

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the ~~XXXXXX~~
Application :
of :
ATHENS VENDING CORPORATION :
License as a Wholesale Dealer :
For a ~~Redetermination of XXXX Deficiency or~~
~~Refund of~~ Cigarettes :
Taxes under Article(s) 20 of the :
Tax Law ~~for the Year(s)~~ :
~~XXXXXXXXXX~~

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~(XXXXXX)~~ MAIL

State of New York
County of Albany

MARYLOU SAMUELS

, 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 13th day of May , 1976, she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Athens 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: Athens Vending Corporation
305 Amsterdam Avenue
New York, 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

13th day of May , 1976.

Janet Mack

Marylou Samuels

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the ~~Refund~~
Application :
of
ATHENS VENDING CORPORATION :
License as a Wholesale Dealer :
For a ~~Refund~~ of Cigarettes :
a ~~Refund~~ of Cigarettes :
~~Taxes~~ under Article(s) 20 of the :
Tax Law ~~for the Year(s)~~ :
~~for the Year(s)~~

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~CERTIFIED~~ MAIL

State of New York
County of Albany

MARYLOU SAMUELS, 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 13th day of May, 1976, she served the within Notice of ~~Decision~~ (or Determination) by ~~certified~~ mail upon Patrick M. Wall (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Patrick M. Wall, Esq.
Wall & Beck, Esqs.
36 West 44th Street
New York, 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

13th day of May, 1976.

Janet Mack

Marylou Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

May 13, 1976

TELEPHONE: (518) **457-3850**

Athens Vending Corporation
305 Amsterdam Avenue
New York, New York

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 **4 months**
from the date of this notice.

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. They
will be referred to the proper party for reply.

Very truly yours,

PAUL B. COBURN
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
ATHENS VENDING CORPORATION : DETERMINATION
for a License as a Wholesale Dealer of :
Cigarettes under Article 20 of the Tax :
Law. :

Applicant, Athens Vending Corporation, 305 Amsterdam Avenue, New York, New York, has filed an application for a license as a wholesale dealer of cigarettes under Article 20 of the Tax Law. A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 16, 1975, at 9:30 A.M. Applicant appeared by Wall & Beck, Esqs., (Patrick M. Wall, Esq. of counsel). The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq., (James A. Scott, Esq. of counsel).

ISSUE

Should a license as a wholesale dealer of cigarettes pursuant to Article 20 of the Tax Law be issued to Athens Vending Corporation?

FINDINGS OF FACT

1. On or about June 20, 1975, applicant, Athens Vending Corporation, filed an application for a license as a wholesale dealer of cigarettes with the Miscellaneous Tax Bureau.

2. On July 15, 1975, the Miscellaneous Tax Bureau denied applicant, Athens Vending Corporation's application for a license as a wholesale dealer of cigarettes.

3. On July 18, 1975, applicant, Athens 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, Athens Vending Corporation, was incorporated in New York State on June 13, 1975. The President of the corporation is Richard Bell.

5. On November 8, 1973, Richard Bell was convicted upon a jury verdict in Supreme Court, New York County, of attempted possession of a dangerous drug in the first degree, burglary in the first degree and attempted grand larceny in the second degree.

6. On October 3, 1974, the Appellate Division, First Department held that the judgment rendered on November 8, 1973, convicting applicant, Richard Bell, after trial should be reversed and ordered a new trial. People v. Richard Bell, 45 A.D. 2d 362, 357 N.Y.S. 2d 539, (1st Dept., 1974).

7. On November 19, 1975, the Court of Appeals affirmed the order of the Appellate Division reversing the conviction of Richard Bell and ordering a new trial. People v. Richard Bell, ____ N.Y. ____; ____ N.Y.S. 2d ____ (1975).

8. At the date of the formal hearing Richard Bell was still under indictment on the aforesaid charges, but had not been retried. A date for retrial had not been set.

9. Richard Bell was present at the formal hearing, but did not personally testify as to his character and reputation nor did he have any other evidence or testimony offered as to his character and reputation.

CONCLUSIONS OF LAW

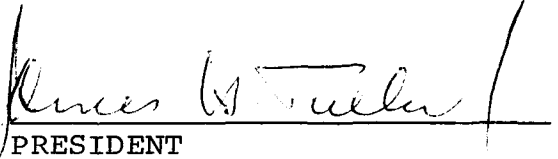
A. That the character and reputation of the officers of applicant, Athens Vending Corporation, are decisive elements in the appraisal of the character of the corporation since licensing of a corporate applicant as a wholesale dealer of cigarettes pursuant to Article 20 of the Tax Law entails consideration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

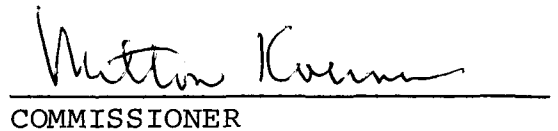
B. That Richard Bell has failed to demonstrate that he has the good character and reputation that is required of an officer of a corporation that is a wholesale dealer of cigarettes and that his past activities are compatible and consistent with the responsibilities assumed by applicant, Athens Vending Corporation, as a wholesale dealer of cigarettes pursuant to Article 20 of the Tax Law and therefore said 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 Athens Vending Corporation for a license as a wholesale dealer of cigarettes is sustained.

DATED: Albany, New York
May 13, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER