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BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	
Proposed Suspension of the)	
Package Store (PS))	
License held by:)	FINAL
)	FINDINGS OF FACT,
Michael and Chrysoula Taramas)	CONCLUSIONS OF LAW,
TUALATIN HEIGHTS MARKET)	AND ORDER
5435 SW Taylors Ferry Road)	
Portland, Oregon 97201)	
- - - - -)	
Multnomah County)	

A hearing in the above matter was held on the 4th and 25th days of January, 1982, in Portland, Oregon, before Hearings Examiner Douglas Crumme'. The Licensees appeared in person and were represented by Thomas Lekas, Attorney at Law. The Commission was represented by legal counsel.

RECORD OF PREVIOUS VIOLATIONS

<u>DATE</u>	<u>VIOLATION</u>	<u>DISPOSITION</u>
May 9, 1981	Sale to minor; failure to properly check identification	7 day suspension or \$455 fine

The Commission having considered the record of the hearing, the applicable law and regulations, the Proposed Order of the Hearings Examiner, and now being fully advised, makes the following:

FINDINGS OF FACT

1. Michael and Chrysoula Taramas have held a Package Store (PS) license at the TUALATIN HEIGHTS MARKET, 5435 SW Taylors Ferry Road, Portland, Oregon, at all times relevant to the Findings of Fact below.

2. The Licensees have been charged with the violation of the following on both September 11 and September 14, 1981: ORS 471.315(1)(g) (knowing sale to minors) and ORS 471.130(1) (failure to properly check identification or take a Statement of Age card).

3. Andrew Fraser and Steve Goodwin entered the Tualatin Heights Market at about 10:30 p.m. on September 11, 1981.

4. Mr. Fraser was 17 years old on September 11, 1981. Mr. Goodwin was 18 years old on this date.

5. Mr. Fraser ordered a half-case of Rainier Beer from a clerk at the check-out counter. The clerk got the beer and brought it to the check-out counter. Mr. Goodwin gave money to Mr. Fraser, who paid the clerk. At the same time, Mr. Goodwin purchased a pack of gum. The clerk did not question Mr. Fraser's and Mr. Goodwin's ages or ask to see any identification.

6. Mr. Fraser and Mr. Goodwin appeared under 21 years of age on September 11, 1982 due to their youthful facial features.

7. The clerk gave Mr. Goodwin his gum. The clerk asked Mr. Fraser if the car visible through the window outside the store was his. Mr. Fraser said 'yes'.

8. The clerk told Mr. Fraser to go outside the store and around to an openable window that the Licensee had installed in order to make drive-in souvlaki sales. Mr. Fraser did so and the clerk handed Mr. Fraser the Rainier Beer in a sack through the window. The clerk said something to the effect of "put it in the car quickly".

STRICKEN PURSUANT TO COURT ORDER

The licensees have been charged with the violation of...
...on both September 11 and September 12, 1982...
...knowing that he should and was...
...to a party check identification of the...
of the party...

...and Steve Gordon entered the...
...on September 11, 1982...
...was 17 years old on September 11, 1982...
...was 18 years old on this date.

...ordered a half case of Rainier Beer from...
...the check-out counter. The clerk got the beer and...
...the check-out counter. Mr. Gordon gave money...
...said the clerk. At the same time Mr. Gordon...
...Mr. Gordon

...The clerk did not question...
...and Mr. Gordon's eyes to see any identification...
...and Mr. Gordon requested under 21 years of...
...on September 11, 1982 and on September 12, 1982...
...The clerk gave Mr. Gordon his gun. The clerk asked...
...the car visible through the window outside the...
...the car was...

...The clerk told...
...to go out... the store and...
...to an adjacent window that the licensees had testified to...
...order to view drive-in souvenir signs... did so and...
...the Rainier Beer in a sack through...
...The clerk said something to the effect of "but it...
...is the not only..."

STRIKEN PURSUANT TO COURT ORDER

9. Licensee Michael Taramas' brothers Georgios Taramas and John Taramas were working as clerks at the time of the sale to ~~Mr. Fraser~~ described above. Licensee Michael Taramas was in the store behind the counter at the time of the sale.

10. ~~Mr. Fraser~~ was apprehended by Commission Enforcement Officers almost immediately after taking the Rainier Beer from the drive-in souvlaki window. The Enforcement Officers contacted Licensee Michael Taramas a short while later. Mr. Taramas asserted that there had been no beer sales at the premises in the previous two hours.

11. Gordon Olson, ~~Mike Adams~~, David Davenport and an unidentified female juvenile drove to the Tualatin Heights Market on the evening of September 14, 1981.

12. The Findings described below occurred on September 14, 1981 unless otherwise noted.

13. David Davenport was 18 years old on September 14, 1981.

14. After the four youths arrived at the store, David Davenport and ~~Mike Adams~~ entered. They asked an unidentified clerk if it was all right to buy beer. The clerk said to come back in about 15 minutes.

15. Mr. Davenport and ~~Mr. Adams~~ left and then reentered the Tualatin Heights Market at about 9:50 p.m. There were no other patrons in the premises when they reentered.

16. Shortly after Mr. Davenport reentered the premises at about 9:50 p.m., Licensee Michael Taramas walked out of the store and looked up and down the road. The unidentified clerk

STRICKEN PURSUANT TO COURT ORDER

1. Licensee Michael James [redacted] and John James were working as clerks at the time of the sale to [redacted] described above. Licensee Michael James was in the store behind the counter at the time of the sale.

2. [redacted] was apprehended by Constable [redacted] officers almost immediately after taking the [redacted] the drive-in window. The Enforcement Officer [redacted] and Licensee Michael James a short while later. Mr. James stated that there had been no post sale activity observed in the previous two hours.

3. Gordon [redacted] David [redacted] and [redacted] identified [redacted] to the [redacted] on the evening of September 14, 1981.

4. The findings described only occurred on [redacted] 1981 unless otherwise noted.

5. David [redacted] was 18 years old on September 14, 1981.

6. After the four hours expired at the store, David [redacted] and [redacted] entered [redacted] they went to [redacted] if it was all right to buy beer. The clerk said to [redacted] in about 15 minutes.

7. Mr. [redacted] and [redacted] the [redacted] height [redacted] at about 8:00 p.m. There was no [redacted] in the premises when they [redacted].

8. Shortly after Mr. [redacted] rendered the [redacted] at 8:00 p.m., Licensee Michael James walked out of the [redacted] and looked up and down the road. The unidentified [redacted]

referred to in Findings of Fact No. 14 above came out, talked to Mr. Taramas, and went back inside.

17. After reentering at 9:50 p.m., Mr. Davenport told the unidentified clerk what he wanted. Someone went to retrieve two cases of Bohemian Beer and brought them to the counter. Mr. Davenport then purchased the beer from the unidentified clerk.

18. Licensee Michael Taramas and his brother Georgios Taramas were on the premises during the sale to Mr. Davenport. The unidentified clerk who made the sale was not either Michael or Georgios Taramas.

19. David Davenport was not asked his age or to show identification during the September 14, 1981 sale. Mr. Davenport had not shown identification previously at the premises.

20. David Davenport appeared under 21 years of age on September 14, 1981 due to his youthful facial features and rather slight stature.

21. David Davenport had obtained beer at the Tualatin Heights Market on occasions prior to September 14, 1981.

22. At one point during the September 14, 1981 sale to Mr. Davenport, Licensee Michael Taramas was standing near the door, a few feet from the sales counter. Mr. Taramas said to Mr. Davenport that "he was only selling beer to about 10 or 11 people, that he got caught," indicating that Mr. Taramas knew Mr. Davenport to be a minor, and that Mr. Taramas was making an attempt to limit such sales that evening to avoid detection.

23. One of the Tualatin Heights Market clerks carried the two cases of Bohemian Beer out of the store and gave them to Mr. Davenport, who put them in the car.

24. Minor Gordon Olson has been to the Tualatin Heights Market on many occasions to buy beer with acquaintances. Mr. Olson has remained outside on these occasions. On five or six of these occasions someone from the store carried the beer out to the car.

25. Commission Sr. Inspector, Ronald Heintzman, stopped the vehicle that Mr. Davenport was in after the youths drove away. Mr. Davenport told Sr. Inspector Heintzman he did not want anything to happen to the juvenile female who was with him. The juvenile female was Mr. Davenport's girlfriend and had had previous scrapes with the law. Mr. Heintzman advised that nothing would happen to the juvenile female if Mr. Davenport cooperated in the investigation. Mr. Heintzman advised the youths that he could arrest them and take them downtown or they could cooperate and be cited for "Minor in Possession".

26. The Licensees no longer employ Georgios Taramas as a clerk.

27. Two or three weeks after September 14, 1981, the Licensees placed signs in the Tualatin Heights Market announcing that there would be no sales to minors.

28. Since September 14, 1981, the Licensees have confiscated several pieces of apparently false identification from patrons at the Tualatin Heights Market.

29. Licensee Michael Taramas has worked as a bartender and door man at the Copper Penny, a Dispenser Class A outlet in Portland. Mr. Taramas has not been cited by the Commission for any violations at the Copper Penny.

