STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO,	)	
Petitioner,	)	
vs.	)	Case No. 98-4703
FLORIDA VENTURES, INC., d/b/a CLUB DIAMONDS,	)	
Respondent.	)	

RECOMMENDED ORDER

Pursuant to notice, a Section 120.57(1) hearing was conducted in this case on February 25, 1999, by video teleconference at sites in West Palm Beach and Tallahassee, Florida, before Stuart M. Lerner, a duly designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Miguel Oxamendi, Esquire
Department of Business and Professional Regulation
Office of the General Counsel
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1007

For Respondent: James S. Telepman, Esquire
COHEN, NORRIS, SCHERER, WEINBERGER and WOLMER, P.A.
712 U. S. Highway One, Suite 400
North Palm Beach, Florida 33408-7146

STATEMENT OF THE ISSUES

1. Whether the violations alleged in the Administrative Action, as amended, were committed?

2. If so, should Respondent be held responsible for these violations?

3. If so, what penalty should be imposed against Respondent?

PRELIMINARY STATEMENT

On June 16, 1998, the Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco (Department) issued a three-count Administrative Action against Respondent containing the following allegations:

> COUNT #1
>
> On or about May 27, 1998, you Florida Ventures, Inc., d/b/a Club Diamonds, your agent(s), employee(s), or entertainers, to wit: dancer named Faith, did unlawfully commit or engage in lewdness by: rubbing her bare breasts against Agent Murray's face and did sit on Agent Murray's lap and moved her clothed vagina against Murray's clothed penis in such a manner as to simulate sexual intercourse, on your licensed premises, contrary to section 796.07(1)(a), within 561.29(1)(a), Florida Statutes.
>
> COUNT #2
>
> On or about June 2, 1998, you Florida Ventures, Inc., d/b/a Club Diamonds, your agent(s), employee(s), or entertainers, to wit: dancer named Traci Cohen, did unlawfully commit or engage in lewdness by: rubbing her bare breasts against Agent Murray's chest and did sit on Agent Murray's lap and moved her clothed vagina against Murray's clothed penis in such a manner as to simulate sexual

intercourse, on your licensed premises, contrary to section 796.07(1)(a), within 561.29(1)(a), Florida Statutes.

COUNT #3

On or about June 6, 1998, you Florida Ventures, Inc., d/b/a Club Diamonds, your agent(s), employee(s), or entertainers, to wit: dancer named Bridget Smith, did unlawfully commit or engage in lewdness by: rubbing her bare breasts against Agent Murray's face and did sit on Agent Murray's lap and moved her clothed vagina against Murray's clothed penis in such a manner as to simulate sexual intercourse, on your licensed premises, contrary to section 796.07(1)(a), within 561.29(1)(a), Florida Statutes.

Respondent denied the allegations of wrongdoing advanced in the Administrative Action and requested a formal hearing. On October 23, 1998, the Department referred the matter to the Division of Administrative Hearings (Division) for the assignment of an administrative law judge to conduct the hearing Respondent had requested.

On February 22, 1999, the Department filed a motion requesting leave to amend the Administrative Action issued in the instant case to reflect that the statutory provision allegedly violated by the conduct described in Counts 1 through 3 was Section 796.07(2), Florida Statutes, not Section 796.07(1)(a), Florida Statutes. A hearing on the motion was held by telephone conference call on February 23, 1999. On that same day (February 23, 1999), the undersigned issued an order granting the Department's motion.

As noted above, the final hearing in this case was held on February 25, 1999. Three witnesses testified at the hearing: Sergeant Carol Owsiany, a Sergeant Supervisor with the Department; Special Agent John Murray, a Special Agent with the Department; and Jorge Courts, the general manager of Club Diamonds since September of 1998. In addition to the testimony of these three witnesses, a total of four exhibits (Petitioner's Exhibits 1 and 2 and Respondent's Exhibits 1 and 2) were offered and received into evidence.

