

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF
SUPERSAVER, INC.
JUMBO CHINESE RESTAURANT
4280 RAINIER AVE. S. #A
SEATTLE, WA 98118 - 1357

LICENSEE

License No. 352643

NO. 22,713
OAH NO. 2006-LCB-0084
FINAL ORDER OF THE BOARD

The above entitled matter coming on regularly before the Board, and it appearing:

1. A formal hearing was held on January 10, 2007 at the Licensee Supersaver, Inc. dba Jumbo Chinese Restaurant's timely request for an administrative hearing following the Liquor Board's Complaint No. 22,713. The Complaint alleged a violation of RCW 66.44.200 and WAC 314-11-035 occurring on or about September 20, 2006 when the Licensee or an employee of the Licensee allowed or permitted an apparently intoxicated person to purchase liquor and/or consume liquor on the licensed premises. The Complaint sought a five day license suspension or a \$500 monetary penalty in lieu of suspension.

2. On March 9, 2007 Administrative Law Judge Robert Kingsley (ALJ) entered Findings of Fact, Conclusions of Law and Initial Order in this matter which dismissed the Complaint.

3. At the hearing the Education and Enforcement Division of the Board was represented by Assistant Attorney General Jennifer Elias and the Licensee was represented by owner Hai Vu.

4. The Education and Enforcement Division filed a timely Petition for Review of the ALJ's initial order, stating Exceptions to the ALJ's Conclusion of Law No. 4 as not supported by the evidence in the record.

5. The Board affirms and adopts the ALJ's findings of fact.

The above findings and the Board's consideration of the entire record of this matter, which includes the totality of the evidence presented during the hearing as well as the exceptions contained in the Petition for Review of Initial Order filed by the Board's Education and Enforcement Division result in the following CONCLUSIONS:

1. The Board hereby agrees with, and adopts, the ALJ's Conclusions of Law Nos. 1-3 and Conclusion of Law No. 5;

2. The Board rejects the ALJ's Conclusion of Law No. 4 as unsupported by the record;

3. The Board hereby adopts the following Conclusion of Law No. 4, in place of the unsupported Conclusion of Law No. 4 entered by the ALJ:

Conclusion of Law No. 4: A preponderance of the evidence in the record establishes that Mr. Tran was apparently intoxicated on the licensed premises on or about September 20, 2006 and that the Licensee or an employee of the Licensee allowed an apparently intoxicated person to purchase liquor and or consume liquor on the premises contrary to RCW 66.44.200 and WAC 314-11-035.

4. The requested penalty of a five day license suspension or a \$500 monetary penalty in lieu of license suspension is appropriate in light of the violation found by the Board in its Conclusion No. 4; NOW THEREFORE;

IT IS HEREBY ORDERED that the ALJ's Findings of Fact and Conclusions of Law are hereby adopted as the final decision of the Board except that the ALJ's Conclusion of Law No. 4 is rejected and is replaced with the Board's Conclusion of Law No. 4 as set out above. The ALJ's Initial Order dismissing the Complaint is REVERSED and it is hereby ordered that the Board's

complaint is SUSTAINED and a penalty of a five day license suspension or a \$500 penalty is imposed. The liquor license privileges granted to Jumbo Chinese Restaurant, 4280 Rainier Avenue South, #A, Seattle, Washington, License Number 352643, be and the same are hereby suspended for a term of five days (5) days effective from 10:00 a.m. on June 21, 2007, until 10:00 a.m. on June 26, 2007; PROVIDED, HOWEVER, that said suspension shall be vacated upon payment of a monetary penalty in the amount of five hundred dollars (\$500) due on or before June 19, 2007. Failure to comply with the terms of this order will result in further disciplinary action.

Payment should be sent to:

Washington State Liquor Control Board

4401 E Marginal Way S.

Seattle, WA 98134-9947

Reconsideration. Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order or (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering it directly to the Washington State Liquor Control Board, Attn: Kevin McCarroll, 3000 Pacific Avenue Southeast, PO Box 43076, Olympia, WA 98504-3076, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board's office. RCW 34.05.010(6). A copy shall also be sent to Martha P. Lantz, Assistant Attorney General, 1125 Washington St. SE, P.O. Box 40110, Olympia, WA 98504-0110.

A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on the petition. An order denying reconsideration is not subject to judicial review. RCW 34.05.470(5). The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

Stay of Effectiveness. The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Board has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW and RCW 34.05.550.

Judicial Review. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

DATED at Olympia, Washington this 1st day of June, 2007.

WASHINGTON STATE LIQUOR CONTROL BOARD

Trina Lee

Kathleen Kwock