With respect to the above listed charges, the Deputy Hearing Commissioner made Findings of Fact that the City sustained its burden of proof. The Deputy Hearing Commissioner further found that based on the facts of this case and the licensee's past disciplinary history that a 30-day suspension concurrent on all sustained charges was the appropriate penalty.

It is important to note that the Deputy Hearing Commissioner made a specific Finding of Fact that Jerome Phillips was not an employee of the licensee. As such, he was not the direct agent of the licensee. He did find that Phillips was the apparent agent of the licensee and set forth these facts in support of that finding:

- a. Phillips has been the bathroom attendant at the licensed premises with the approval of management on Fridays and Saturdays for over four years;
- b. Because Spy Bar provided Phillips with a bar stool;
- c. Because Phillips wore a shirt with "Spy Bar" written on it;
- d. Because he had a walkie-talkie with which he would report problems in the bathroom such as aggressive behavior or drunkenness once or twice a night;
- e. Because it is fair to conclude that having a bathroom attendant engendered customer goodwill for Spy Bar;
- f. Because Spy Bar could have barred him from performing his bathroom duties at any time.

SUMMARY OF PROCEEDINGS

Officer Walker has been a Chicago Police Officer for thirteen and a half years and had been assigned to Unit 192 of the Vice Section in June of 2013 for three years. In that position, he does license and prostitution investigations. He sometimes does undercover work. On June 15, 2013, he and other members of his team, including Sergeant Chudzik, were at Spy Bar in the basement of 303 West Erie. He was assigned to investigate a narcotics complaint. Spy Bar is a night club with a big bar in the center, a smaller bar to the side, and a dance floor. It had male and female restrooms. He observed quite a few people he believed were working for Spy Bar because they had Spy Bar sweatshirts on. The ones he thought were security were working the floor. He also believed the bathroom attendant was an employee.

On that evening, he acted like a patron. He mingled with other patrons, bought drinks, and hung around the dance floor. He asked about a Flaco who was the subject of the complaint that he was selling various types of drugs on a regular basis. At one point, he went into the

washroom and spoke with the person he thought was the washroom attendant. He thought this because he had a tip basket out and provided gum, cologne, mints, and also puts soap in your hands and gives you paper towels. The man, who he later learned was Jerome Phillips, was wearing black pants, a white shirt, and a black Spy Bar sweatshirt. The officer asked him if he had seen Flaco and Phillips responded Flaco was not present and then asked what he needed. Walker told Phillips he was looking for X, which is the street term for ecstasy or MDMA. Phillips said he could help him and said they were \$20 each. Walker gave Phillips \$40.00 and Phillips gave Walker two pink pills from his sweater pocket. Walker put the pills in his pocket and retained them until the pills were inventoried at Homan Square and then sent to the Illinois State Police Crime Lab for testing and analysis. The pills are put in a bag and the bag is sealed. You put the information on how it was obtained on the bag and it is put in a narcotics safe until somebody puts it in a safe for when it goes to the crime lab. The pills were under Inventory Number 12930772.

Over the objection of the licensee, City's Exhibit 4, a Certified Lab Report with an Attached Affidavit for Inventory 12930772 was allowed in evidence.

On cross, the witness stated Mr. Phillips was wearing a zip up hoodie sweatshirt while his report stated a sweater. He consumed about one and a half drinks but was not intoxicated before going to the restroom. He did not test the pills he purchased from the washroom attendant for narcotics.

Over objection, the City was allowed to reopen the direct examination of Officer Walker.

On June 24, 2013 at about 1:00 a.m. Officer Walker and other officers were at 303 E. Erie in an undercover capacity attempting to locate the Flaco individual and buy narcotics. At some point, Walker went to the washroom and asked the attendant if Flaco was there. This was the same washroom attendant as before, Jerome Phillips, and he was dressed the same way and set upon the washroom the same way. Phillips said Walker had just missed Flaco and then asked Walker what he needed. Phillips told Walker to return later. Walker left the washroom and went back to the bar with the other members of his team. A few minutes later, Walker returned to the washroom and completed a purchase of four capsules that were suspect MDMA. He purchased the pills from Mr. Phillips. In the initial conversation, Walker asked for X and was told it was \$20 for a tablet. The pills were paid for with prerecorded funds. Walker retained the capsules until he returned to Homan Square where they were sent to the Illinois State Police Crime Lab for processing. The Inventory Number was 12935948. Over objection, City's Exhibit 6, the Certified Lab Report for Inventory 12935948, was allowed into evidence.

On cross, the witness stated the bathroom attendant was not the primary focus of the June 22, 2013 investigation. Since he had already purchased narcotics from the bathroom attendant, he would attempt to purchase from him again. He was at Spy Bar for two hours and ten minutes before entering the restroom to engage Mr. Phillips and to attempt to buy additional narcotics. He may have gone to the washroom during this time period for personal use but not as part of the investigation. For that two hour period, he interacted with the crowd. He and his team members would have consumed no more than two drinks.

During the ten minutes between his original conversation with Phillips and his return to the washroom, Walker set up surveillance on the restroom to try to figure out who Flaco was; if he could see the guy come in and out. The surveillance was unsuccessful. He paid for the capsules by putting \$80 in the tip basket.

Sergeant Walter Chudzik has been a Chicago Police Officer for fifteen years. He has been assigned to Unit 192 of the Vice Division for three years with the duty of investigating narcotic complaints received from the Department of Business Affairs. On June 15, 2013, he and a team of eight officers in plain clothes visited Spy Bar at 303 West Erie to investigate complaints of use of and selling of narcotics within the place with a specific allegation of involvement by an individual by the nickname of Flaco.

After entering Sergeant Chudzik set up by the bar area with Officer Ron Walker. Officer Walker entered the washroom a short time later and when he returned Walker said he was able to purchase two tablets of ecstasy from the bathroom attendant. A few minutes later, the witness entered the restroom and spoke with the washroom attendant. The attendant was wearing a Spy Bar black hooded sweatshirt and black pants. He directed people to the toilets and urinals and provided soap and towels and the like to bar customers. His name was Jerome Phillips. Sergeant Chudzik believed Phillips was working for Spy Bar because he was controlling the washroom. He would not let people smoke and he was wearing a Spy Bar sweatshirt. People would provide him with tips for service. The other people engaged in different duties in the operation of the bar from carrying ice to bringing cases of beer also had Spy Bar logo attire.

Chudzik told Phillips he was tired and needed a pick me up. Phillips said he had things and Chudzik asked if he could get one for \$20. Chudzik then handed Phillips \$20 in prerecorded money and Phillips handed over a tablet, suspect MDMA, street term for ecstasy. The pill was retrieved by Phillips from a towel on the sink. Chudzik put the pill in his pocket and met back up with Officer Ron Walker. They then returned to Homan Square where the pill was inventoried under Inventory Number 12930787. Over objection, City's Exhibit 8, the Certified Lab Report and Affidavit showing a finding of 0.1 gram of MDMA was allowed in evidence.

Sergeant Chudzik was also on duty at 303 West Erie on July 18, 2013, to see if Mr. Phillips would arrive for work. When Phillips did arrive he was taken into custody and transported to the 18th District for processing. This arrest was for four controlled deliveries to undercover officers. They also issued municipal ordinance violations to the manager of Spy Bar. The manager was Martin Rivas. In a conversation, Mr. Rivas identified Jerome Phillips as an employee of Spy Bar. He added Phillips had worked there for a year that he gets paid cash, and his duties are strictly as a washroom attendant.

On cross, the Sergeant admitted if the report indicated Phillips retrieved the pink tablet from a sweatshirt pocket and not from a towel, the facts in the report would probably be correct. The tablet came from a towel that was in his pocket. He was in the washroom about 40 seconds. During the 40 seconds, the washroom attendant was moving people through the line telling people not to smoke and offering towels to customers.