Following the conclusion of the evidentiary portion of the hearing, the undersigned advised the parties of their right to file proposed recommended orders and established a deadline (March 8, 1999) for the filing of such post-hearing submittals. The parties both filed their proposed recommended orders on March 8, 1999. These proposed recommended orders have been carefully considered by the undersigned.

FINDINGS OF FACT

Based upon the evidence adduced at hearing, and the record as a whole, the following findings of fact are made:

1. Respondent is now, and has been at all times material to the instant case, the holder of alcoholic beverage license number 60-00602, Series 4-COP issued by the Department.

2. The licensed premises is Club Diamonds (Club), an adult entertainment establishment located in West Palm Beach (at 1000 North Congress Avenue) that features scantily clad female

dancers.[1] Patrons of the Club are served in two main areas: at the bar and at tables that are located between the bar and the stage area where the dancers perform to recorded music played by a DJ stationed in an elevated booth. On the north and west ends of the Club are partitioned areas with couches (Partitioned Areas).

3. After receiving an anonymous complaint concerning the Club, the Department began an undercover operation at the establishment in which Special Agent John Murray and others participated.

4. In his undercover capacity, Special Agent Murray visited the Club on three occasions during its normal business hours when there were other patrons, as well as Club employees (including dancers, at least one bartender/barmaid, a waitress, and a DJ) present. These visits were made on May 27, 1998, June 2, 1998, and June 6, 1998.

5. On each visit, Special Agent Murray was approached by a dancer at the Club ("Faith" on May 27, "Riley" on June 2, and "Memphis" on June 6), who, after ascertaining that he was interested in a "private dance" for $20.00, escorted him to a couch in one of the Partitioned Areas on the north and west ends of the Club, sat him down on the couch, and spread his legs apart. The dancer then positioned herself between Special Agent Murray's legs and took off her top. Wearing only a thong-style bikini (G-string) bottom (which left her buttocks exposed), the

dancer proceeded to perform for a fully clothed Special Agent Murray what is commonly referred to as a "lap dance." During the course of the "dance," the dancer, to the rhythm of the music, provocatively rubbed her bare breasts against Special Agent Murray's face and (while on his lap) rhythmically grinded her (covered) crotch area against his in a manner designed to simulate sexual intercourse and to sexually arouse Special Agent Murray. The "lap dance" lasted approximately the length of a song being played by the DJ over the Club's sound system. Following the conclusion of the "lap dance," Special Agent Murray paid the dancer $20.00.

6. While at the Club, Special Agent Murray witnessed other patrons receive "lap dances" from the Club's dancers.

7. Although the "lap dances" that Special Agent Murray and other patrons of the Club received were given in an area of the Club with "subdued" lighting (in contrast to the stage area, which was brightly lit), there was sufficient lighting for others in the Club at the time, including other employees, to observe these "lap dances," which were performed in an open and notorious manner in plain view. At no time did any employee of the Club make an effort to stop these "lap dances." Indeed, the DJ made comments to the patrons over the sound system encouraging them to purchase "private dances" from the Club's dancers.

8. Although Respondent's officers and shareholders may not have been present on the premises during the May 27, 1998,

June 2, 1998, and June 6, 1998, undercover operations, given the persistent and repeated instances of "lap dancing" engaged in by the dancers working at the Club, the inference is made that Respondent either fostered, condoned, or negligently overlooked these flagrant acts of indecency, which were patently offensive, lacked any serious artistic value and that the average person, applying contemporary community standards, would find, taken as a whole, appealed to prurient interests.

9. On June 9, 1998, Special Agent Murray returned to the Club. On this occasion, however, he identified himself as a Special Agent for the Division. After doing so, he provided the Club's management with a written notice of the Department's intention to file administrative charges against Respondent based upon the conduct he had observed during his previous three visits to the Club. At no time prior to this June 9, 1998, visit had Special Agent Murray informed the Club's management that the Department had any concerns regarding activities taking place at the Club.

10. Administrative charges were filed against Respondent on June 16, 1998.

11. In September of 1998, Respondent hired a new general manager, Jorge Courts, to run the Club. Mr. Courts has taken measures reasonably calculated to prevent the reoccurrence of the inappropriate conduct that Special Agent Murray observed on his May 27, 1998, June 2, 1998, and June 6, 1998, visits to the Club.

