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BEFORE THE LIQUOR CONTROL COMMISSION  
OF THE STATE OF OREGON

In the Matter of the	)	
Application for an	)	
Extension of Closure	)	
by:	)	FINAL
	)	FINDINGS OF FACT,
Alice Randall	)	CONCLUSIONS OF LAW,
ALICE'S TIMBERNOOK	)	AND ORDER
669 Mist Drive	)	
Vernonia, OR 97064	)	
- - - - -	)	
Columbia County	)	

A hearing in the above matter was held on the 8th day of July, 1983, in Portland, Oregon, before Hearings Examiner Jill Thompson. The Applicant appeared in person and was represented by Louise Jayne, Attorney at Law, Portland, Oregon. The Commission was not represented by legal counsel.

JURISDICTIONAL RULING

During the course of the hearing the Hearings Examiner learned that Applicant's request had been formally denied by the Commission at its May 23, 1983 meeting. Applicant was so advised by letter dated May 26, 1983. By letter of June 10, 1983 she requested a hearing on the Commission's Final Order. Ordinarily a Commission Order is reviewable only in the Court of Appeals. Nevertheless, Applicant was granted a hearing by Commission staff to consider her request; she was not informed that, without filing and being granted a petition for rehearing by the Commission, her application could not be further considered by the Hearings Division. Under the circumstances the Hearings Examiner rules that the request for a hearing will be

treated as a successful petition for rehearing, and this Final Order will be referred to the Commission for its review.

The Commission having considered the record of the hearing, the Proposed Order of the Hearings Examiner, and the entirety of the Criteria for the Issuance and Maintenance of Licenses and applicable statutes and regulations, enters the following:

FINDINGS OF FACT

1. At all times relevant to the facts herein, Alice Randall held a Dispenser Class A (DA) license at ALICE'S TIMBERNOOK, 669 Mist Avenue, Vernonia, Oregon.

2. About March 1, 1983 a fire substantially destroyed the premises, and it has been closed since then. On March 15, 1983 Applicant notified the Commission that the Timbernook had been closed. On March 21, 1983 she was advised by the Commission that she could remain closed until July 1, 1983. On April 11, 1983 Applicant requested a hearing on that decision and stated she needed an extension. On April 28, 1983 she was granted without a hearing a further extension until September 1, 1983. She was also advised that her request for a further extension would be considered by the Commission at its May meeting.

3. The estimated cost to repair the premises and contents is \$275,000 to \$304,000. A dispute exists among Applicant's creditors over priority of distribution of the insurance proceeds; until the dispute is settled Applicant will not have the funds to rebuild.

4. Regardless of when she receives the insurance settlement, Applicant does not intend to reopen Alice's Timbernook at its current site because of the depressed economy in the area.

5. Applicant has applied for a change of location of her license, or intends to do so. She hopes to establish a joint enterprise with another entity to operate a resort-type establishment.

6. The notice of hearing sent to Applicant erroneously stated the hearing would cover a change of location request. However, at that time no such request had been filed, and Applicant's attorney stated at the hearing she was prepared and able to proceed on the extension of closure request.

#### ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission may cancel the license, or otherwise penalize the licensee, for failure of the licensee to give notice of closure as required by section (1) or to reopen the premises or to complete construction or remodeling within the time specified by the Commission. OAR 845-06-105(3).

On May 23, 1983 the Commission revoked staff approval for Applicant to remain closed until July 1, 1983. Extension of the closure is again before the Commission. Based on Applicant's stated intent to never reopen at her current site an extension of closure is not warranted.

#### ULTIMATE CONCLUSIONS OF LAW

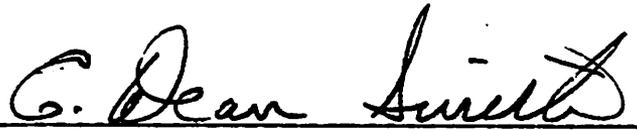
The license should be cancelled because the premises will never be reopened.

FINAL ORDER

It is hereby ordered that the Dispenser Class A (DA) license held by Alice Randall at Alice's Timbernook, 669 Mist Drive, Vernonia, Oregon be CANCELLED for failure to reopen the premises with no intent to reopen in the future.

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

Dated this 21st day of November, 1983.



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.