

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the ~~Petition~~ Application

of

J & G VENDING CORPORATION

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

License as a Wholesale Dealer
For a ~~Redetermination of a Deficiency or~~
~~Refund~~ of Cigarettes
Taxes under Article(s) 20 of the
Tax Law for the ~~Year(s)~~

State of New York
County of Albany

Lynn Wilson, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of August, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon J & G VENDING CORPORATION (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: J & G Vending Corporation
P. O. Box 95
Salisbury Mills, New York 12577
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) petitioner herein and that the address set forth on said wrapper is the last known address of the (representative of the) petitioner.

Sworn to before me this

28th day of August, 1973.

Lynn Wilson
George S. Kennerly

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the ~~RETURN~~ Application

of

J & G VENDING CORPORATION

License as a Wholesale Dealer;
For a ~~determination of a deficiency~~
~~Refund~~ of Cigarettes
~~Taxes~~ under Article(s) 20 of the
Tax Law ~~for the year(s)~~

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Lynn Wilson , being duly sworn, deposes and says that

she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 28th day of August , 1973 , she served the within

Notice of Decision (or Determination) by (certified) mail upon ANDREW MAURIELLO,
Finkelstein, Mauriello, Kaplan &
ESQ.- Levine, Esqs. (representative of) the petitioner in the within

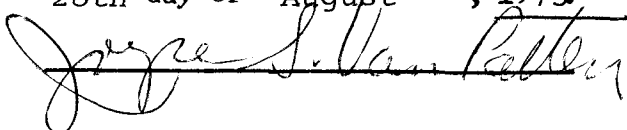
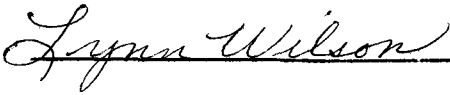
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
Andrew Mauriello, Esq.
wrapper addressed as follows: Finkelstein, Mauriello, Kaplan & Levine, Esqs.
184 Liberty Street
Newburgh, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

28th day of August , 1973.



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Mario A. Procaccino,
~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
August 28, 1973

J & G Vending Corporation
P. O. Box 95
Salisbury Mills, New York 12577

Gentlemen:

Please take notice of the **DETERMINATION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **478** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **30 days**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,


Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE TAX COMMISSION

In the Matter of the Application :
of :
J & G VENDING CORPORATION : DETERMINATION
for a License as a Wholesale Dealer :
of Cigarettes pursuant to Article 20 :
of the Tax Law. :
:

ISSUE

FINDINGS OF FACT

1. On or about November 7, 1972, applicant, J & G Vending Corporation, filed an application for a license as a wholesale dealer of cigarettes with the Miscellaneous Tax Bureau.

2. On March 15, 1973, the Miscellaneous Tax Bureau denied applicant, J & G Vending Corporation's application for a license as a wholesale dealer of cigarettes.

3. On March 27, 1973, applicant, J & G Vending Corporation, demanded a hearing by the State Tax Commission to review the denial of its application for a license as a wholesale dealer of cigarettes.

4. Applicant, J & G Vending Corporation, was incorporated in New York State on October 2, 1972. The president of the corporation is Louis F. Gazzola, Jr. The treasurer of the corporation is Joseph Colombo, Jr. The aforesaid officers each own fifty percent of the stock and are directors of the corporation. Part of Mr. Gazzola, Jr.'s duties as president of the corporation is to solicit new accounts.

5. Applicant, J & G Vending Corporation, is engaged in the business of operating cigarette vending machines in Orange County, New York. At the time of the filing of the application for a license as a wholesale dealer of cigarettes, it owned five vending machines and purchased approximately 2,000 packages of cigarettes a month. At the time of the formal hearing, it owned ten vending machines of which seven were on location.

6. Louis F. Gazzola, Jr. and Joseph Colombo, Jr. each invested approximately \$1,000.00 in J & G Vending Corporation at the time of its formation. The corporation borrowed \$5,800.00 from the First National Bank of Newburgh, New York, to finance the

purchase of the cigarette vending machines. The two officers personally guaranteed the corporate note to the bank. Subsequently, the note was called by the bank and was paid off by Joseph Colombo, Jr. The corporation is presently paying back Mr. Colombo, Jr. out of the revenues it derives from the sale of cigarettes. The officers of the corporation have not received any salaries from the corporation since its inception.

7. In 1952, Louis F. Gazzola, Jr. was convicted in the Supreme Court of the State of New York, County of Bronx of a crime punishable by imprisonment for a term exceeding one year, to wit, robbery in the second degree.

8. In 1954, Louis F. Gazzola, Jr. was convicted in the County Court, Orange County, State of New York of a crime punishable by imprisonment for a term exceeding one year, to wit, grand larceny in the second degree.

9. In 1960, Louis F. Gazzola, Jr. purchased a small cigarette vending route in Orange County. He sold the business in 1962 for \$3,500.00.

10. Between 1962 and 1972, Louis F. Gazzola, Jr. worked as a mason, a foreman and a shop steward for Bricklayers Local No. 5, Newburgh, New York.

11. In 1966, Louis F. Gazzola, Jr. pleaded guilty in the Justice Court of the Town of New Windsor to the crime of disorderly conduct resulting from an incident in a luncheonette in Newburgh, New York. He was fined \$50.00.

12. In 1972, Louis F. Gazzola, Jr. was convicted in the United States District Court for the Southern District of New York of one count of unlawfully, willfully and knowingly receiving, possessing and transporting in commerce a firearm, to wit, a Winchester Model 1400 shotgun in violation of Title 18, U.S. Code Appendix, Section 1202(a)(1) and of four counts of unlawfully, willfully and knowingly making a false and fictitious oral and written statement in that he represented that he had not been convicted in any court of a crime punishable by imprisonment for a term exceeding one year in violation of Title 18, U.S. Code, Section 922(a)(6). He was imprisoned for six months, fined \$2,000.00 and placed on probation for three years.

13. Louis F. Gazzola, Jr. resided in Beaver Dam Lake, New York, from 1952 until the present time, except during the periods of time he was incarcerated. He is 39 years old, married, owns his own home, and has an eleven-year-old adopted son.

CONCLUSIONS OF LAW

A. That the character and reputation of the officers of applicant, J & G Vending Corporation, are decisive elements in the appraisal of the character of the corporation since licensing of a corporate applicant as a wholesale dealer of cigarettes pursuant to Article 20 of the Tax Law entails consideration of the qualifications of the principals through which the corporation will act.


B. That the past criminal record of Louis F. Gazzola, Jr., President of J & G Vending Corporation, is incompatible and inconsistent with the responsibilities assumed by the corporation as a

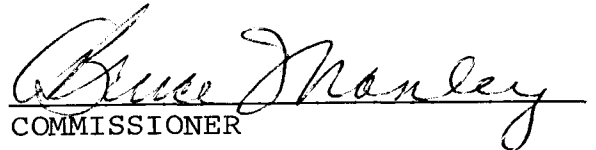
wholesale dealer of cigarettes pursuant to Article 20 of the Tax Law and therefore the corporation is not a fit and proper party to be so licensed.

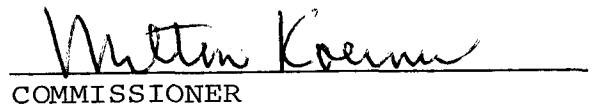
C. That the denial by the Miscellaneous Tax Bureau of the application of J & G Vending Corporation for a license as a wholesale dealer of cigarettes is sustained.

DATED: Albany, New York
August 28, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER