



**Jeff Pawlinski**  
Alderman, 13th District

CHAIR:  
Utilities & Licenses Committee

COMMITTEES:  
Zoning, Neighborhoods and Development  
Steering & Rules  
Anti Graffiti Policy  
Administrative Review Appeals Board  
Resolutions Committee - League  
of Wisconsin Municipalities

November 21, 2002

To the Honorable, the Common Council

Dear members:

Re: Common Council File 020697

Attached are written objections to the nonrenewal recommendation of a Class "D" Bartender application of Anita M. Reyna.

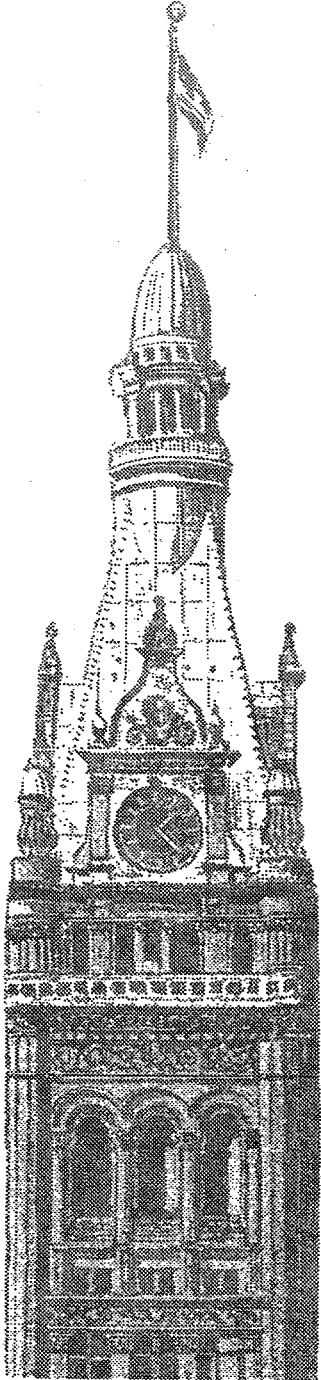
This matter will be heard by the full Council at its November 26, 2002 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached objections.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jeff A. Pawlinski'.

JEFFREY A. PAWLINSKI, Chair  
Utilities and Licenses Committee

cc: City Attorney's Office  
Common Council/City Clerk – License Division  
Milwaukee Police Department – License Investigation  
All Council Members  
CCFN 020697



DANIEL S. WELYTOK  
DIRECT DIAL: 414-224-5847  
DSW@WHDLAW.COM

November 19, 2002

**VIA FACSIMILE TRANSMISSION (414) 286-3456 and U.S. MAIL**

Mr. Ronald D. Leonhardt  
City Clerk, City of Milwaukee  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202-3567

Re: Objection to the Report of the Utility & Licensing Committee  
on Anita Reyna


Dear Mr. Leonhardt:

This letter constitutes a written objection to the Report of the Utility & Licensing Committee to the Findings of Fact, Conclusions of Law and Recommendation concerning the non-renewal of the Class D Bartender License of Ms. Anita Reyna.

This letter also constitutes a request to appear at the Common Council meeting on November 26, 2002, commencing at 9:00 a.m., or as soon thereafter as this matter be heard, to address the Common Council on Ms. Reyna's behalf concerning this matter.

Please notify us at your earliest convenience of the date the hearing will be held.

Very truly yours,

  
Daniel S. Welytok

DSW/sls

cc: Ms. Anita Reyna

MKE/805653.1

TO: City of Milwaukee Common Council

FROM: Daniel S. Welytok

SUBJECT: Appeal of Anita Reyna from Decision of U&L Committee Denying Renewal of Class "D" Bartender License

DATE: November 20, 2002

This memo addresses the appeal of Ms. Anita Reyna (f/n/a Anita Fuller) on the U&L Committee's recommendation to deny her application for renewal of her Class "D" Bartenders License.

1. **Background Summary**

- A. At the 11/12/02 U&L Committee meeting, the Committee voted 4-0 to recommend the non-renewal of Ms. Reyna's Class "D" Bartender License.
- B. The recommendation is based on a report from the Milwaukee Police Department stating that Ms. Reyna was found guilty of 2 counts of "manufacturing and delivery of cocaine," a felony.
- C. Because the crime took place at a tavern while she was on duty and the Class "B" tavern license of her employer was suspended for her conduct, U&L recommends that the license should not be renewed.

