

LAW OFFICES OF
CHERF & GREENUP
PROFESSIONAL CORPORATION

25400 LITTLE MACK • ST. CLAIR SHORES, MICHIGAN 48081 • (586)774-2222 • FAX (586)774-7894

RONALD J. CHERF
ron@cherfgreenup.com

EDWARD R. GREENUP
(1948-2018)

March 2, 2018

MICHIGAN LIQUOR CONTROL COMMISSION
525 West Allegan Street
P.O. Box 30005
Lansing, Michigan 48933

Via facsimile at 517-763-0053
and via Express Mail No. EM 703798022 US

**RE: Woods Fine Wine & Spirits, LLC d/b/a Woods Fine Wine & Spirits;
Complaint No. CV 500086**

Dear Sirs:

Enclosed herewith please find the following in relation to the above-entitled matter:

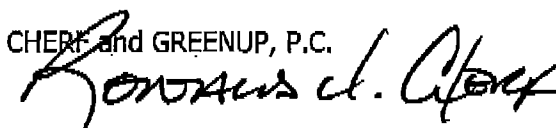
1. Request for Declaratory Ruling Pursuant to Rule 436.1971 et seq.

I am requesting an adjournment of the Hearing scheduled for Tuesday April 3, 2018, at 11:00 am, so as to allow the Commission enough time to rule upon the enclosed Request for Declaratory Ruling.

Thank you for your consideration and cooperation and in the event you have any questions, comments or concerns, please feel free to call.

Sincerely,

CHERF and GREENUP, P.C.



Ronald J. Churf
Attorney at Law

RJC/dw
Enc.

cc: L. Schrader (via facsimile only at 517-763-0053)
W. Matouk (via email only)

EM703798022US

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

CHERF & GREENUP
25400 LITTLE MACK
ST. CLAIR SHORES, MICHIGAN 48081

In Re:

Woods Fine Wine & Spirits, LLC
d/b/a Woods Fine Wine & Spirits,
20787 Mack Avenue
Grosse Pointe Woods, Michigan

Complaint No. 7-500086
Business ID No. 128600
S-6

Licensee.

CHERF & GREENUP, P.C.
BY: RONALD J. CHERF (P23315)
Attorney for Licensee
25400 Little Mack Avenue
St. Clair Shores, Michigan 48081
586-774-2222

REQUEST FOR DECLARATORY RULING PURSUANT TO RULE 436.1971 et seq.

Now comes Woods Fine Wine & Spirits, LLC (hereinafter the "Licensee") by and through its attorneys, Cherf and Greenup, P.C., and respectfully requests the Michigan Liquor Control Commission (hereinafter the "MLCC") to dismiss charges One (1) through Twenty-Three (23) of MLCC Complaint No. 7-500086 (hereinafter the "Complaint" and attached as Exhibit C) for the reasons hereinafter stated.

FACTS

The Complaint alleges that on or about January 7, 2015, a MLCC Investigator met with the Licensee and the Licensee's attorney, then Mr. Frank Palazzolo who is now deceased, due to a complaint received by the MLCC. It is presumed the complaint was anonymous. The allegations of the complaint were that the Licensee had been convicted of a felony and that the Licensee was selling in excess of 9 liters of spirits per month to local bars and restaurants. No MLCC complaint was ever filed as to these allegations as they were untrue. The Complaint further alleges that the

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MLCC Investigator learned of Licensee's internet business at the time of the Initial meeting and had conversations with Mr. Palazzolo.

The Complaint further alleges that on or about June 4, 2015, the MLCC Investigators returned to the Licensee premise, without notice to Licensee or to the Licensee's attorney, and confiscated boxes of Licensee's records and had conversations with Licensee's employees.

The Complaint further alleges, presumably, from the MLCC Investigators visits to Licensee's premises, that Licensee had changed the nature of the business for which the licensee was issued in violation of Rule 436.1517. It is not clearly stated in what manner the alleged change was made.

The Complaint further alleges, presumably, that MLCC Investigators did, from Licensee's records, conclude that Licensee did between January 18, 2015, and December 28, 2015, make Eleven (11) sales of spirits that were in violation of MCL 436.1203(2) and/or MLC 436.1203(14)(a). Each of such sales is charged as a separate count in the Complaint pursuant to each Statute, thereby resulting in Twenty-Two (22) charges for essentially Eleven (11) sales. The substance of the charge is that the Licensee sold spirits to Michigan consumers from its website which were delivered to the Michigan consumers by other than the Licensee's employee. The Complaint further alleges that only One (1) of such sales was made to a MLCC Investigator on September 16, 2015. The Complaint lists these Eleven (11) sales as Items Two (2) through Twenty-Three (23) of the Complaint.

Argument

Attached to this Request, as Exhibit A, is a print out from the MLCC website reflecting that the Licensee sought to add space and to change the nature of the business by deleting a drive up window with alcoholic beverage sales. In reality, the Licensee never had a "drive up window" but rather there was a "drive through" in an adjoining building that allowed customers to drive-in, temporarily park, go into Licensee's store to make purchases and then return to their vehicles. This drive through was deleted and the Licensee expanded into that space. Storage space was also added to the roof of the premises. All of these changes were requested and approved by the MLCC.

Charge One (1) should be dismissed for the reasons stated.

The subject Complaint was not filed until October 25, 2017. This is over Two (2) years after most of the alleged violations are claimed to have occurred and over Two (2) years after MLCC Investigators had possession of Licensee's records and over Two (2) years after MLCC Investigator's personal website purchase on September 16, 2015.

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The MLCC rules do not specifically state a time limitation within which violations are to be reduced to a Complaint. In all matters in Michigan, in both civil and criminal venues, there are time restrictions within which civil litigation or criminal charges are to be brought. The sole exception to this are for charges of murder. The purpose for such limitations are to protect those charged with malfeasance or non-feasance, such as in this case the Licensee. There are Three (3) primary reasons for the enactment of such limitations:

- A person or entity with a valid cause of action should pursue it with reasonable diligence, and
- By the time a stale claim is litigated, an accused might have lost evidence necessary to disprove the claim, and
- Litigation of long dormant claims may result in more retribution than justice.

In the subject Complaint, over Two (2) years have passed since the alleged violations are known to have existed. There has been no explanation for the failure of the MLCC to have pursued the alleged violations with reasonable diligence. If a reasonable time period were to be inferred, where should we look for analogous limitations? It is suggested that we look to the limitations the State of Michigan has imposed on its own residents to give notice of claims against the state. MCL 600.6431(1) provides that no claim may be maintained against the State of Michigan unless the claimant, within One (1) year after the claim has accrued, files with the clerk of the Court of Claims either a notarized written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time and place where such claim arose and in detail the nature of the claim and the damage claimed to have been sustained. (See Exhibit B) It is manifestly unjust to restrict the ability of a resident of the State of Michigan to pursue a claim against the State of Michigan or any of its commissions or agencies unless notice is filed within One (1) year yet permit the State of Michigan or any of its commissions or agencies to pursue a claim against a person, in this case the Licensee, for alleged violations over Two (2) years in the past.

The Licensee's attorney referenced in the subject Complaint, Mr. Frank Palazzolo, has since died and any knowledge that he had as to his statements or involvement in the initial meeting is lost to the Licensee. The MLCC has had possession and control of all of Licensee's records for over Two

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(2) years without explanation or return. The Licensee has had employee turnover that further restricts his ability to address the alleged violations.

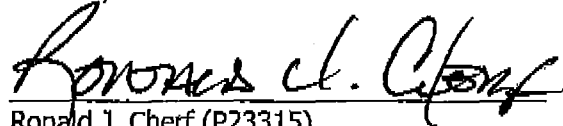
The alleged violations as to the sale of spirits in the subject Complaint would likely not be a violation today. As of January of 2018, the sale of spirits, as alleged in the subject Complaint, if delivered to a Michigan resident, using a third-party facilitator would no longer be a violation. To seek punishment for violations in 2015 that if made today using a third-party facilitator would be similarly to punishing one's child on their Twenty-First (21st) birthday for drinking when they were age Nineteen (19)

Charges Two (2) through Twenty-Three (23) should be dismissed for the reasons stated.

Dated: March 2, 2018

Respectfully Submitted,

Cherf and Greenup, P.C.
Attorneys for Licensee


Ronald J. Cherf (P23315)

VERIFICATION OF SERVICE

The undersigned certifies that a copy of the Request for Declaratory Ruling Pursuant to Rule 436.1971 et seq., was served on the Michigan Liquor Control Commission, by mailing the same to them at 525 W. Allegan Street, P.O. Box 30005, Lansing, Michigan 48909 and by facsimile at 517-763-0053 on the 2nd day of March, 2018.

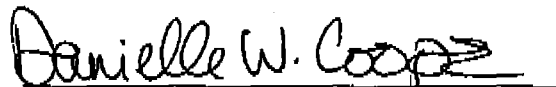

Danielle W. Cooper

EXHIBIT A

Request Transactions

Show 10 entries

| Name | Type | Description | Status |
|----------------------|--------------------------------|---|----------|
| 001600043 | Add Space To Licensed Premises | ADD SPACE | Complete |
| Sub-status: Approved | | | |
| 001600044 | Change Nature of Business | CHANGE NATURE OF BUSINESS BY DELETING DRIVE UP WINDOW WITH ALCOHOLIC BEVERAGE SALES | Complete |
| Sub-status: Approved | | | |

EXHIBIT B

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6431 Court of claims; notice of intention to file claim; contents; time; verification; copies.

Sec. 6431.

(1) No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time when and the place where such claim arose and in detail the nature of the same and of the items of damage alleged or claimed to have been sustained, which claim or notice shall be signed and verified by the claimant before an officer authorized to administer oaths.

(2) Such claim or notice shall designate any department, commission, board, institution, arm or agency of the state involved in connection with such claim, and a copy of such claim or notice shall be furnished to the clerk at the time of the filing of the original for transmittal to the attorney general and to each of the departments, commissions, boards, institutions, arms or agencies designated.

(3) In all actions for property damage or personal injuries, claimant shall file with the clerk of the court of claims a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action.

History: 1961, Act 236, Eff. Jan. 1, 1963

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Rendered 3/2/2018 11:35:47

Michigan Compiled Laws Complete Through PA 15 of 2018

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Courtesy of www.legislature.mi.gov

REC'D
MAR 2 2018 4:24 PM

RECEIVED
MAR 2 2018 4:24 PM

EXHIBIT C



State of Michigan
Department of Licensing and Regulatory Affairs
LIQUOR CONTROL COMMISSION
525 W. Allegan St.
P.O. Box 30005
Lansing, Michigan 48909-7505

Complaint No. 7-500086
Business ID No. 128600
S-6

In Re: Woods Fine Wine & Spirits, LLC
d/b/a Woods Fine Wine & Spirits
20787 Mack Avenue
Grosse Pointe Woods, MI 48236-1437

Date: October 25, 2017

SDD SDM SS (AM & PM) BR/WN TASTING

COMPLAINT

This Complaint alleges that as discovered on June 4, 2015, the licensee or the licensee's agent, clerk or employee:

1. since 2006, changed the nature of the business for which the license was issued by the Commission without obtaining the prior written approval of the Commission contrary to Rule 436.1517.
2. on January 18, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
3. on January 18, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
4. on May 27, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
5. on May 27, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
6. on June 14, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
7. on June 14, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
8. on August 25, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
9. on August 25, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a)

In re: Woods Fine Wine & Spirits, LLC
d/b/a Woods Fine Wine & Spirits
20787 Mack Avenue
Grosse Pointe Woods, MI 48236-1437

SDD SDM SS (AM & PM) BR/WN TASTING

10. on September 16, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
11. on September 16, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
12. on October 9, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
13. on October 9, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
14. on November 23, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
15. on November 23, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
16. on November 24, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
17. on November 24, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
18. on December 11, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
19. on December 11, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).

In re: Woods Fine Wine & Spirits, LLC
d/b/a Woods Fine Wine & Spirits
20787 Mack Avenue
Grosse Pointe Woods, MI 48236-1437

SDD SDM SS (AM & PM) BR/WN TASTING

- 20. on December 17, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
- 21. on December 17, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
- 22. on December 28, 2015, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
- 23. on December 28, 2015, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state, contrary to Sec. 203(14)(a) of the Michigan Liquor Control Code, MCL 436.1203(14)(a).
- 24. on June 1, 2017, as a retailer delivered alcoholic liquor to a consumer in this state at the home or business of a consumer or at any location away from the licensed premises of the retailer, contrary to Sec. 203(2) of the Michigan Liquor Control Commission, MCL 436.1203(2).
- 25. on June 1, 2017, as a retailer that holds a specially designated distribution license failed to deliver spirits by the retailer's employee to the home or other designated location of a consumer in this state and to verify that the individual accepting delivery is at least 21 years of age, contrary to Sec. 203(14)(b) of the Michigan Liquor Control Code, MCL 436.1203(14)(b).