DISCUSSION

The Commission found the testimony of Sr. Inspector Heintzman to be credible, despite certain evidence introduced by the Licensee directed towards establishing bias on Mr. Heintzman's part.

Licensee Michael Taramas testified that Sr. Inspector Heintzman said something to the effect of "I know you Greeks" to Mr. Taramas on September 11, 1981. Mr. Heintzman testified he did not make such a statement. The Commission concludes that the credibility of Michael Taramas at the hearing was poor and that the record does not establish by a preponderance that Mr. Heintzman made such a statement.

After Mr. Heintzman returned to the Tualatin Heights Market with David Davenport and his companions on September 14, 1981 Licensee Michael Taramas arrived. Mr. Taramas was angry and was yelling at the youths. Mr. Taramas asked Sr. Inspector Heintzman about the investigation and whether he wanted to close Mr. Taramas' place. Mr. Heintzman replied in the affirmative.

Mr. Heintzman had been involved in a previous matter with the Licensees at the Tualatin Heights Market in May, 1981. On that occasion, Michael Taramas threatened Mr. Heintzman and swore at him.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission may cancel or suspend any license if it finds or has a reasonable ground to believe that the licensee, or his or its agent, employee or representative, has knowingly sold alcoholic liquor to a person(s) under the age of 21 years. ORS 471.315(1)(g). The requirement of "knowledge" is satisfied where there is a reasonable ground to believe that the seller knew that the purchaser of alcoholic liquor was under the age of 21 years. Plaid Pantries, Inc. v. OLCC, 16 Or. App. 199, 203 (1974).

The Commission concludes that the Licensees violated ORS 471.315(1)(g) on September 11, 1981 in the case of Mr. Fraser and on September 14, 1981 in the case of Mr. Davenport. On both dates there are reasonable grounds to believe that the Licensees knew the purchasers were under 21 years of age because Mr. Fraser and Mr. Davenport appeared under 21 years of age. That the sales were knowing is further established by the steps taken to conceal the sale to Mr. Fraser by passing the beer out the drive-in window and telling Mr. Fraser to put the beer in the car quickly, and by the Licensee's statement to Mr. Davenport on September 14, 1981 that he was only selling beer to 10 or 11 persons that evening because he had recently been caught.

The identities of the particular clerk or clerks who participated in the sales to Mr. Fraser on September 11, 1981 and to Mr. Davenport on September 14, 1981 were not clearly established. However, Licensee Michael Taramas was in the premises in a position to observe part or all of both sales. It is concluded that the clerks who made the sales were performing either as the employees or agents of the Licensees.

2. All licensees, and their agents, representatives and employees, and all Service Permittees of the Commission, before selling or serving alcoholic liquor to any person about whom there is any reasonable doubt of the persons having reached 21 years of age, shall require such person to produce the person's motor vehicle operator's license or if the license does not bear a photograph of the operator, then an identification card issued by the Oregon Department of Motor Vehicles pursuant to ORS 482.900, et seq. However, if the person has no motor vehicle operator's license or identification card, the licensee, or his agent, representative or employee, or the Service Permittee shall require such person to make a written statement of age and furnish evidence of the person's true age and identity. Licensees, permittees and employees of licensees must examine all documents submitted as evidence of age and identity by persons of questionable age, shall be responsible for accurately recording the information from any such documents on statement of age forms, and shall refuse to sell or serve any alcoholic liquor to any person offering any altered, erased or falsely represented document of age and identification. ORS 471.130(1), and OAR 845-06-035(5).

The Licensees violated ORS 471.130 on September 11, 1981 in the case of **Mr. Fraser** and on September 14, 1981 in the case of Mr. Davenport. The Licensees had reasonable grounds to believe these two gentlemen were under 21 years of age due to their youthful appearances. No identification was requested.

ULTIMATE CONCLUSIONS OF LAW

1. The Commission may cancel or suspend a license if it finds or has reasonable grounds to believe that a licensee, or any of its principal officers, has violated any provision contained in ORS Chapter 471 or any rule adopted pursuant thereto. ORS 471.315(1)(a).

The Commission concludes that the Licensees violated ORS 471.315(1)(g) (knowing sale to minor) and ORS 471.130 (failure

to properly check identification or take a Statement of Age card) on September 11, 1981 and September 14, 1981.

The seriousness of the Licensees' violations is aggravated by factors noted in Findings of Fact Nos. 8 and 22.

FINAL ORDER

It is hereby ordered that the Package Store (PS) license held by Michael and Chrysoula Taramas at the Tualatin Heights Market, 5435 SW Taylors Ferry Road, Portland, Oregon, be CANCELLED.

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

Dated this 24th day of May, 1982.



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.