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LIQUOR CONTROL BOARD  
BOARD ADMINISTRATION

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7 **BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

8 In the Matter of the Hearing of:

LCB NO. 22,719

9 WHITESTONE WINERY, INC.  
10 WHITESTONE WINERY  
11 9 NE ANNE STREET  
12 WILBUR, WA 99185

AGREEMENT AND ORDER

13 LICENSEE.

14 LICENSE NOS. 401110/084828

15 COMES NOW the Washington State Liquor Control Board's Education &  
16 Enforcement Division ("Enforcement"), by and through its attorneys, ROBERT M.  
17 MCKENNA, Attorney General, and JENNIFER ELIAS, Assistant Attorney General, and  
18 Whitestone Winery, LLC. ("Whitestone"), by and through its legal counsel, RICHARD C.  
19 ROBINSON, having found that good cause exists for Enforcement and Whitestone to fully and  
20 finally settle, compromise, and resolve the appeal of the Washington State Liquor Control  
21 Board's Final Order, entered July 25, 2007, and hereby submits this subjoined agreement and  
22 order.

23 **I. AGREEMENT**

24 1. **Board's Complaint of March 22, 2007.** Enforcement and Whitestone agree  
25 that the Washington State Liquor Control Board's complaint against Whitestone dated  
26 March 22, 2007, for case number 22,719, shall be dismissed with prejudice and will not be  
considered part of Whitestone's administrative licensing history.

1           2.     **Washington State Liquor License for Building 3.** It is agreed that  
2 Whitestone shall not be required to have a separate winery license for Building 3, current  
3 liquor license number 401110. Building 3 is comprised of its west half located at North 9  
4 Anne Street, Wilbur, Washington, and its east half located at 203 NE Main, in Wilbur,  
5 Washington. Building 3 is located adjacent to Whitestone's original licensed winery which  
6 consists of Building 1, located at 115 NE Main, Wilbur, Washington, and Building 2, located  
7 at 4 NE Anne Street, in Wilbur, Washington, under license number 084828. Building 3 shall  
8 be considered licensed under liquor license 084828 and no longer be licensed under license  
9 number 40110.

10           3.     **No Further Alterations or Expansions of any of the Buildings Under**  
11 **License Number 084828 Without Prior Approval from the Washington State Liquor**  
12 **Control Board.** It is agreed that Whitestone shall not expand or alter Buildings 1, 2, or 3  
13 referenced and identified in paragraph 2 above, or acquire additional buildings without prior  
14 notice to and approval from the Licensing Division of the Washington State Liquor Control  
15 Board.

16           4.     **Dismissal of the Petition for Review With Prejudice.** It is agreed that upon  
17 entry of this Agreement and Order, Enforcement and Whitestone Winery shall jointly request  
18 that Whitestone's Petition for Review of the Final Order filed on August 13, 2007, in Lincoln  
19 County Superior Court, Case No. 07-2-00118-3, be dismissed with prejudice without  
20 assessment of costs to either party.

21           5.     **Authority of Board.** It is agreed that nothing in this Agreement and Order  
22 shall be construed as preventing the Washington State Liquor Control Board from fully  
23 exercising its authority and enforcing any provision of Chapter 66 of the Revised Code of  
24 Washington and Title 314.

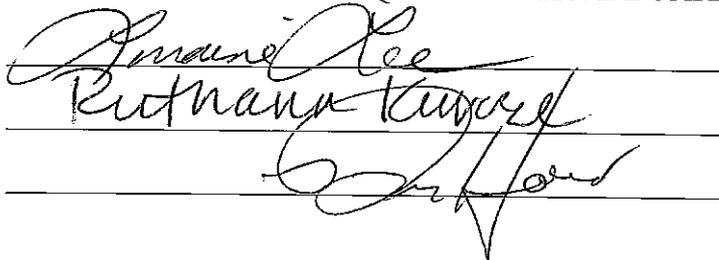


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**II. ORDER**

IT HEREBY ORDERED that the complaint for case number 22,719, dated March 22, 2007 is dismissed and the Board's Final Order of July 25, 2007 is vacated.

WASHINGTON STATE LIQUOR CONTROL BOARD



WHITESTONE WINERY, INC.  
WHITESTONE WINERY  
9 NE ANNE STREET  
WILBUR, WA 99185  
LICENSE NOS. 401110/084828  
LCB NO. 22,719



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LIQUOR CONTROL BOARD  
BOARD ADMINISTRATION

Rob McKenna

**ATTORNEY GENERAL OF WASHINGTON**

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

**MEMORANDUM**

DATE: April 7, 2009

TO: Washington State Liquor Control Board Members  
MS 43076

FROM: Jennifer Elias, Assistant Attorney General   
MS 40100

SUBJECT: **RECOMMENDATION TO ACCEPT SETTLEMENT AGREEMENT**

**Whitestone Winery, Inc. Whitestone Winery  
License Nos. 401110 and 084828  
LCB No. 22,719  
Lincoln County Superior Court Docket No. 07-2-00118-3**

The parties to the above-identified action have entered into a settlement agreement, which is attached for your consideration and action.

Judicial review of the Board's final order is being sought in Lincoln County Superior Court. Through the attached agreement, the parties have agreed to dismiss the superior court action. Enforcement and Licensing believe that this is the appropriate resolution of the matter due to evidentiary concerns.

Captain Skoda, Rich Manoli, and Alan Rathbun participated in the settlement negotiations and agree with this resolution. I therefore recommend that the Board accept the settlement reached in this matter and sign the included order dismissing the complaint for liquor case number 22,719.

Thank you for your attention to this matter.

JE:lc

Attachments Agreement and Order  
Board's Final Order of July 25, 2007  
Initial Order of ALJ Steinmetz of May 17, 2007

cc: Richard Robinson, Attorney for Licensee  
Jennifer Skoda, Captain  
Alan Rathbun, Licensing

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF

WHITESTONE WINERY, INC.  
WHITESTONE WINERY  
9 NE ANNE STREET  
WILBUR, WA 99185

LICENSEE

License No. 401110

NO. 22, 719

OAH NO. 2007-LCB-0006

FINAL ORDER OF THE BOARD

I. BOARD'S CONSIDERATION

The above entitled matter coming on regularly before the Board to review the Findings of Fact, Conclusions of Law and Initial Order entered by Administrative Law Judge Edward S. Steinmetz on May 17, 2007, and it appearing:

1. A formal hearing was held on April 26, 2007 at the Licensee, Whitestone Winery's timely request for an administrative hearing following the Liquor Board's Complaint No. 22,719, issued on March 22, 2007. The Complaint alleged Whitestone Winery, or an employee thereof, engaged in the production and/or storage of wine at a new location which did not have a domestic winery license in violation of RCW 66.44.090 and RCW 66.24.170. The Complaint sought a three day suspension of Whitestone's domestic winery license or a \$500 monetary penalty in lieu of suspension.

2. At the hearing the MIW Division of the Board was represented by Assistant Attorney General Jennifer Elias and the Licensee was represented Walter Haig, II, President of the Licensee's corporation.

3. On May 17, 2007 Administrative Law Judge Edward S. Steinmetz (ALJ) entered Findings of Fact, Conclusions of Law and Initial Order in this matter which dismissed the Complaint.

4. The MIW Division filed timely a timely Petition for Review of the ALJ's initial order, specifically taking exception to the ALJ's Conclusion of Law No. 4 as containing an incorrect interpretation of WAC 314-01-005 (1), pointing to typographical errors in Finding of Fact No. 3 and requesting the Complaint be sustained.

5. The entire record of this proceeding was presented to the Board for its review and the entry of a final decision.

## II. FINDINGS OF FACT

1. The Board affirms and adopts the ALJ's findings of fact, except as to the typographical errors contained in Finding of Fact No. 3.

2. The Board substitutes the following language for the existing Finding of Fact No. 3. The substitute Finding of Fact No. 3 which corrects the typographical errors is as follows:

### Finding of Fact No. 3:

On or about October 1, 2002 Officer McCabe met with Michael Haig, son of Walter and Judith Haig, corporate officers for Whitestone Winery, Inc. Michael Haig serves as the winemaker for Whitestone Winery. During this conversation Officer McCabe advised Michael Haig that the Licensee could have no ownership or possession of any grape juice until they had applied for their state license, and Mr. Haig advised that they did not. However, Officer McCabe subsequently

discovered that grape juice was being stored at the Licensee's location at 115 N.E. Main Street, Wilber, Washington, as of approximately September 20, 2002.