Wherefore, it is requested that a hearing be conducted, and a decision made in accordance with section 903 of the Michigan Liquor Control Code being MCL 436.1903, and the Liquor Control Commission Rules.

LIQUOR CONTROL COMMISSION
LICENSING AND ENFORCEMENT DIVISION

By: 

ACKNOWLEDGMENTS

This complaint was drafted pursuant to a written Violation Report or other information which was submitted to the enforcement arm of the Commission. A copy of the Violation Report or other information is being furnished to you along with this Complaint. The licensee may waive a hearing and acknowledge the facts pursuant to this Report.

SEE REVERSE SIDE FOR WAIVER OF HEARING AND ACKNOWLEDGMENT FORM

LC-678-4L (07/2014) DLARA is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

Mar. 2. 2018 4:24PM

No. 3176 P. 15

DEPARTMENT OF LICENSING AND REGULATORY AFF. 3
MICHIGAN LIQUOR CONTROL COMMISSION
525 W. Allegan St. • P.O. BOX 30005 • LANSING, MICHIGAN 48909

NOTICE OF COMPLAINT
(Authorized by Act 58 of P.A. 1998)

November 6, 2017

TO: Woods Fine Wine & Spirits, LLC
D/B/A Woods Fine Wine & Spirits
20787 Mack Avenue
Grosse Pointe Woods, MI 48236-1437

COMPLAINT: CV-
500086

Enclosed, please find two copies of a filed Complaint, one copy of a Violation Report, and any other supporting documents which allege your responsibility for violating the Liquor Control Act or administrative rules of the Liquor Control Commission.

At this time, you may exercise one of the following two (2) options:

1. If you **do not** wish to contest the charge(s) listed in this Complaint, you have twenty (20) days from the date of this letter to voluntarily accept responsibility by both properly signing and dating the back of the Complaint form, and by either mailing the Complaint back to the Hearings and Appeals Section of the Liquor Control Commission at the address listed above, or by faxing the Complaint to (517) 763-0053. **THIS OPTION ELIMINATES THE NEED TO HOLD A HEARING.**

If you choose to acknowledge this Complaint, you may provide a written statement with information you wish to have considered by the Commissioner assigned to determine your penalty; however, if your statement denies that a violation occurred, the Commission must deny your acknowledgment and schedule a hearing. You do not need to provide a written statement, but you must sign the acknowledgment on the back of the Complaint form in order to accept responsibility and avoid the scheduling of a hearing.

2. If you wish to contest the charges in this case, or fail to return the acknowledgment form in a timely manner, you should expect to receive notice of the date, time and location of your hearing shortly after twenty (20) days from the mailing of this letter. If you retain legal counsel, your attorney must file a written appearance with this office in order to ensure proper noticing of the date and time of your hearing. Section 903 of the Liquor Control Act provides both the authority and jurisdiction for this hearing.

Section 903 of the Liquor Control Code provides for a penalty of up to \$300 for each violation of the Code, in addition to or in lieu of revocation or suspension of the license, except for those violations cited under Section 801(2) which carry a maximum fine of up to \$1000, or for those cited under Section 901(6) which carry a maximum fine of up to \$2,500. In addition to any other penalties imposed, Section 903 also requires a mandatory suspension or revocation of the license for violations cited under Section 901(6) involving a retail licensee who sells, offers to sell, accepts, furnishes, possesses, or allows the consumption of spirits purchased from an unauthorized source, or whenever a licensee receives three or more violations cited under Section 801(2) in a twenty-four (24) month period involving either the selling or furnishing of alcoholic beverages to a minor, or the selling or furnishing of alcoholic beverages to a visibly intoxicated person. Section 903 also provides the licensee with the right to appeal an Order of the Commission.

Should any questions arise regarding this matter, please contact the Hearings and Appeals Section at (517) 284-6270.