CONCLUSIONS OF LAW

12. The Department is statutorily empowered to suspend or revoke an alcoholic beverage license, such as the one held by Respondent, and to "impose a civil penalty against a licensee . . . not to exceed $1,000" per violation based upon any of the grounds enumerated in Section 561.29(1), Florida Statutes, provided that the proof establishing the existence of such grounds is clear and convincing. See Department of Banking and Finance, Division of Securities and Investor Protection, v. Osborne Stern and Company, 670 So. 2d 932, 935 (Fla. 1996); Pic N' Save v. Department of Business Regulation, 601 So. 2d 245 (Fla. 1st DCA 1992); Evans Packing Company v. Department of Agriculture and Consumer Services, 550 So. 2d 112, 116 (Fla. 1st DCA 1989). To be "clear and convincing," the "evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established." Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

13. Among the grounds upon which disciplinary action against an alcoholic beverage licensee may be based is the "[v]iolation by the licensee or its agents, officers, servants, or employees, on the licensed premises, or elsewhere while in the scope of employment, of any of the laws of this state." Section 561.29(1)(a), Florida Statutes.

14. Although a literal reading of the language employed by the Legislature in subsection (1)(a) of Section 561.29, Florida Statutes, suggests that a licensee may be disciplined based upon a violation of state law committed by its agents, officers, servants, or employees on the licensed premises, regardless of the licensee's own personal fault or misconduct in connection with the unlawful activity, the courts of this state have consistently held to the contrary. Under the well established case law, a licensee may be disciplined pursuant to subsection (1)(a) only if it is determined that the licensee is culpably responsible for the violation as a result of his own negligence, intentional wrongdoing, or lack of diligence. See Pic N' Save v. Department of Business Regulation, 601 So. 2d 245 (Fla. 1st DCA 1992) and the cases cited therein; Pinacoteca Corporation v. Department of Business Regulation, Division of Alcoholic Beverages and Tobacco, 580 So. 2d 881, 882 (Fla. 4th DCA 1991)("An alcoholic beverage licensee is not an absolute insurer of the propriety of all conduct and human activities upon its premises, but is held to a high degree of accountability for a violation of law occurring during the operation of its establishment.").

15. Where the violations committed by the licensee's agents, officers, servants, or employees on the licensed premises are flagrant and repeated over a relatively short period of time, an inference may be drawn that the licensee either fostered,

condoned, or negligently overlooked the unlawful activity and, based upon such an inference, a penalty may be imposed upon the licensee pursuant to subsection (1)(a) of Section 561.29, Florida Statutes, notwithstanding that the licensee itself may not have been present on the premises when the violations were committed. See Pic N' Save v. Department of Business Regulation, 601 So. 2d 245 (Fla. 1st DCA 1992) and the cases cited therein. "A licensee may not remove itself from responsibility by not being present on the premises or by claiming ignorance of the repeated violations." G & B of Jacksonville, Inc. v. Department of Business Regulation, 371 So. 2d 139, 140 (Fla. 1st DCA 1979); see also Pauline v. Lee, 147 So. 2d 359, 362 (Fla. 2d DCA 1962)("Certainly it is not the intent or purpose of the law that the licensee must be present during any and every violation of law by his employees in proceedings for revocation of an alcoholic beverage license" under subsection (1)(a) of Section 561.29, Florida Statutes.). The Administrative Action issued in the instant case, as amended, alleges that violations of Sections 796.07(2), Florida Statutes, were committed on three separate occasions at the Club and that Respondent should be held accountable for these violations and penalized pursuant to subsection (1)(a) of Section 561.29, Florida Statutes.