### III. CONCLUSIONS OF LAW

The Board hereby adopts Conclusions of Law Nos. 1, 2, 3 and 6 as entered by the ALJ. The Board hereby rejects Conclusions of Law Nos. 4, 5 and 7. The Board hereby enters the following Conclusions of Law Nos. 4, 5, 7 to substitute for the original, rejected, Conclusions of Law 4, 5 and 7.

#### Conclusion of Law No. 4:

WAC 314-01-005 (1) is not applicable to the allegations in the Board's complaint that the Licensee was operating at a new location without a license for that location, in violation of the law. WAC 314-01-005 (1) applies to specific premises for which a license has already been issued, and cannot be read to mean that a separate location, not licensed by the Board, should be considered licensed as a part of some other, already licensed, premises.

#### Conclusion of Law No. 5.

Licensee's reliance on WAC 314-01-005 (1) as an explanation for or defense to the allegation of operating at a new location without a license is not reasonable. As noted above in Conclusion of Law No. 4, WAC 314-01-005 (1) refers to areas under a licensee's control, available to or used by customers and/or employees in the conduct of business operations, only when such areas are part of the specific premises for which a license has already been issued. Licensee in this case did not possess a license for the 9 Anne Street location, also known as "Building 3" until February of 2007 when Licensee applied for and received a license for the premises known as "Building 3."

Conclusion of Law No. 7.

The evidence establishes a violation of RCW 66.24.170 and of RCW 66.44.090 when the Licensee used Building 3 in its winemaking operation at points in time prior to application for and receipt of a license for Building 3 in February of 2007. The Board's Complaint in this matter is sustained. The standard penalty of a three day suspension of Whitestone's domestic winery license or a \$500 monetary penalty in lieu of suspension is appropriate.

**IV. ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Board ORDERS:

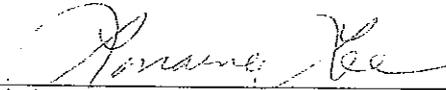
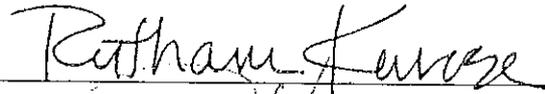
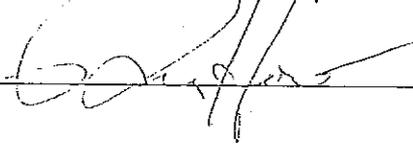
The ALJ's Initial Order dismissing the Complaint is REVERSED and the Board's complaint is SUSTAINED and a penalty of a three day license suspension or a \$500 penalty is imposed; therefore, the license privileges granted to Whitestone Winery, 9NE Anne St in Wilbur, Washington, License Number 401110, are hereby suspended for a term of three days (3) days effective from 10:00 a.m. on August 21, 2007, until 10:00 a.m. on August 24, 2007; HOWEVER, the suspension shall be vacated upon payment of a monetary penalty in the amount of five hundred dollars (\$500) due on or before August 14, 2007. Failure to comply with the terms of this order will result in further disciplinary action.

Payment in reference to this order should be sent to:

**Washington State Liquor Control Board  
Enforcement and Education MIW Division  
1303 W Broadway  
Spokane, WA 99201-2053**

DATED at Olympia, Washington this 25<sup>th</sup> day of July, 2007.

WASHINGTON STATE LIQUOR CONTROL BOARD

  
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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).

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE WASHINGTON STATE LIQUOR CONTROL BOARD

In the Matter of:

WHITESTONE WINERY, INC.  
WHITESTONE WINERY  
9 NE ANNE STREET  
WILBUR, WA 99185

LICENSEE

LICENSE NO. 401110

OAH Docket No. 2007-LCB-0006  
LCB Case No. 22,719

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND INITIAL ORDER**

**STATEMENT OF THE CASE**

On October 30, 2006, the Washington State Liquor Control Board (Board) issued an Administrative Violation Notice for First Time Violations-Standard Penalty, asserting that Whitestone Winery, Inc., Licensee, was operating at a new location without the required licensure in violation of RCW 66.24.170 and RCW 66.44.090. The Board advised Licensee that the penalty to be assessed for this violation was a three-day suspension of the Licensee's domestic winery license, or in lieu thereof, a civil monetary penalty in the amount of \$500.00. The Licensee filed a timely request for hearing.