CC:

LDO

CN-500086



Michigan Department of Licensing and Regulatory Affairs
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

525 W. Allegan St., P.O. Box 30005

Lansing, MI 48909-7505

Phone (866) 813-0011 • Fax (517) 763-0053

www.michigan.gov/lcc

VIOLATION REPORT

(Authorized by P.A. 58 of 1998)

RECEIVED
OCT 06 2017
MLCC/ENFORCEMENT
SOUTHFIELD

ENFORCEMENT
MLCC
OCT 13 11:34

Please obtain the License No., and Business ID No., directly from the liquor license*

License No. SDD 14-73735 SDM 17-73736 Business ID No. 128600

1. Name of Licensee Woods Fine Wine & Spirits, LCC 2. Doing Business As Woods Wholesale Wine

3. Mailing Address (street, city, zip code) 20787 Mack

4. Township/Village Grosse Pointe Woods 5. County Wayne

6. Type of License(s) & Permit(s)
SDD/SDM, SS (AM), Br/Wn Sampling

7. Date of Violation Multiple(start 1/18/15) Hour _____ AM PM

8. Violation Type
- | | |
|--|---|
| <input type="checkbox"/> Minor | <input type="checkbox"/> After Hour's sales/consumption |
| <input type="checkbox"/> Intoxicated Person | <input type="checkbox"/> Fighting, (Must be inside licensed premises) |
| <input type="checkbox"/> Gambling | <input type="checkbox"/> Failure to Cooperate |
| <input type="checkbox"/> Controlled Substances | <input checked="" type="checkbox"/> OTHER: MCL 436.1203 |
| <input type="checkbox"/> Prohibited Conduct | |

If MINOR: Birth Date _____ Was this a DECOY? Yes No If no, you MUST answer below:

If above minor violation was NOT a decoy describe enforcement action taken:

COPY OF APPEARANCE TICKET MUST BE ATTACHED

9. Submit Report Below or Indicate Attached Report #
Attached

Officer Signature Kayla Swope Name and Title (print) Kayla Swope, MLCC Supervisor

Officer Signature _____ Name and Title (print) _____

Department Name MLCC-SDO Phone No. 313-407-8652

LC-600 (01/15) LARA is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

WITNESSES

1. Name Kayla Swope, Supervisor Address MLCC-Southfield District

Will testify to:
Information in the attached Report; Records and evidence obtained by MLCC

2. Name Dan Rademacher, Investigator Address MLCC-Escanaba District Office

Will testify to:
Product purchased and shipped to Skandia, MI on 9/16/15 (NV The MacCallan Rare Cask Single Malt Scotch Whiskey).

3. Name Marjorie Mann, Investigator Address MLCC-Grand Rapids District Office

Will testify to:
Product purchased and shipped Barryton, MI and received on 6/2/17 (Mitchell and Son Yellow Spot 12 Year Old Single Pot Still Irish Whiskey).

4. Name _____ Address _____

Will testify to:

5. Name _____ Address _____

Will testify to:

Location Evidence Held (Explain):

attached and alcohol purchases by MLCC Investigators are located in SDO Evidence Room

Provide List of Evidence:

- Receipts and documentation for purchase made by Investigator Marjorie Mann
- Documentary proof/receipts for all purchases noted in attached memo
- Handwritten sales figures from 2014 (for store and Internet) provided to Kayla Swope by the licensee (via attorney).
- Printed pages from the licensee's website including spirit products for sale, history of the business, contact information and information about shipping procedures.

NV The MacCallan Rare Cask Single Malt Scotch Whiskey being held in SDO evidence room.
Mitchell & Son Yellow Spot 12 Year Old Single Pot Still Irish Whiskey being held in SDO evidence room



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

STEVE ARWOOD
DIRECTOR

The Michigan Liquor Control Commission received a complaint in August 2014 alleging that the licensee, Woods Fine Wine & Spirits LLC; dba Woods Wholesale Wine, located at 20787 Mack, Grosse Pointe Woods, MI 48236, was selling in excess of 9 liters of spirits per month to local bars and restaurants and that William Matouk, licensee member, was convicted of a felony for stolen property.