2. **Clarification of Facts**

- A. During the U&L hearing on this matter, discussion focused on the word "manufacturing" used in the police report to describe her conviction. Ms. Reyna testified that she did not manufacture cocaine and did not know why that description appeared on her record.
- B. The criminal court file (Case No. 01CF001386) reveals that Ms. Reyna (f/k/a Ms. Fuller) was charged with delivery of a controlled substance - cocaine (5 grams or less), not manufacturing. See Exhibit 1.
- C. Ms. Reyna pled guilty delivery of cocaine and was convicted under Wis. Stats. §961.41 (cm) 1, entitled "Prohibited acts A -- penalties (1) Manufacture, Distribution or

Delivery.” See Exhibit 2. The title of the statute, containing the word “manufacture” could have misled the U&L Committee and cast doubt on Ms. Reyna’s credibility and veracity.

3. Basis for Appeal

A. The police report reviewed by U&L was misleading as to what the underlying offense was -- see 2 C., above. It also did not include favorable testimonial letters to the judge in sentencing, attached here as Exhibit 3.

B. Ms. Reyna’s employer does not agree with that portion of the U&L recommendation for nonrenewal based on the fact that the Class “B” tavern license of her employer was suspended for her conduct. Ms. Reyna’s employer strongly desires to retain her as a bartender at the tavern, so much so that he is sponsoring her financially in this appeal.

C. Ms. Reyna has been bartending for the employer since her release from incarceration. She states that her probation officer has no objections to her continuing bartending. Her probation is conditioned on absolute sobriety, no further violations, random urine screens, and seeking & maintaining full employment. See Exhibit 4.

D. Ms. Reyna’s occupation is bartending, and the employer desires her to continue on with him. One of her conditions of probation requires that she be employed, and the U&L Committee recommendation would deprive her of her ability to readily fulfill this condition.

E. Considering the conditions of probation, the severity a repeat offense would carry, and the testimonials of acquaintances to the court as to her character (see Exhibit 3), the risk of Ms. Reyna repeating the offense is very low.

F. In light of the facts and circumstances in this matter, any public policy argument for nonrenewal of Ms. Reyna’s Class “D” Bartender License is outweighed by those public policy arguments in favor of renewal.

Ms. Reyna respectfully requests that the Common Council grant the renewal of her Class “D” Bartender License, contrary to the recommendation of the U&L Committee.

# CONVICTION REPORT AND ORDER OF REVOCATION OR SUSPENSION

Wisconsin Department of Transportation (MV3596 92)

For drug offenses under Chapter 961 Wisconsin Statutes

COURT NAME <b>CIRCUIT COURT</b>	COURT CODE <b>44000</b>	COURT CASE NUMBER (CIRCUIT COURT) <b>01CF001386</b>
COURT ADDRESS <b>901 NORTH 9TH STREET</b>		COUNTY <b>MILWAUKEE</b>
CITY, STATE, ZIP CODE <b>MILWAUKEE, WI 53233</b>		COURT TELEPHONE NUMBER <b>414- 278-5256</b>

To the Administrator of the Division of Motor Vehicles, Madison, WI:

In accordance with the provisions of section 161.50 Wisconsin Statutes, you are notified that the following defendant was convicted of the specified charge under Chapter 161 Wisconsin Statutes.

Defendant Name First MI Last <b>ANITA M FULLER</b>	Sex <b>F</b>	BirthDate <b>081956</b>	Citation Number <b>CRIMINAL COMPLAINT</b>
Address <b>1231 W MANITOBA</b>			Violation Date <b>011701, 012301</b>
City, State, Zip Code <b>MILWAUKEE, WI 53215</b>			Conviction Date <b>052401</b>
Driver License Number <b>???</b>		State <b>WI</b>	Charge and Statute Number <b>961.41(1)(CM)1 DEL OF CONT SUB COCAINE, 2 CTS</b>
Race <b>WHI</b>	Eyes <b>NA</b>	Hair <b>NA</b>	Weight <b>NA</b>
			Height <b>NA</b>

## SUSPENSION/REVOCATION ORDER

This court orders that the operating privilege of the above-named person be:

Suspended

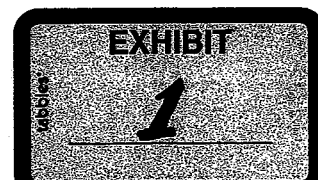
Revoked

Period of Time - 6 Months to 5 Years <b>6 MONTHS EACH COUNT CONCURRENT</b>	Effective Date <b>061401</b>
Clerk of Circuit Court	<b>John Barrett</b>
(Title)	(Judge or Clerk of Court) <span style="float: right;">June 20, 2001</span>
	(Date)

### For DMV Use Only

Pros:  
Chg:  
Rmk:  
Cty:  
Date 1:  
DID#:  
State:  
Date 2:  
Court:  
Initials:  
MJF

Mail To: Revocations & Suspensions Section  
Wisconsin Department of Transportation  
P.O. Box 7917  
Madison, WI 53707-7917



of and compliance with this chapter and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent or control drug diversion and drug abuse. The board shall convene periodic meetings to coordinate a state diversion prevention and control program. The board shall assist and promote cooperation and exchange of information among agencies and with other states and the federal government.

