

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Pleasant Moments Café
Andrea Arnold, Permittee
Pleasant Moments Café, Inc., Backer
Permit # LCA.5220
Docket No. 07-1567

December 13, 2007

MEMORANDUM OF DECISION

This matter involves a café liquor permit issued to Pleasant Moments Café, 1 William Street, Bridgeport, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on September 6, 2007. Joseph Regensburger, an officer of the Respondent backer corporation, appeared with counsel.

The alleged violations came to the attention of the Department of Consumer Protection by way of two police referrals from the Bridgeport Police Department. It is alleged that on or about January 21, 2005, the Respondent violated: (1) Sec. 30-6-A24(a) of the Regulations of Connecticut State Agencies for unlawful conduct in that three female entertainers each offered to engage in sexual acts for money with an undercover Bridgeport police officer; (2) Sec. 30-6-A24(b) in that female entertainers exposed their breasts and genitals and permitted male patrons to touch them; and (3) Sec. 30-6-A24(c) in that female entertainers mingled by sitting on male patrons' laps, simulated sex, and

displayed their breasts and genitals. The Respondent denied these charges.

It is further alleged that on or about May 12, 2007, the Respondent violated: (1) Sec. 30-6-A24(a) of the Regulations of Connecticut State Agencies for unlawful conduct in that two female entertainers offered to engage in sexual acts for money with an undercover Bridgeport police officer, that female entertainers were arrested for prostitution, and that other employees of the premises were arrested and charged with permitting prostitution; (2) Sec. 30-6-A24(b) of the Regulations of Connecticut State Agencies in that female performers each exposed her breasts and permitted male patrons to touch them; (3) Sec. 30-6-A24(c) of the Regulations of Connecticut State Agencies in that female entertainers each displayed their breasts and genitals, caressed and fondled their breasts and genitals, licked their breasts in a sexual manner, penetrated their vaginal areas with their fingers, and caressed their vaginal areas; and (4) Sec. 30-6-A24(f) of the Regulations of Connecticut State Agencies, which states that a permittee is strictly accountable for the conduct of his permit premises. The Respondent pled no knowledge to these violations, and the matter proceeded to a hearing. Sec. 30-6-A24(f) of the Regulations of Connecticut State Agencies is not a regulatory section which a Respondent is able to violate, thus it is dismissed.

We will first address Respondent's counsel's motion to dismiss the alleged violations of January 21, 2005, citing Sec. 30-55, as later amended by P.A. 06-94. Prior to October 1, 2006, the department was precluded from taking administrative enforcement action against a permittee absent a criminal conviction in court. In relevant part, P.A. 06-94 made the following change, by deleting the bracketed language:

- (a) The Department of Consumer Protection may, in its discretion, revoke or suspend any permit or provisional permit upon cause found after hearing, provided ten days' written notice of such hearing has been given to the permittee setting forth, with the particulars required in civil pleadings, the charges upon which such proposed revocation or suspension is predicated. [No permit shall be suspended or revoked under this section for any violation of this chapter of which the permittee or his servant or agent was finally found not guilty by, or received dismissal in, a court having jurisdiction thereof, and no disciplinary action shall be taken thereafter by the department against the backer or such permittee, servant or agent. The department shall not initiate hearing proceedings pursuant to this section based upon any arrest which has not resulted in a conviction.]

The permittee for this premises is Andrea Arnold; she was approved as permittee by the department on March 1, 2005. On January 21, 2005, the permittee for the premises was Scott Preiss. With regard to the events of January 21, 2005, Ms. Arnold, as bartender, was arrested and charged with dispensing liquor without a permit and permitting prostitution. Her criminal case was nolle on April 12, 2005, thus it did not result in a criminal conviction. However, in view of the fact that she was not the permittee for the premises on January 21, 2005, Section 30-55, as amended by P.A. 06-94, is inapplicable, and the

motion to dismiss the January 21, 2005 charges on such grounds is denied. On January 21, 2005, the permittee was Mr. Preiss, who was not arrested, so the section is inapplicable to the violations alleged to have occurred on such date.

Respondent's counsel further argued that the department should consider the charges of January 21, 2005 as a "first offense" and not consider the past history of the premises. Respondent's attorney noted that the Respondent had previously resolved incidents which occurred in September 2004, by way of a 2006 Offer in Compromise, in which the Respondent admitted the violations charged. Such matter was resolved between the department and the Respondent by way of a twenty-one day suspension and payment of a \$9,000 civil penalty. As we stated at the hearing every matter is considered on a case-by-case basis, and penalties are imposed depending upon the particular circumstances.

Turning to the specific charges alleged, we find the following facts with regard to January 21, 2005 incident: On January 21, 2005, Officer Jorge Romero, a Bridgeport police officer, was part of an undercover prostitution sting operation conducted at Pleasant Moments. Two doormen did a pat-down of the officer before he was allowed to enter Pleasant Moments. He entered Pleasant Moments at approximately 5:00 p.m., purchased a beer and went to the stage where women were performing. He observed Mercedes Kenza dancing on the stage; she moved her panties aside and exposed her vagina.

Belkys Diaz approached Officer Romero and offered him a lap dance for \$60. Ms. Diaz told Officer Romero that he should go in back with her because her “vagina was hot”.

