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BEFORE THE LIQUOR CONTROL COMMISSION  
OF THE STATE OF OREGON

In the Matter of the	)	
Application for a	)	
Service Permit by:	)	
	)	FINAL
	)	FINDINGS OF FACT,
SCOTT BOWMAN	)	CONCLUSIONS OF LAW,
1797 Williams Highway	)	AND ORDER
Grants Pass, Oregon 97526	)	
- - - - -	)	OLCC-85-SP-003
Josephine County	)	

A hearing in this matter was held on February 21, 1985, in Grants Pass, Oregon, before Hearings Examiner Douglas Crumme'. The Applicant appeared and was not represented by legal counsel. The Commission was not represented by legal counsel.

The Hearings Examiner considered the record of the hearing, the applicable law and issued a Proposed Order dated March 12, 1985.

No Exceptions to the Proposed Order were filed within the fifteen (15) day period specified in OAR 845-03-050.

The Commission adopts the Proposed Order of the Hearings Examiner as the Final Order of the Commission, and enters the following:

BACKGROUND

Scott Bowman, 1797 Williams Highway, Grants Pass, Oregon has applied for a service permit. Mr. Bowman was employed for approximately two months in the summer of 1984 at a pizza restaurant in Grants Pass. In this position, Mr. Bowman performed various duties, including serving beer and wine. Mr.

Bowman no longer works at this restaurant. However, he desires a service permit in the hopes of obtaining a similar position.

#### ISSUES

The Commission's Enforcement Division proposes that Mr. Bowman's service permit application be refused on the grounds he is in the habit of using alcoholic beverages or controlled substances to excess. ORS 471.380(1).

#### USE OF CONTROLLED SUBSTANCES

The commission may refuse to grant a service permit if it has reasonable grounds to believe any of the following to be true:

(1) That the applicant is in the habit of using alcoholic beverages or controlled substances to excess. ORS 471.380(1).

#### Findings of Fact

1. Mr. Bowman was arrested on December 7, 1983 in Grants Pass and charged with Burglary in the Second Degree, Unauthorized Use of a Motor Vehicle, Theft in the Second Degree and Theft in the First Degree. The charges stemmed from separate incidents occurring on different dates during the two-week period prior to December 7, 1983.

2. Mr. Bowman was found not guilty of the four charges listed in the Finding of Fact above by reason of mental defect or disease stemming from drug use.

3. The drugs that Mr. Bowman used during the time of the criminal charges listed in Finding of Fact No. 1 included marijuana, LSD, opium, and hallucinogenic mushrooms.

4. Mr. Bowman's drug use began at age 19, with marijuana. He is now 21 years old.

5. Mr. Bowman has used LSD twice and marijuana approximately twice a month since December 1983.

6. In being found not guilty of the four charges listed in Finding of Fact No. 1, the court ordered that Mr. Bowman seek psychiatric counseling. Mr. Bowman has done so. Every eight weeks he has a counseling session with a Grants Pass psychiatrist, Dr. Solen.

7. The record of the hearing was held open for ten days in order to give Mr. Bowman the opportunity to submit for the record a letter from Dr. Solen regarding his assessment of Mr. Bowman's ability to work as a bartender. However, a letter had not been received from Dr. Solen as of the date of the Proposed Order.

8. Mr. Bowman's drug use at the time of the incidents that led to the four criminal charges listed in Finding of Fact No. 1 was much heavier than his drug use since his arrest in December of 1983.

9. Mr. Bowman believes that he would be able to perform bartending duties properly while under the influence of marijuana or LSD.

10. Mr. Bowman views his use of hallucinogenics as a form of religious expression.

11. Mr. Bowman was not involved in any violations of the liquor laws during his employment at a pizza restaurant for two months during the summer of 1984.

#### DISCUSSION

In a December 10, 1984 interview with Commission Enforcement Inspector Steve Syron, Mr. Bowman said that he had not

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used any drugs since his arrest in December 1983. However, at his February 21, 1985 hearing, Mr. Bowman initially testified that he had used LSD approximately two times and marijuana two times a month since December 1983. When Inspector Syron pointed out this discrepancy later on in the hearing and suggested the discrepancy showed a false statement, Mr. Bowman then testified that he had not used any drugs since December 1983.

The Commission finds that Mr. Bowman's initial testimony that he has used LSD and marijuana since December 1983 was truthful and that he gave this testimony in an attempt to be candid. It appears Mr. Bowman decided to change his testimony when he got the impression he could get in trouble for making false statements.

#### Conclusions of Law

The evidence reveals that Mr. Bowman is in the habit of using controlled substances to excess. His drug use has been excessive enough that he was found not guilty of four separate serious criminal charges on the ground that he was suffering from a mental defect or disease because of drug use in December 1983. He has continued to use marijuana and LSD since that time and he believes that he would be able to function properly as a bartender while under the influence of these drugs. Thus, there has been insufficient time and insufficient evidence of change since Mr. Bowman's serious drug use problems in December 1983 to overcome the conclusion that Mr. Bowman is in the habit

of using controlled substances to excess. The Commission should deny this application under ORS 471.380(1).

FINAL ORDER

The Commission orders that Scott Bowman's application for a service permit be REFUSED.

It is further ordered that notice of this action, including the reasons for it, be given as provided by law.

Dated this 9th day of April, 1985.

  
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Douglas Crumme  
Hearings Examiner  
Hearings Division

  
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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.