16. At all times material to the instant case, Section 796.07(2), Florida Statutes, has provided, in pertinent part, as follows:

> (2) It is unlawful:
>
> (a) To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness . . . .
>
> (b) To offer, or to offer or agree to secure, another for the purpose of . . . any . . . lewd or indecent act.
>
> (c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of . . . lewdness . . . or to permit any person to remain there for such purpose.
>
> (d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is . . . lewdness . . . .
>
> (e) To offer to commit, or to commit, or to engage in . . . lewdness . . . .
>
> (f) To solicit, induce, entice, or procure another to commit . . . lewdness . . . .
>
> (g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of . . . lewdness . . . .
>
> (h) To aid, abet, or participate in any of the acts or things enumerated in this subsection. . . .

17. "Lewdness," as that term is used in Section 796.07, Florida Statutes, is defined in subsection (1)(b) thereof as "any indecent or obscene act."

18. An act may constitute "lewdness," within the meaning of Section 796.07, Florida Statutes, if it is indecent, even though it may not be obscene. See State v. Waller, 621 So. 2d 499, 501-

02 (Fla. 2d DCA 1993). However, "something more than a negligent disregard of accepted standards of decency, or even an intentional but harmlessly discreet unorthodoxy" is required. Unless it is "an intentional act of sexual indulgence or public indecency [which] causes offense to one or more persons viewing it or otherwise intrudes upon the rights of others," it is not "lewdness," as that term is used in Section 796.07, Florida Statutes. See Schmitt v. State, 590 So. 2d 404, 410 (Fla. 1991); State v. Waller, 621 So. 2d 499, 501-02 (Fla. 2d DCA 1993).

19. "Lap dances," such as those described in the Administrative Action issued in this case, as amended, are "indecent . . . act[s]" that fall within the definition of "lewdness" set forth in Section 796.07, Florida Statutes.[2] See Hoskins v. Department of Business Regulation, 592 So. 2d 1145, 1146 (Fla. 1st DCA 1992)("lap dancing" performed by dancers in lounge deemed to constitute "lewdness," within the meaning of Section 796.07, Florida Statutes).

20. The record evidence clearly and convincingly establishes that on May 27, 1998, June 2, 1998, and June 6, 1998, dancers working at the Club performed "lap dances" for Special Agent Murray and thereby engaged in "lewdness," in violation of Section 796.07(2), Florida Statutes, as alleged in the Administrative Action, as amended. Furthermore, there is clear and convincing evidence, in the form of Special Agent Murray's testimony (which the undersigned has credited) concerning the

flagrant and persistent[3] nature of these violations, establishing that they must have been either fostered, condoned, or negligently overlooked by Respondent and that therefore Respondent should be held responsible for the commission of these violations.

21. In determining the particular penalty the Department should select, it is necessary to consult Rule 61A-2.022, Florida Administrative Code, which contains the Department's "penalty guidelines." Cf. Williams v. Department of Transportation, 531 So. 2d 994, 996 (Fla. 1st DCA 1988)(agency is required to comply with its disciplinary guidelines in taking disciplinary action against its employees).

22. Rule 61A-2.022, Florida Administrative Code, establishes the "penalties that will be routinely imposed by the [Department] for violations." It provides that the "routine" penalty for "a pattern of three violations [of Chapter 796, Florida Statutes, dealing with lewd and lascivious conduct] on different dates within a 12-week period by employees, independent contractors, agents, or patrons on the licensed premises or in the scope of employment in which the licensee did not participate; or violations which were occurring in an open and notorious manner on the licensed premises" is a fine in the amount of $1,000.00.

23. There appears to be no reason to deviate from this "routine" penalty in the instant case.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department enter a final order finding Respondent liable for the violations alleged in the Administrative Action, as amended, and penalizing Respondent therefor by imposing an administrative fine in the amount of $1,000.00.

DONE AND ORDERED this 16th day of March, 1999, in Tallahassee, Leon County, Florida.

STUART M. LERNER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 16th day of March, 1999.

ENDNOTES

1/ The Club is one of approximately ten to twelve adult entertainment establishments in Palm Beach County.