Gerarda Reys approached Officer Romero and asked if he wanted a lap dance. She told the officer he “could have everything” for \$60. “Have everything” is street terminology for sexual intercourse or oral intercourse. Officer Romero told Ms. Reys he would think about her offer.

Officer Romero observed Ms. Diaz approach a male patron. She and the patron entered a booth located at the rear of the premises. Officer Romero walked to the back and pushed open the door to the booth. Belkys Diaz was naked astride the patron, gyrating up and down in a sexual manner; the male patron was groaning. Yuderca Consuegra approached Officer Romero and asked if he would like a lap dance. She told him he could “have everything” for \$70. Officer Romero observed Belkys Diaz move her thong aside to expose her vagina. Ruth Dupree offered Officer Romero a lap dance. He asked if he could get anything else. Ms. Dupree said he could get a “blow job” for approximately \$40. “Blow job” is street terminology for oral sex.

During his undercover observations, Officer Romero observed Mercedes Kenia expose her genitals, Belkys Diaz expose her breasts and genitals and permit a male patron to touch her, Barbara Suber permit a male patron to touch her, and Arias Verence expose her breasts and

permit a male patron to touch her. Arias Verenice offered Officer Romero a lap dance. He asked if he could get anything else. Ms. Verenice offered him “everything” for \$60. All of these encounters occurred within approximately ninety minutes.

Other members of the police support unit entered at approximately 6:30 p.m. and made arrests. Bridgeport Police Officer Gregory Iamartino was part of the surveillance team which entered at approximately 6:30 p.m. He went to the back of the premises and opened the door to a lap dance booth. A lap dance booth is a closet sized room with a chair; one must open the door to the lap dance room to observe the activity inside. Officer Iamartino observed a female later identified as Barbara Suber seated on top of a male “grinding away.” He went to another booth and found another couple, Arias Verenice and a male patron, who appeared to be involved in sexual intercourse. When the couple disengaged, the male’s fly was unzipped, his condom-covered penis was out and displayed. Ruth Dupree, Gerarda Reys and Yuderca Consuegra were arrested and charged with prostitution.

Bridgeport police officers also conducted an undercover prostitution and narcotics operation on May 12, 2007. Officer Rosado entered Pleasant Moments in an undercover capacity at approximately 3:00 p.m. He was greeted by a bouncer who collected a cover charge. His primary assignment was to look for prostitution. Norma Maya and Guiselle Garcia approached Officer Rosado together. They told Officer

Rosado he could have them both for the purpose of performing sexual acts for \$100.

While inside Pleasant Moments, Officer Rosado observed the conduct of the premises. The bartender was in charge of the bar. The bouncer, Lonnie Randolph, was in charge of the rest of the operations at Pleasant Moments. Officer Rosado observed that prior to going to the lap dance booth, female entertainers would approach Randolph and give him money which he would either put in a pocket or in a cash drawer. Randolph would unlock the door to a lap dance booth and give the female entertainer a condom from a duffel bag that was located by the front the door. The duffel bag was later found to contain approximately 180 condoms.

Officer Rosado observed eight female entertainers, Chanel Owens, Edalia Suero Diaz, Whardah Pine, Stephanie Ortiz, Leidimar Plante, Amanda Darosa, Alexandra Torres and Belkys Diaz, each expose her breasts and each permit male patrons to touch her. He observed the entertainers as they caressed and fondled their breasts and genitals and licked their breasts in a sexual manner. The entertainers penetrated their vaginal areas with their fingers, and permitted patrons to caress and touch their vaginal areas.

The permittee, Andrea Arnold, was on the premises and in charge of the bar during the time of Officer Rosado's undercover observations. Officers executed a search warrant at the premises and made arrests.

The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 (1963). This power to suspend or revoke a liquor permit is exercised conservatively, but mindful that dispensing liquor is a privilege, not a right. Beckanstin v. Liquor Control Commission, 140 Conn. 185, 99 A.2d 119 (1953).

As In the Matter of Mrs. Pips Café, September 7, 1995, the solicitation and sexual activity which we have found to have occurred at Pleasant Moments cannot be tolerated in any location licensed by the State. After deliberate and careful review, these facts warrant firm enforcement action by this agency; the Respondent's disregard for the laws governing the conduct of establishments which are granted a liquor permit mandates that stern enforcement action be taken. We need not address the past history of the premises in view of the substantial evidence presented.

Based upon the testimony and documents adduced at the hearing, we hereby find the Respondent in violation of Charges One, Two, Three, Four, Five, and Six for the incidents of January 21, 2005, and Charges One, Two, and Three for the incidents of May 12, 2007. Charge Four from May 12, 2007 has been dismissed. Accordingly, based upon the foregoing, we hereby revoke the Respondent's café liquor

permit, effective December 17, 2007, in accordance with Section 30-6-A8(c) of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

BY:

Elisa A. Nahas, Esq.
Designated Hearing Officer

Angelo J. Faenza, Commissioner

Gary Berner, Commissioner
Commissioner

Parties:

Andrea Arnold, Permittee, Pleasant Moments Café, 1 William Street,
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Andrea Arnold, Permittee, c/o Jan Trendowski, Esq., 90 Main Street,
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Nonparties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal, 2508 Whitney Ave., P.O. Box 185159,
Hamden, CT 06518

Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106