(3) The controlled substances board shall evaluate the outcome of its program under this section and shall annually submit a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (3), on its findings with respect to its effect on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances.

History: 1981 c. 200; 1987 a. 186; 1995 a. 305 ss. 2, 3; 1995 a. 448 s. 234; Stats. 1995 s. 961.36; 1997 a. 35 s. 339.

**961.38 Prescriptions. (1g)** In this section, "medical treatment" includes dispensing or administering a narcotic drug for pain, including intractable pain.

(1r) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance included in schedule II may be dispensed without the written prescription of a practitioner.

(2) In emergency situations, as defined by rule of the pharmacy examining board, schedule II drugs may be dispensed upon oral or electronic prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with rules of the pharmacy examining board promulgated under s. 961.31. No prescription for a schedule II substance may be refilled.

(3) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug, shall not be dispensed without a written, oral or electronic prescription of a practitioner. The prescription shall not be filled or refilled except as designated on the prescription and in any case not more than 6 months after the date thereof, nor may it be refilled more than 5 times, unless renewed by the practitioner.

(4) A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.

(4g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession.

(4r) A pharmacist is immune from any civil or criminal liability and from discipline under s. 450.10 for any act taken by the pharmacist in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(5) No practitioner shall prescribe, orally, electronically or in writing, or take without a prescription a controlled substance included in schedule I, II, III or IV for the practitioner's own personal use.

History: 1971 c. 219; 1975 c. 190, 421; 1977 c. 203; 1995 a. 448 ss. 235 to 240, 483 to 485; Stats. 1995 s. 961.38; 1997 a. 27.

**961.39 Limitations on optometrists.** An optometrist who is certified under s. 449.18:

(1) May not prescribe or administer a controlled substance included in schedule I or II.

(2) May prescribe or administer only those controlled substances included in schedules III, IV and V that are permitted for prescription or administration under the rules promulgated under s. 449.18 (8).

(3) Shall include with each prescription order all of the following:

(a) A statement that he or she is certified under s. 449.18.

(b) The indicated use of the controlled substance included in schedule III, IV or V so prescribed.

(4) May not dispense other than by prescribing or administering.

History: 1989 a. 31; 1995 a. 448 s. 241; Stats. 1995 s. 961.39.

**961.395 Limitation on advanced practice nurses.**

(1) An advanced practice nurse who is certified under s. 441.16 may prescribe controlled substances only as permitted by the rules promulgated under s. 441.16 (3).

(2) An advanced practice nurse certified under s. 441.16 shall include with each prescription order the advanced practice nurse prescriber certification number issued to him or her by the board of nursing.

(3) An advanced practice nurse certified under s. 441.16 may dispense a controlled substance only by prescribing or administering the controlled substance or as otherwise permitted by the rules promulgated under s. 441.16 (3).

History: 1995 a. 448.

## SUBCHAPTER IV

### OFFENSES AND PENALTIES

**961.41 Prohibited acts A—penalties. (1) MANUFACTURE, DISTRIBUTION OR DELIVERY.** Except as authorized by this chapter, it is unlawful for any person to manufacture, distribute or deliver a controlled substance or controlled substance analog. Any person who violates this subsection with respect to:

(a) Except as provided in par. (d), a controlled substance included in schedule I or II which is a narcotic drug, or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned for not more than 22 years and 6 months or both.

(b) Except as provided in pars. (cm) and (e) to (h), any other controlled substance included in schedule I, II or III, or a controlled substance analog of any other controlled substance included in schedule I or II, may be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

(cm) Cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. Five grams or less, the person shall be fined not more than \$500,000 and may be imprisoned for not more than 15 years.

2. More than 5 grams but not more than 15 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months.

3. More than 15 grams but not more than 40 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 30 years.

4. More than 40 grams but not more than 100 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 45 years.

5. More than 100 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45 years.

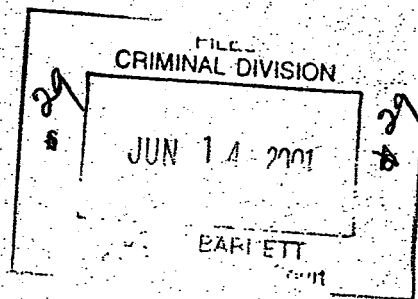
(d) Heroin or a controlled substance analog of heroin is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 22 years and 6 months.

EXHIBIT

2

April 22<sup>nd</sup>, 2001



To Whom It May Concern:

I have known Anita Fuller for approximately five and a half years. I find her to be a very hard working individual, a given and caring person, who is always willing to work extra hours and do other jobs outside of her duties.

She has always been very punctual and very cordial to my customers.

If you have questions or need further information, please do not hesitate to contact me at 643-8256.

Sincerely,

Handwritten signature of Jim Reid Jr.

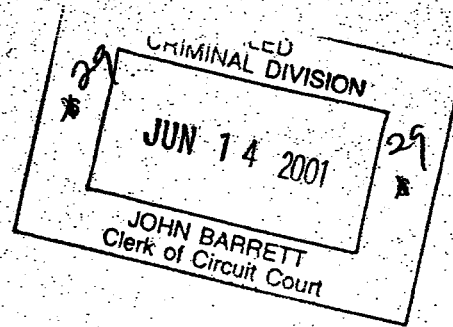
Jim Reid Jr.

B.P.S Inc.

Agent



April 24<sup>th</sup>, 2001



To Whom It May Concern:

I have known Anita Fuller for approximately two and half years. She is employed by Best Place South, where I met her while doing some remodeling at that location. She is a very outgoing and helpful person.

Ms. Fuller is also a tenant of mine at The Music Connection, where she rents a three-bedroom apartment.

I feel Anita Fuller is a very responsible person.

If you have any questions, please feel free to contact me at 803-7436.

Sincerely,

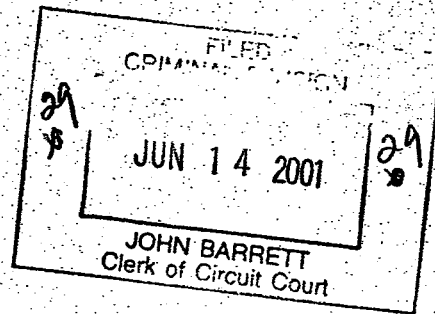
Dale Trostorff

Agent





April 24<sup>th</sup>, 2001



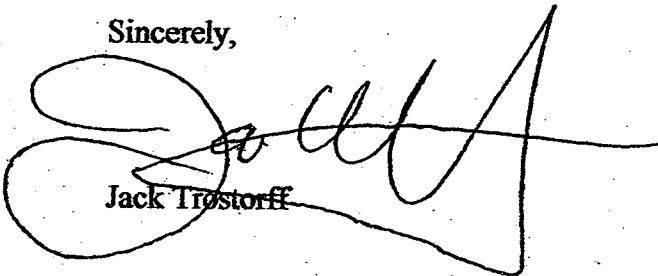
To Whom It May Concern:

I am happy to write this letter of recommendation on Anita Fuller behalf. I have known her for five and a half years and I find her to be a good employee of one of my tenants. In my eyes, she is a very hard and efficient worker.

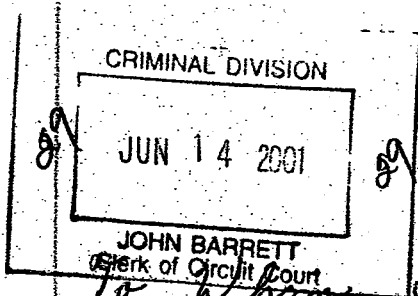
I feel she has a lot of potential to give her present and/or future employers.

If you have any questions, please feel free to contact me at 205-6160 (pager)

Sincerely,



Jack Trøstorff



To Whom It May Concern,

I am writing this letter in behalf of Amita Fuller. I have known her for 2 1/2 years. She is a friend first, and a co-worker second.

First and foremost I know that she knows she has made a big mistake, and she has learned from that mistake.

Amita has tried to help friends who come to her with their problems. She has tried to help me with my two daughters. She talks to them and they listen to her. They think of her as a second mother. There have been a few times where she has tried to help people she doesn't even know.

She is also a great co-worker. There have been times where I was working and it got to busy for just one person to handle and all I would have to do is call her and she would be there to help me.

Sincerely,  
Kim Witter



CRIMINAL DIVISION

JUN 14 2001

JULIA B. BRETTE  
Clerk of Circuit Court

4-30-01

To whom it may concern, in the matter of Anita <sup>Fuller</sup> ~~Berrins~~, I Eric Smith have know her for over 20 years and I believe in that time she has shown myself and family members how confident in her work and family matters she is, also I would go as far to say that she has been a responsibility role model for younger family members.

