

**WEST ALLIS COMMON COUNCIL
LICENSE AND HEALTH COMMITTEE
CITY OF WEST ALLIS**

**In the Matter of the
Complaint Against**

**FINDINGS OF FACT, CONCLUSION OF
LAW, AND RECOMMENDATION**

Bechers Corner Spot, LLC

**STATE OF WISCONSIN)
) ss.
COUNTY OF MILWAUKEE)**

Upon deliberation and consideration of the complaint presented at the License and Health Committee meeting held on November 19, 2015, the Committee finds:

FINDINGS OF FACT:

1. That Bechers Corner Spot, LLC, was properly served a copy of the summons and complaint.
2. That Bechers Corner Spot, LLC, is the holder of Class "A" Fermented Malt Beverage License Number 15-2199 issued by the West Allis Common Council for the license period beginning July 1, 2015, and ending June 30, 2016; is the holder of Cigarette and Tobacco Products License Number 15-2230 issued by the West Allis Common Council for the license period beginning July 1, 2015, and ending June 30, 2016; and is the holder of a Food-Related Permit issued by the West Allis Health Department for the license period beginning July 1, 2015 and ending June 30, 2016.
3. That Bechers Corner Spot, LLC, does business under the trade name "The Corner Spot" and that Charline Hart is an officer and member of Bechers Corner Spot, LLC, and is the registered agent for the beer and tobacco licenses issued to Bechers Corner Spot, LLC.
4. That Beechers Quick Stop Shop, LLC, was the holder of said licenses and permits for the July 1, 2014, through June 29, 2015, and that Charline Hart was the agent for said LLC as

well as an officer and member of the LLC.

5. That on June 24, 2015, Wisconsin Department of Revenue Agent Georgeann King investigated the premises of the Corner Spot and found six packs of cigarettes with the tax stamp removed and 8 packs of cigarettes with Missouri tax stamps in violation of section 139.321(1) of the Wisconsin Statutes.
6. That Beechers Quick Stop Shop, LLC, had its State Seller's Permit revoked on April 30, 2015, pursuant to the provisions of section 77.52(12), Wis. Stat. and could not thereafter legally sell beer, tobacco products, or food products.
7. Knowing that Beechers Quick Stop Shop, LLC's State Seller's Permit had been revoked, Hart knew that it was no longer permissible to conduct sales at the Corner Spot under licenses issued to Beechers Quick Stop Shop, LLC.
8. To circumvent the State Seller's Permit problem, Hart created Bechers Corner Spot, LLC, and applied for and received a State Seller's Permit for that entity and also applied for beer and tobacco products licenses from the City of West Allis.
9. That Beechers Quick Stop Shop, LLC's licenses from the City of West Allis expired on June 29, 2015, and no renewal applications were filed on behalf of that entity. Therefore, all licensed activity under the authority of licenses issued to Beechers Quick Stop Shop, LLC, ended on June 29, 2015.
10. That Bechers Corner Spot, LLC, applied for a beer license on April 30, 2015, and a tobacco products license on April 28, 2015, with Hart submitting the applications.
11. That the beer and tobacco products licenses were granted by the West Allis Common Council on May 19, 2015, and were to be issued subject to certain conditions.
12. That the licenses for beer and tobacco products were issued on June 30, 2015.
13. That between the granting of the licenses by the Common Council and the issuance of the licenses, inspection by Agent King took place.
14. That Beechers Quick Stop Shop, LLC, sold beer, tobacco products, and food products

without the required State Seller's Permit from April 30, 2015, until June 30, 2015.