2/ In its proposed recommended order, Respondent argues that, inasmuch as the Department failed "to put on any evidence whatsoever of a community standard," there is insufficient record evidence upon which to base a finding that the "lap dancing" that occurred at the Club constituted "lewdness," within the meaning of Section 796.07, Florida Statutes. In support of its argument, Respondent cites Golden Dolphin No. 2, Inc., v. Division of Alcoholic Beverages and Tobacco, 403 So. 2d 1372 (Fla. 5th DCA 1981), a case in which the appellate court determined that,

"since there was no evidence submitted to the hearing officer as to the contemporary community standards of the area [in which the licensed establishment was located], there was insufficient evidence to support a finding that the dance [performed on the licensed premises] was obscene," within the meaning of Chapter 847, Florida Statutes. Respondent's argument is not persuasive. As noted above, "lewdness," within the meaning of Chapter 796, Florida Statutes, is "define[d] in terms of either indecency or obscenity" and an act may be "lewd because it is indecent, even though [it may not be] obscene." State v. Waller, 621 So. 2d 499, 501 (Fla. 2d DCA 1993). Moreover, the holding in Golden Dolphin regarding the need for evidence as to contemporary community standards in obscenity cases tried (without a jury) by a judge or hearing officer is no longer good law inasmuch as it was overruled by the Florida Supreme Court in City of Miami v. Florida Literary Distributing Corporation, 486 So. 2d 569 (Fla. 1986). In Florida Literary Distributing Corporation, the Florida Supreme Court, disagreeing with the district court below, which had relied on Golden Dolphin, answered in the negative the question of "whether [a] trial judge, acting as a finder of fact in a proceeding where a defendant has no right to a jury trial, must be apprised of contemporary community standards by evidence presented by the governmental entity seeking to establish obscenity." The Court noted that its holding

> was best summed up by Judge Sharp's dissent in Golden Dolphin:
>
> "The general rule that a trial judge, sitting as a trier of fact, and without hearing any testimony regarding contemporary community standards, may apply what he has determined to be the common conscience of the community has been the law in our sister courts for some time.
>
> Absent a showing by the defense at trial that the judge trying the case is unaware of the community standards, I see no reason why the trial judge or hearing officer should not be able to make the obscenity determination by examining the challenged activity and applying his own knowledge of the community standards. Trial judges, like juries, are deemed competent to know community standards and apply them in other contexts. No different rule should be evolved for obscenity cases without express guidance from our two Supreme Courts."

Id. at 572

3/ It appears from a review of the findings of fact contained in the Recommended Order issued in the underlying administrative proceeding in the above-cited case of Hoskins v. Department of Business Regulation, 592 So. 2d 1145 (Fla. 1st DCA 1992) (which Recommended Order is reported at 1990 WL 749961 (Fla. Div. Admin. Hrgs.)) that the licensees in that case were held responsible for the lewd conduct of their dancers based upon testimony concerning what occurred at the licensed premises on only two dates (which were more than four months apart). In the instant case, Special Agent Murray testified regarding visits that he made to the Club on three different dates over a ten-day period, during which he observed "lap dancing." If the evidence in Hoskins was sufficient to establish the licensees' liability for the lewd conduct of their dancers (which also occurred in an area of the licensed premises with "subdued lighting"), then, a fortiori, Special Agent's Murray testimony is sufficient to establish Respondent's liability for the lewd conduct of its dancers on the dates Special Agent Murray visited the Club. See also Rule 61A-2.022, Florida Administrative Code, which suggests that a licensee may be held liable and be penalized for "a pattern of three violations [of Chapter 796, Florida Statutes, dealing with lewd and lascivious conduct] on different dates within a 12-week period by employees, independent contractors, agents, or patrons on the licensed premises or in the scope of employment in which the licensee did not participate."

COPIES FURNISHED:

Miguel Oxamendi, Esquire
Department of Business and
Professional Regulation
Office of the General Counsel
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1007

James S. Telepman, Esquire
COHEN, NORRIS, SCHERER, WEINBERGER
and WOLMER, P.A.
712 U. S. Highway One, Suite 400
North Palm Beach, Florida 33408-7146

Richard Boyd, Director
Division of Alcoholic Beverages and Tobacco
Department of Business and
  Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1007

Lynda L. Goodgame, General Counsel
Department of Professional and Business
  Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0792

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.