I also know that over the period years that I have known her she has been most trust worthy and honest in many if not all kinds of situations.

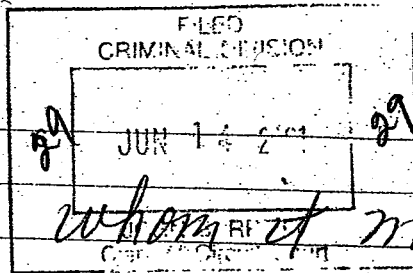
I would like to at this time to show my support and confidence in the matter that is at hand and hope and pray for the best for my utmost friend.

Thank you  
Eric Smith

EXHIBIT

3

PAGE 5 OF 6



To whom it may concern,

I Cynthia Rosenberg have known Anita Fuller for over 20 years. She has been more than a sister could have been to me when ever I've needed her she was always there for me. The biggest surprise for me was to know that Anita was involved with drugs. In all the years I have know her I never knew that drug was part of her life. I've believed that her involvement with drugs was because of money. She wasn't making much money on any of the jobs she had and she's the single parent who was trying to make ends meet. I'm sure this is the only reason drug involvement came into play.

Anita, have always been a hard worker trying for the last 19 years to send her children to school and keep food on the table clothes on her kids back, roof over there head. She's never had anyone to help her in anyway but myself. She's a great citizen and a fellower for justice in her community. She's never been in favor of drug use or selling as long as I've know her. This is the only reason she could have done this. A confident and honest person in her work and relation. I thank God for her being in



CRIMINAL COURT RECORD

Caption:  
State vs Anita M Fuller

Case Number:  
01CF001386

11/05/20  
2:14 p

Date Court Record Entries

C.O.  
Court Reporter  
Tape / Counter  
Location

06-14-2001

Sentencing hearing  
Defendant Anita M Fuller in court with attorney Dawn Rablin. Jennifer Rypel appeared for the State of Wisconsin. Sentencing proceeded. Statements by the state, defense and defendant. Additional statements by: Cynthia R., James R., and Dale T.

Richard J. Sankovitz-29  
Kristin Menzia

COUNT 01: Court sentenced defendant to serve a Term of Imprisonment of 4 YEARS in the Wisconsin State Prison, consecutive to any other sentence; credit for 0 days served. Court ordered INITIAL TERM OF CONFINEMENT of 2 YEARS and EXTENDED SUPERVISION of 2 YEARS with the following conditions:

- Follow all rules.
- No further violations of the law.
- No weapons or drug paraphernalia.
- Absolute sobriety; random urine screens.
- AODA assessment/treatment.
- Seek/maintain full employment.
- Pay balance of costs and surcharges.

Written Explanation of Determinate Sentence read to defendant and filed; copy to defendant.  
Defendant is NOT eligible for boot camp.

Court STAYED sentence and placed defendant on PROBATION for 3 YEARS consecutive to Count 02 with the following conditions:

- Follow all rules of probation.
- No further violations of the law.
- AODA assessment and any treatment.
- Absolute sobriety.
- Random urine screens.
- No weapon or drug paraphernalia.
- Seek and maintain full employment.
- Pay costs of \$510.00 to Milwaukee Police Department, 749 W. State St., Milwaukee, WI 53233.
- Pay all court costs, DNA surcharge and surcharges.

NOT AS CONDITIONS OF PROBATION: Court ordered driving privileges suspended for 6 months.

06-14-2001

Hearing Continued  
COUNT 2:

Court sentenced defendant to serve 12 MONTHS in the House of Correction CONSECUTIVE to any sentence with credit for 3 days served; Huber privileges for work and AODA treatment for maximum of 72 hours per week; to commence on or after 7/16/01; NO Electronic Monitoring.

Court ordered driving privileges suspended for 6 months concurrent to Count 1.

Court ordered that defendant pay ALL COSTS and SURCHARGES by 10/01/02 or, as a penalty if not paid, serve 25 DAYS in the House of Correction consecutive to any sentence; Huber privileges for work and AODA treatment; electronic monitoring.

Court advised defendant that if the penalty sentence is served any unpaid balance remains due and owing.

Notice of Right to Seek Postconviction Relief received and filed. rn

Richard J. Sankovitz-29  
Kristin Menzia

06-14-2001

Dispositional order/judgment

Richard J. Sankovitz-29

06-20-2001

Notes

Judgment of conviction issued. Notification of conviction reported to Department of Motor Vehicles. mjf

11-02-2001

Letters/correspondence

Defendant's pro se request for release on electronic monitoring.