Regina Reyes has been a Chicago Police Officer for thirteen years and was assigned to Unit 192 in July of 2013. In that role, she conducts vice related and licensing investigations. She and her team were at Spy Bar at 303 West Erie with her team in street clothes to conduct a narcotics investigation. She was looking for a Jerome Phillips. When Phillips arrived he was placed into custody by two other members of her team. As that was proceeding, Martin Rivas approached and identified himself as the manager of Spy Bar. Mr. Rivas stated Mr. Phillips was an employee of Spy Bar for one year and asked why Phillips was being arrested. The sergeant explained he was being arrested for selling narcotics to undercover officers on three occasions. The witness issued two citations for the sales of narcotics to undercover officers.

Reyes had been present at Spy Bar on June 15 and June 22 with members of her team to investigate a complaint of sales of narcotics. Mr. Phillips never sold her narcotics on July 18, 2013. The sole purpose of going to Spy Bar on that date was to arrest Mr. Phillips. Mr. Phillips was in handcuffs in the back of the squad car when she arrived. Mr. Rivas came and asked why his employee was in custody. Mr. Rivas never actually referred to Mr. Phillips as his “employee” but stated Phillips worked at Spy Bar. Rivas could not believe Phillips was selling narcotics out of the Spy Bar bathroom. Rivas was surprised and said he was sorry and did not know this was going on.

Adam Wazny has been a Chicago Police Officer for over ten years and was assigned to the vice section in June of 2013. On June 22, 2103, he and other plain clothes officers were conducting an investigation at Spy Bar at 303 West Erie regarding a complaint that an individual named Flaco was selling narcotics at that location. At some point, he entered the bathroom and

spoke with the bathroom attendant. He was an older black male wearing a black hooded sweatshirt with a Spy Bar logo on it. He had a white shirt on underneath. The attendant, Jerome Phillips, had a little stand with items he would sell to get tip money. The witness asked Phillips for pills and Phillips asked if he was looking for Ecstasy. When the witness said yes, Phillips told him he had a guy that will have some and to keep checking.

Wazny returned to the bathroom an hour later but the guy Phillips was waiting for had not yet arrived. When Wazny returned to the washroom, he asked Phillips for Ecstasy pills. Phillips said he had capsules which work the same. Phillips told Wazny to put the \$20 bill in the tip money basket and Phillips gave him a white tissue paper containing a capsule suspect Ecstasy.

Wazny took the pill and kept it in his possession until he inventoried it at Homan Square under Inventory Number 12936358. Over objection, City's Exhibit 10, which is a lab report with an affidavit in lieu of court appearance, was allowed in evidence.

The officer did not find it unusual that the bathroom attendant was wearing a black hooded sweatshirt. The City introduced, without objection, City's Exhibit 11 which is a certified statement of conviction for Jerome Phillips.

Dino Gardiakos is the owner and Director of Operations for Skyline Management Company who does business as Spy Bar. Gardiakos has owned Spy Bar since 1996 and he has

been the Director of Operations since 2011. He is in charge of marketing, payroll, and booking of artists. He is responsible for hiring and firing employees.

The witness has known Jerome Phillips for six or seven years as a bathroom attendant at other nightclubs and then at this nightclub. A bathroom attendant provides amenities such as cologne, gum, and paper towels to customers. A bathroom attendant at Spy Bar is not an employee, but is an independent contractor that provides services to the clients. Spy Bar derived no benefit from Mr. Phillips' services as a bathroom attendant and did not compensate Mr. Phillips. He was compensated by tips. Spy Bar did not receive any percentage of these tips and did not control the manner in which Mr. Phillips provided bathroom attendant services at Spy Bar in June of 2013. Spy Bar did not provide Phillips any equipment, supplies, or any uniforms. Spy Bar did not require him to purchase any clothing or uniform and did not train him on how to provide bathroom attendant services. Mr. Phillips did not clock in or out and was never allowed behind the bar.

The witness had no idea that Mr. Phillips was in possession of or had sold narcotics on the premises of Spy Bar. Spy Bar's policy is that anyone caught with narcotics is immediately terminated. The staff is trained to report to the manager or to him if anyone asks for narcotics. Non-employees would be asked to leave the club and their services would be terminated.

Security guards were dressed in black and had radio walkie-talkies. Security never had earpieces, microphones, or mouth pieces.

The witness did not hire Mr. Phillips who was there before the witness became director of operations. He was never hired but has provided services since around 2009. He does not know what agreement Mr. Phillips made when he started in 2009.

Jerome Phillips was a bathroom attendant at Spy Bar and The Mid prior to July of 2013. He supplied people in the club with goods like cologne, candy, and mouthwashes so they could freshen up. He also supplied soap and hand towels to patrons. He brought the soap and the club supplied the toilet paper and hand towels. He kept the supplies at home and brought them back and forth from work. He started as a bathroom attendant in December of 1997 and worked at 15 to 20 clubs around the city. A bathroom attendant is on his own as an independent contractor. He was not an employee of any of these establishments and was paid by tip. He was never directly compensated by any of the establishments.

Prior to Spy Bar, he was a washroom attendant at Social Twenty-Five. In March of 2009, Social Twenty-Five closed for remodeling. A manager from Spy Bar offered him the opportunity to be a bathroom attendant at Spy Bar. He just stayed at Spy Bar since March of 2009. He has never been an employee of Spy Bar and has never been compensated by Spy Bar. He was compensated by tips from customers and Spy Bar did not take some of the tips. No one from Spy Bar ever gave him a training manual or told him how to provide services or what supplies he was to have in the washroom. He did not clock in or out. He determined his hours. He was never allowed behind the bar and never served alcoholic beverages. No one from Spy Bar told him what to wear. His friend told him to wear black shoes, black pants, and a white tuxedo shirt. He bought a sweatshirt from a guy named George, but it was not an official Spy

Bar sweatshirt. He wore it only in the winter and would not have worn it in June or July of 2013 because it is too hot.

Mr. Phillips explained he was present and testified to right a wrong. He volunteered to an attorney who he saw in the hallway outside the courtroom where he was convicted of felony sale of drugs. He met with two attorneys for Spy Bar to review the questions they would ask. He referred to himself as an independent contractor because he works for himself. He files taxes and owes the IRS \$7,000.00. If there was an issue in the bathrooms, he had a radio walkie-talkie that connected him to security. He did need permission from a Spy Bar manager to start providing services at Spy Bar and could not have stayed if Spy Bar did not want him working there. He did not sell drugs inside Spy Bar and got them from a regular customer so other customers could get them. He pled guilty to drug sales but did not know he pled guilty.

He remembers selling drugs one time to a person who he learned was a police officer after the arrest. That night the officer came into the washroom four or five times and left \$20 tips. The police officer asked about pills and Phillips responded he did not sell pills. The police officer asked if he knew someone to get them from and Phillips said he could ask. The officer threw \$60 into the tip basket and two minutes later a guy came in with three pills. The pills were put on the counter and that guy took the \$60. The officer came in and took the pills off the counter. He is not being compensated for appearing and does not hope to return to providing services at Spy Bar. The attorneys gave him \$8.00 for bus fare.

Larry Garner has been a bathroom attendant at Spy Bar since 2008. He currently is a bathroom attendant elsewhere. His neighbor, Jerome Phillips, taught him to be a bathroom attendant. He started at Spy Bar in 2008 with Jerry's permission and he and Jerry worked different days.

Rita Dalipi has been employed as a bartender at Spy bar for five years since June 1, 2013. She has been a bartender for ten years. In June and July of 2013, she worked Wednesdays through Sundays from 10:00 pm until 4:00 am and 5:00 am on Saturdays. She is paid wages and tips by check every two weeks.

