

BEFORE THE LIQUOR CONTROL COMMISSION  
OF THE STATE OF OREGON

In the Matter of the	)	
Proposed Suspension	)	
of the Service Permit	)	
Held by:	)	
	)	FINAL
TAMMY D. ALTER	)	FINDINGS OF FACT,
SERVICE PERMITTEE	)	CONCLUSIONS OF LAW,
1490 Resort Street	)	AND ORDER
Apt. No. C-9	)	
Baker, OR 97814	)	
- - - - -	)	
Baker County	)	

A hearing in the above matter was held on the 13th day of October, 1983, in Baker, Oregon, before Hearings Examiner Allen R. Scott. The Service Permittee appeared in person and was not represented by legal counsel. The Commission was not represented by legal counsel.

The Hearings Examiner, having considered the record of the hearing, the applicable law and regulations and being fully advised, issued a Proposed Order dated December 19, 1983.

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. TAMMY D. ALTER has held a Service Permit at all times relevant to these Findings of Fact.

2. Service Permittee has been charged with violation of ORS 471.385(1)(b) (convicted of theft in the first degree, a class "C" Felony).

3. During mid 1982, Service Permittee Alter stole approximately \$6,000 from an employer over a period of months.

4. As a result, Ms. Alter was convicted on March 4, 1983 of "Theft in the First Degree" in the Circuit Court for Umatilla County. The crime was a felony.

5. As a result of the conviction, Ms. Alter was sentenced to five years probation and ordered to make restitution of the \$6,000.

6. The theft involved did not relate to the alcoholic beverage industry.

7. Ms. Alter committed the theft in order to support a drug habit.

8. Following her conviction, Ms. Alter received counseling at the Baker County Council on Alcohol and Drug Problems. Her counselor later wrote a letter to her probation officer stating, in pertinent part:

"This letter is to inform you of Tammy's successful completion of an evaluation that I was asked to do. Tammy has complied quiet (sic) well with the conditions that the court has placed upon her, and if she did miss an appointment, which happened a few times she called to explain this. At this point she has been terminated and is being referred back to you."

9. H. Clifford Colvin, Ms. Alter's probation officer, has written a letter to the OLCC stating as follows:

"The defendant has been under the supervision of this office since April 24, 1983 having been placed on probation for a period of five years.

"During that time we have noted no supervisory problems, and she appears to be complying to the conditions of her probation to the best of her ability.

"Defendant has completed evaluation and treatment at the Baker County Alcohol and Drug Program, and it would appear that her abuse of controlled substances was situational and not long term.

"We strongly urge that her license be reinstated, that doing so will improve her chances of completing probation successfully."

10. Ms. Alter has worked at the Royal Cafe and Shangrila Room in Baker for more than one year. She works as a waitress, serving cocktails and food in the restaurant area. She has also been trained in other jobs which require a Service Permit.

11. Ms. Alter's present employer, Donna Luccetti, owner of the Royal Cafe and Shangrila Room, testified at the hearing that Ms. Alter does a "fantastic" job, that she trusts Ms. Alter, and that Ms. Alter has presented no problems as an employee.

12. The Chief of Police of Baker, Donald C. Humphress, testified at the hearing in support of Ms. Alter. He testified that he has observed her working and considered her to be a

skilled waitress. He has observed no objectionable behavior. He asserted that there is no "useful purpose" in putting her out of work.

13. Ms. Alter obtained a loan with which to make the \$6,000 restitution that was ordered by the Court. She is now in the process of paying off the loan.

14. Ms. Alter is 25 years of age.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission may revoke or suspend a service permit, or impose a monetary penalty in lieu of or in addition to suspension if it finds that the permittee has been convicted of a felony. ORS 471.385(1)(b).

Service Permittee Tammy Alter was convicted of a felony on March 4, 1983. There is thus a legal basis for a cancellation of the Permit.

The Commission concludes, however, that cancellation of the Permit is not warranted in this situation. The crime involved was not connected with liquor or the liquor industry. The evidence indicates that Ms. Alter has made successful attempts to rehabilitate herself to this point. She needs a job to continue such rehabilitation. She has the strong support of her probation officer as well as her employer and the local Chief of Police. The evidence also indicates that Ms. Alter's drug use, which was the cause of the theft, is no longer a problem. For these reasons, the Commission concludes that Ms. Alter's Service Permit should not be cancelled.

Under the statute noted above, the Commission may suspend, rather than cancel, the Service Permit for conviction of a felony. The Commission is of the opinion, however, that a suspension or fine would serve no purpose in this case. It would appear that the statute involved is designed to give the Commission discretion to cancel the permit of someone who is unfit to work as a bartender. In this case, the Commission concludes that Ms. Alter is not unfit. A fine or suspension would serve no good purpose but might interfere with her attempts to rehabilitate herself.

#### 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 Service Permittee violated ORS 471.385(1)(b).

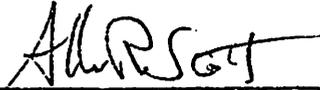
The Commission, concludes, however, that circumstances do not call for a cancellation or suspension of the Permit.

#### FINAL ORDER

It is hereby ordered that Tammy D. Alter, Service Permittee, 1490 Resort Street, Apt. No. C-9, Baker, Oregon 97814, receive a Letter of Reprimand.

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

Dated this 9th day of January, 1984.



Allen R. Scott  
Hearings Examiner  
Hearings Division



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.