During a review of the applicant's book and records on 1/7/15 with the licensee's attorney, a document that outlined monthly sales had a column for "internet sales." The attorney was unable to provide an explanation for the column at the time. It indicated the licensee's online sales figures from February 2014 to October 2014 ranged between \$54,191.65 to \$140,741.98 with the average monthly online sales being \$105,901.09. A copy was obtained by the undersigned Investigator. (See attached)

A subsequent review of the licensee's website (<https://www.woodswholesalewine.com/>) indicated that the licensee was shipping wine and spirits products in Michigan and all over the world.

On 3/27/15, Investigator Janet Godlew ordered a bottle of wine and had it shipped to an address in Skandia, Michigan. The bottle of wine was received by Investigator Godlew on 4/7/15 and subsequently placed into evidence.

On 6/4/15, the undersigned Investigator, accompanied by Investigator Darek Jones conducted an inspection of the licensed premises. During the inspection, investigators observed that the second level of the licensed establishment was set up similar to a warehouse in that it had many aisles of shelving units that ran floor to ceiling with a voluminous amount of alcoholic inventory sorted by types of product and brand. There was a conveyor belt used to move product up and down the stairs. There was a shipping department that operated out of the back office that had an array of shipping supplies and boxes specific for shipping bottles of wine and spirits, as well as counter space to package the orders. The computer and printer used to process orders was also located in the back office.

The investigators contacted Benjamin Fischer, General Manager, who explained that the licensee has been shipping wine and spirits for the past 10 years. Prior to January 2015, the orders were placed via phone and then shipped. As of January 2015, the licensee had moved to an online ordering system. Fischer confirmed that they were shipping throughout Michigan and the United States. He reported that while they still delivered a very minimal amount of product via a delivery van locally in the Grosse Point area, the majority of the product were shipped through contracts with common carriers, mainly UPS, as it was more cost effective. He reported that sales varied based on the time of year but estimated that the licensee's average monthly revenue from online sales is \$100,000. Fischer estimated that a "couple million dollars" worth of inventory was in stock in the upstairs "warehouse" portion of the establishment on any given date. Fischer printed a sampling of the online orders in Michigan for the undersigned Investigator. The investigator's confiscated for review, several boxes labeled as shipping

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Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
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records for 2010, 2011, 2012 and 2014 that were found on a shelving unit near the office. A receipt was provided to the licensee and signed by William Matouk. Matouk later confirmed to the undersigned Investigator that he did not have the shipping records for 2013 as they were lost in a divorce proceeding.

A review of the confiscated shipping records confirmed that in addition to shipping wine products throughout Michigan and the United States, the licensee was also shipping spirit products. The undersigned Investigator reviewed a sampling of the shipping records for 2015 and only identified spirit products being shipped in the State of Michigan.

It was determined that the following spirit products were shipped by Woods Fine Wine and Spirits, LLC:

| Date | Invoice Amount | Place of Shipment | Product |
|-----------|----------------|--------------------|---|
| 1/18/2015 | 341.01 | Dearborn | NV The Macallan Rare Cask Single Malt Scotch Whiskey |
| 5/27/15 | 60.59 | Saginaw | Colonel E.H. Taylor Small Batch, Kentucky Bourbon Whiskey |
| 6/14/15 | 227.37 | Sterling Heights | Suntory The Yamazaki 12 Year Old Single Malt Whiskey, Japan |
| 8/25/15 | 127.83 | Royal Oak | Blood Oath Kentucky Straight Bourbon Whiskey |
| 9/16/15* | 344.77 | Skandia | NV The MacCallan Rare Cask Single Malt Scotch Whiskey* |
| 10/9/15 | 386.80 | Grosse Pointe Park | Elijah Craig Barrel Proof Bourbon Jefferson's Reserve Groth Cask Finish Bourbon |
| 11/23/15 | 2747.28 | Birmingham | Thomas H Handy Sazerac Straight Rye Whiskey Eagle Rare 17 Year Old Kentucky Straight Bourbon Whiskey Old Rip Van Winkle Special Reserve Lot B'12 Year Old Kentucky Straight Bourbon Whiskey George T Stagg Straight Bourbon Whiskey. |
| 11/24/15 | 1335.42 | Birmingham | George T Stagg Straight Bourbon Whiskey Eagle Rare 17 Year Old Kentucky Straight Bourbon Whiskey |
| 12/11/15 | 81.82 | Midland | Blanton's The Original Single Barrel Kentucky Straight Bourbon Whiskey. |
| 12/27/15 | 233.31 | Livonia | Valentine Distilling Valentine Handcrafted Vodka Valentine Distilling White Blossom Handcrafted Vodka |
| 12/28/15 | 74.75 | Ann Arbor | Valentine Distilling Liberator Old Tom Gin |

*Note that the product purchased and shipped to Skandia on 9/16/15 was purchased by and shipped to MLCC Investigator Dan Rademacher and is being held in the evidence room at the Southfield District Office.