---

[1] The Club is one of approximately ten to twelve adult entertainment establishments in Palm Beach County.

[2] In its proposed recommended order, Respondent argues that, inasmuch as the Department failed "to put on any evidence whatsoever of a community standard," there is insufficient record evidence upon which to base a finding that the "lap dancing" that occurred at the Club constituted "lewdness," within the meaning of Section 796.07, Florida Statutes. In support of its argument, Respondent cites Golden Dolphin No. 2, Inc., v. Division of Alcoholic Beverages and Tobacco, 403 So. 2d 1372 (Fla. 5th DCA 1981), a case in which the appellate court determined that, "since there was no evidence submitted to the hearing officer as to the contemporary community standards of the area [in which the licensed establishment was located], there was insufficient evidence to support a finding that the dance [performed on the licensed premises] was obscene," within the meaning of Chapter 847, Florida Statutes. Respondent's argument is not persuasive. As noted above, "lewdness," within the meaning of Chapter 796, Florida Statutes, is "define[d] in terms of either indecency or obscenity" and an act may be "lewd because it is indecent, even though [it may not be] obscene." State v. Waller, 621 So. 2d 499, 501 (Fla. 2d DCA 1993). Moreover, the holding in Golden Dolphin regarding the need for evidence as to contemporary community standards in obscenity cases tried (without a jury) by a judge or hearing officer is no longer good law inasmuch as it was overruled by the Florida Supreme Court in City of Miami v. Florida Literary Distributing Corporation, 486 So. 2d 569 (Fla. 1986). In Florida Literary Distributing Corporation, the Florida Supreme Court, disagreeing with the district court below, which had relied on Golden Dolphin, answered in the negative the

question of "whether [a] trial judge, acting as a finder of fact in a proceeding where a defendant has no right to a jury trial, must be apprised of contemporary community standards by evidence presented by the governmental entity seeking to establish obscenity." The Court noted that its holding

> was best summed up by Judge Sharp's dissent in Golden Dolphin:
>
> "The general rule that a trial judge, sitting as a trier of fact, and without hearing any testimony regarding contemporary community standards, may apply what he has determined to be the common conscience of the community has been the law in our sister courts for some time.
>
> Absent a showing by the defense at trial that the judge trying the case is unaware of the community standards, I see no reason why the trial judge or hearing officer should not be able to make the obscenity determination by examining the challenged activity and applying his own knowledge of the community standards. Trial judges, like juries, are deemed competent to know community standards and apply them in other contexts. No different rule should be evolved for obscenity cases without express guidance from our two Supreme Courts."

Id. at 572

[3] It appears from a review of the findings of fact contained in the Recommended Order issued in the underlying administrative proceeding in the above-cited case of Hoskins v. Department of Business Regulation, 592 So. 2d 1145 (Fla. 1st DCA 1992) (which Recommended Order is reported at 1990 WL 749961 (Fla. Div. Admin. Hrgs.)) that the licensees in that case were held responsible for the lewd conduct of their dancers based upon testimony concerning what occurred at the licensed premises on only two dates (which were more than four months apart). In the instant case, Special Agent Murray testified regarding visits that he made to the Club on three different dates over a ten-day period, during which he observed "lap dancing." If the evidence in Hoskins was sufficient to establish the licensees' liability for the lewd conduct of their dancers (which also occurred in an area of the licensed premises with "subdued lighting"), then, a fortiori, Special Agent's Murray testimony is sufficient to establish

Respondent's liability for the lewd conduct of its dancers on the dates Special Agent Murray visited the Club. See also Rule 61A-2.022, Florida Administrative Code, which suggests that a licensee may be held liable and be penalized for "a pattern of three violations [of Chapter 796, Florida Statutes, dealing with lewd and lascivious conduct] on different dates within a 12-week period by employees, independent contractors, agents, or patrons on the licensed premises or in the scope of employment in which the licensee did not participate."