15. That the Food-Related Permit issued to Beechers Quick Stop Shop, LLC expired on June 30, 2015, and that entity did not apply for renewal.
16. That Bechers Corner Spot, LLC, did not apply for a Food-Related Permit until July 20, 2015, and that Bechers Corner Spot, LLC, sold food products without a permit from July 1, 2015, until at least July 20, 2015.
17. That the allegations in the Complaint regarding WIC checks being illegally sold and the improper sale of baby formula were not proven and do not form a basis for action against Bechers Corner Spot, LLC.
18. That on June 24, 2015, Agent King found that no licenses were properly posted in a public area as required by section 9.02(10)(b) of the West Allis Revised Municipal Code.
19. That Hart testified that none of her employees have an operator's license as required by section 9.02(16) of the West Allis Revised Municipal Code and section 125.32(2), Wis. Stat. Therefore, when Hart is not present, Bechers Corner Spot, LLC, operates without a licensed operator contrary to law.
20. That Charline Hart's testimony that she had nothing to do with the business and was not responsible for any actions occurring at the Corner Spot on or before June 24, 2015, despite being an officer and the agent for both Beechers Quick Stop Shop, LLC, and Bechers Corner Spot, LLC, strains credibility and that the Committee specifically finds that Hart was not credible regarding operations at the Corner Spot between April 30, 2015, and June 30, 2015.
21. That the changing of the legal entity from Beechers Quick Stop Shop, LLC, to Bechers Corner Spot, LLC, was done for the purpose of avoiding the consequences of the revocation of the State Seller's Permit and that the actions of Beechers Quick Stop Shop, LLC, and Bechers Corner Spot, LLC, have the common thread of Charline Hart, an officer of both and the agent of both. The Committee notes that under section 125.04(6),

Wis. Stat., the agent exercises full authority and control over the licensed premises.

CONCLUSIONS OF LAW:

1. That Bechers Corner Spot, LLC, and Charline Hart, through Beechers Quick Stop Shop, LLC, has violated the laws of the State of Wisconsin with regard to the sale of tobacco products by selling and/or offering for sale cigarettes that had the tax stamp removed or had a tax stamp from another state.
2. That Beechers Quick Stop Shop, LLC, sold beer, tobacco products, and food products without a State Seller's Permit and that said activity is attributed to Bechers Corner Spot, LLC, due to Charline Hart's involvement with both LLCs.
3. That Bechers Corner Spot, LLC, violated the ordinances of the City by offering for sale and/or selling food products without a license from July 1, 2015, until at least July 20, 2015.
4. That Beechers Quick Stop Shop, LLC, failed to properly post its fermented malt beverage license and said activity is attributed to Bechers Corner Spot, LLC, due to Charline Hart's involvement with both LLCs.
5. When Charline Hart was not present, Bechers Corner Spot, LLC, offered and sold fermented malt beverages with no licensed operator on the premises in violation of state law and city ordinance.
6. That Beechers Quick Stop Shop, LLC, is the alter-ego of Bechers Corner Spot, LLC, with Charline Hart as the agent and an officer or member of both. That Bechers Corner Spot, LLC, was created by Charline Hart to avoid the legal problems facing Beechers Quick Stop Shop, LLC; its creation should not offer any legal protection to Bechers Corner Spot, LLC; and the actions of Beechers Quick Stop Shop, LLC, are attributed to Charline Hart, and hence, Bechers Corner Spot, LLC.
7. That the Common Council of the City of West Allis would not have granted licenses to

Bechers Corner Spot, LLC, if it had been informed of the revocation of Beechers Quick Stop Shop, LLC's, State Sellers Permit or known of the results of the inspection on June 24, 2015.


8. That the Conclusions of Law set forth in paragraphs 1 through 7 above form a sufficient basis to revoke the fermented malt beverage and tobacco product licenses and food permit issued to Bechers Corner Spot, LLC, because the licensee has violated the laws of the State of Wisconsin, has violated the ordinances of the City of West Allis, and does not meet the possess the qualifications required to secure a fermented malt beverage license: to wit: is a habitual law offender.
9. That even without attributing the actions of Beechers Quick Stop Shop, LLC, to Bechers Corner Spot, LLC, the Committee finds that there are sufficient grounds for revocation of the licensee's licenses and permit. The licensee offered or sold, for a period of at least 20 days, food products without a permit and allowed the fermented malt beverage premises to be operated without a licensed operator in violation of section 9.02(10)(b) of the RMC and section 125.32(2), Wis. Stat.
10. That the violations set forth in Conclusion of Law paragraph 9 demonstrate that Bechers Corner Spot, LLC, is a habitual law offender and does not possess the qualifications required of license and permit holders.

RECOMMENDATION:

1. Therefore, the License and Health Committee recommends to the Common Council of the City of West Allis that the Class "A" Fermented Malt Beverage License, Cigarette and Tobacco Product License, and Food-Related Permit of Bechers Corner Spot, LLC be revoked.

Dated at this 7 day of DECEMBER, 2015.

By: _____


Michael J. Czaplewski
License & Health Committee
West Allis Common Council