On June 1, 2017, MLCC Investigator Marjorie Mann purchased a bottle of Mitchell & Son Yellow Spot 12 Year Old Single Pot Still Irish Whiskey for \$136.66 and had it shipped to a Barryton, MI address. The product was received via Fed Ex Ground on 6/2/17 by Investigator Mann. The product was not shipped through a third party facilitator service and there was no label on the

box indicating that the box contained alcohol nor that a signature was required of someone 21 years of age or older. Investigator Mann's age was not verified. A receipt was in the box and is attached. The evidence is located at the Southfield District Office evidence room.

On July 22, 2017, the undersigned conducted a review of the licensee's website; - <https://www.woodswholesalewine.com/>. Under the "Shop" tab, the licensee advertises shipping Wine, Champagne, Spirits and Rare Spirits. Under the "Spirits" link there were 37 spirit products advertised. There were 36 spirits advertised under the "Rare Spirits" shipping link. Some of the products are listed as "sold out", but if you click on those available, it allows the purchaser to add the items to the cart for online checkout and shipping. The shipping tab on the website indicates that they ship through a common carrier FED EX and there is a minimum order of \$100. It notes that you must be 21 years of age to order or receive alcoholic beverages and advertises shipping in 31 states including Michigan. See attached printed pages of the licensee's website.

The licensee is being cited with 12 counts of violating MCL 436.1203:

Sale, delivery, or importation of alcoholic liquor or wine; duties of direct shipper of wine; common carrier; verification that individual accepting delivery is 21 year of age or older; original purchase and importation into state of spirits for sale, use, storage, or distribution; requirements; exceptions; direct shipper license required; application; fee; violation; delivery of beer and wine to home or designated location of consumer; holder of specially designated merchant license; delivery or sale of beer, wine, or spirits by third party facilitator; sale or delivery of beer by micro brewer to retailer; reports; retention of books, records, and documents; disclosure; definitions.

Kayla Swope

Kayla Swope, Supervisor
Southfield District Office, MLCC
(313) 407-8652

EXHIBIT D

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

LIQUOR CONTROL COMMISSION

DECLARATORY RULINGS

(By authority conferred on the liquor control commission by section 7 of Act No. 8 of the Public Acts of the Extra Session of 1933 and section 63 of Act No. 306 of the Public Acts of 1969, being §§436.7 and 24.263 of the Michigan Compiled Laws)

R 436.1971 Request for declaratory ruling; form; contents.

Rule 1. (1) An interested person, hereinafter called a petitioner, who requests a declaratory ruling as to the applicability to an actual state of facts of a statute, rule, or order administered, promulgated, or issued by the commission shall do so in writing to the Lansing office of the commission.

(2) The written request shall contain the relevant and material facts, along with a reference to the statute, rule, or order applicable.

History: 1979 AC.

R 436.1973 Declaratory ruling; notice of issuance; request for information or arguments; hearing.

Rule 3. (1) Upon receipt of a request for a declaratory ruling, the commission shall have 30 days within which to notify the petitioner if a declaratory ruling shall be issued.

(2) If the commission grants the request for a declaratory ruling, the commission:

- (a) May request more information from the petitioner.
- (b) May request information from other interested parties.
- (c) May request information from experts outside the commission.
- (d) May request oral or written arguments from interested parties.
- (e) May hold a hearing upon proper notice to all interested parties.

(f) Shall issue its declaratory ruling within 90 days after the receipt of the initial request.

History: 1979 AC.

R 436.1975 Denial of request for declaratory ruling; reasons.

Rule 5. If a request for a declaratory ruling is denied, the commission shall issue a concise, written statement of its principal reasons for denial within 30 days of the denial.

History: 1979 AC.