She first met Jerome Phillips when he was a bathroom attendant valet at a different club years ago. She knows him now as a bathroom attendant at Spy Bar for the last five years. She does not know Mr. Phillips to have any other jobs at Spy Bar other than washroom attendant. As a bathroom attendant he provides napkins, deodorant, cologne, and whatever customers need. These are supplied by the bathroom attendant. Jerome Phillips did not keep regular hours. Spy Bar has had a narcotic or drug policy in place since she started. If anyone were to approach and ask for drugs she was to get Martin, the general manager, or security. On Friday or Saturday night, twelve or more security officers would be working. They do not have uniforms but are dressed in all black. Nothing identifies them as security and none wore any type of headphone or earplug or used a microphone or a two-way radio. Spy Bar has social gatherings for employees like a Christmas party, but she never saw a bathroom attendant at these social gatherings.

She identified Exhibit 4 as a Spy Bar sweatshirt not made by Spy Bar. She purchased a similar one from George. The sweatshirt sold by Spy Bar has a white logo, the sweatshirt is black. There are no stars and stripes in the Spy Bar clothing and it is better material. She purchased her sweatshirt from George because George makes them extra small and adds on whatever a customer wants on the sweatshirt.

She is familiar with the weekends of June 15 and 16, and July 22 and 23 of 2013 as the weekends of the occurrences with Jerry Phillips. No one asked her for illegal narcotics or drugs and no one asked her if she knew a person named Flaco. No one identified themselves as a Chicago Police Officer. While she has worked at the bar, she has not had a clear view of anyone entering or exiting the men's or women's restroom. In that time period, no bathroom attendant was ever allowed behind the bar. She knows Mr. Phillips to work for himself and that he is compensated by tips. The witness has never worked as a bathroom attendant at Spy bar and was not in the men's room on Friday or Saturday evenings. No one asked her about a Flaco which is an unusual name she would remember. The bar opens at 10:00 pm. She would communicate with other employees in person and this is also how security operates. They do not call each other and there is no radio. She does not have a uniform and has worn her Spy Bar sweatshirt. No one has ever personally asked her for narcotics. She has never been in the men's washroom with Jerome Phillips. She would start her shift at 10:45 pm and Jerome Phillips was there before her shift. She does not know when Jerome Phillips would leave. Bathroom attendants do not have set hours.

Martin Rivas has worked for Spy Bar for ten years and is currently the General Manager. He was a hospital corpsman and a field medic corpsman in the Navy. He served in Desert Storm and Desert Shield. His duties as general manager include ensuring there is adequate staff including security. Security communicates through sight and by flashlights. Security wears black pants, shirt, and shoes. Security has never worn an ear piece microphone. There is a zero tolerance regarding illegal drugs. People would be barred from Spy Bar for drugs.

A bathroom attendant provides candy, cologne, and things of that nature. He does not train these attendants and does not direct them because they are not employees. The attendant provides the supplies and he takes the supplies home at the end of the night. He does not tell them what to wear. He does not review attendants because they are not employees. Spy Bar does not compensate bathroom attendants. They wear black pants and a white shirt, but he does not tell them what to wear. Some wear clothing from Spy Bar but it would not be purchased from Spy Bar. Attendants do not sell liquor and do not assist in the sale of liquor.

The witness is familiar with Jerome Phillips who provided bathroom attendant services at Spy Bar. He never directed and no one from Spy Bar directed Jerry in performing his services. Jerry had control over the services he provided. He did see Jerry wearing a sweatshirt with the Spy Bar logo but it was not purchased from Spy Bar, but from George who made them on the side. Jerry was not compensated by Spy Bar but by tips.

The witness was not aware of bathroom attendants selling illegal narcotics in Spy Bar and was not suspicious that drugs might be sold in Spy Bar by anyone. If aware, he would have

terminated their existence. The witness denied giving a statement to anyone including Chicago Police that Jerry was an employee of Spy Bar. The sale of narcotics is against the purpose of Spy Bar.

Since this is an appeal of a suspension, the review of the License Appeal Commission is limited to the following questions:

- a. Whether the local liquor control commissioner has proceeded in the manner provided by law;
- b. Whether the order is supported by the findings;
- c. Whether the findings are supported by substantial evidence in light of the whole record.

The first issue to be addressed is the propriety of allowing into evidence the results of the certified lab results. At various times in the hearing in response to objections from respondent's attorney, the City responded it had a case supporting the use of these certified lab reports at an administrative hearing. No case was ever produced at the hearing.

The issue of the use of certified lab reports in lieu of appearance at a criminal trial was resolved in People v. McClanahan. In that realm, it was unconstitutional to allow such reports since to do so would prevent a defendant from confronting the preparer of the lab report. That constitutional problem is not a factor at administrative hearings.

The rules of procedure at the Department of Business Affairs are as well as general rules of evidence at administrative hearings allowed for hearsay evidence if it is the type of evidence commonly ruled on. A certified lab report would meet this standard and the lab reports were properly admitted at this hearing.

If a reviewing court should rule that these lab reports should not have been admitted, there is sufficient evidence on the record from the fact of Mr. Phillip's admissions and conviction to establish the City's burden of proof on the issue of whether the substance was illegal.

The Illinois Liquor Control Act expands the liability of a licensee for the acts of an agent or employee. It states that:

Every act or omission of whatsoever nature contributing a violation of any of the provisions of this Act by an officer, director, manager or other agent or employee of any licensee, shall be deemed and held to the act of such employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him directly.

Case law has narrowed the scope of this statute to require that the conduct of the agent or employee should be detrimental to the proper regulation of the sale of liquor at retail. The sale of narcotics on a liquor licensed premises would be conduct detrimental to the proper regulation of the sale of liquor at retail.

The Deputy Hearing Commissioner made a specific finding that Jerome Phillips was not an employee of the licensee. That finding is not before this Commission and this Commission cannot reject that finding and rule on this appeal based on an opinion that the evidence did show Phillips to be an employee.

The next issue is whether the findings are supported by substantial evidence in light of the whole record. Within that issue is whether the finding of apparent agency as opposed to implied agency requires a separate analysis.

There is substantial evidence in the record to affirm the decision of the Deputy Hearing Commissioner that there was an agency relationship between Phillips and the licensee. The matters set out by the Deputy Hearing Commissioner in his Findings of Fact set forth a number of those facts.

The question becomes whether the Deputy Hearing Commissioner's use of the term "apparent agency" as opposed to "implied agency" is significant for this appeal. Entwined with this issue is whether the jurisdiction of this Commission gives it the authority to overrule a decision based on a legal error. This Commissioner declines to do so.

It is clear, as pointed out in the City's brief, that the terms "implied agent" and "apparent agent" are distinct types of agency. Implied agents are acting on behalf of a principal while apparent agency is a means of estopping a principal from denying agency when a third party relied on that agency relationship. The analysis by the Deputy Hearing Commissioner supports a finding of implied agency but would not support a finding of apparent agency. Unfortunately, this Commission does not have the power to remand the matter to allow the Deputy Hearing Commissioner to clarify this issue.

There is more than substantial evidence in the record as a whole to support a finding that Jerome Phillips was an agent of the licensee on the dates he sold narcotics. The Illinois Liquor Control Act imposes liability on licensees for this type of action by an agent. This Commission declines to make a legal ruling as to whether the terms “implied agency” and “opponent agency” were transposed by the Deputy Hearing Commissioner as that legal question is not within the Commission’s jurisdiction.

The decision of the Local Liquor Control Commission is affirmed.

IT IS THEREFORE ORDERED AND ADJUDGED That the order suspending
the liquor license of the appellant for THIRTY (30) days is hereby AFFIRMED.

Pursuant to Section 154 of the Illinois Liquor Control Act, a petition for rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court, the petition for rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: September 21, 2015

Dennis M. Fleming
Chairman

Donald O'Connell
Member