On March 22, 2007, the Board issued a formal Complaint in which it alleged that in or around the months of September and October 2006, the Licensee, or an employee thereof, engaged in the production and/or storage of wine at a new location which did not have a domestic winery license in force in violation of RCW 66.44.090 and RCW 66.24.170.

This matter came on for hearing before Edward S. Steinmetz, Administrative Law Judge, in Spokane, Washington, on April 26, 2007. At hearing, the Board was represented by Jennifer Elias, Assistant Attorney General. The Licensee appeared and was represented by Walter Haig II, President of the Licensee's corporation. Appearing as witnesses for the Board were Russell McCabe, Liquor Enforcement Officer for the Board's Manufacturers, Importers and Wholesalers Division, and Heidi Ensign, Non-retail Compliance Supervisor. Mr. Haig appeared as a witness for the Licensee.

Based upon the record presented, the undersigned Administrative Law Judge makes the following Findings of Fact:

#### **FINDINGS OF FACT**

1. On or about July 14, 2002, the Licensee submitted an Application to Establish and Operate Wine Premises to the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. Exhibit A-4. This application was approved by the Bureau of Alcohol, Tobacco and Firearms on September 18, 2002. Exhibit A-4.
2. On September 18, 2002, the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, sent notification to the Board which states in relevant part as follows: "This letter is to notify you that effective as of the date of this letter, the following permit, which is within your jurisdiction, has been issued." Exhibit 16, page 2. The permit referenced was that issued to the Licensee herein by the federal entity.
3. On or about October 1, 2006, Officer McCabe met with Michael Haig, son of Walter and Judith Haig, corporate officers for Whitestone Winery, Inc. Michael Haig serves

as the wine maker for Whitestone Winery. During this conversation, Michael Haig advised Officer McCabe that the Licensee could have no ownership or possession of any grape juice until they had applied for their state license, and Mr. Haig advised that they did not. However, Officer McCabe subsequently discovered that grape juice was being stored at the Licensee's location at 115 N.E. Main Street, Wilbur, Washington, as of approximately September 20, 2002.

4. On December 20, 2002, Officer McCabe spoke personally with Walter Haig with regard to the operation of Whitestone Winery. During this conversation, Mr. Haig explained that he had received a federal permit to operate the winery at 115 N.E. Main Street (Wilbur, Washington), and Officer McCabe explained that the Licensee would also have to obtain a domestic winery license through the state of Washington before beginning operation. The Licensee subsequently applied for a domestic winery license which was granted by the Board on February 19, 2003. Exhibit 12. This domestic winery license was granted for the premises at 115 N.E. Main Street, Wilbur, Washington. In conjunction with the Licensee's application, floor plans were submitted for a building located at 115 N.E. Main Street in Wilbur, Washington. Exhibit 4. This initial building was identified at hearing as "Building 1."

5. On or about March 13, 2003, Officer McCabe went over a Retail Licensee Briefing checklist with Walter Haig. Exhibit 23. This checklist related to retail activities and included discussion of "alterations/added activities" and referenced WAC 314-16-180 and RCW 66.28.080. This tribunal notes that WAC 314-16-180 has apparently been repealed

and is no longer in force, and RCW 66.28.080 references retail Licensee's activity with regard to dancing on the premises.

6. On August 28, 2004, the Licensee submitted to the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, an amended Application to Establish and Operate Wine Premises seeking to add to the federal license a second building located in near proximity to Building 1. Exhibit A-10. As set forth in this application, the Licensee was seeking to include an area in a garage/storage building located directly behind Building 1. This second garage/storage building was identified at hearing as "Building 2." This amended application to include Building 2 was approved by the Department of the Treasury on October 12, 2004. Exhibit A-10. Included with this amended application were floor plans for Building 2. Exhibit A-11.

7. On September 10, 2006, the Licensee again submitted to the United States Department of the Treasury, Alcohol, Tobacco Tax and Trade Bureau, an amended application to include a third building to its existing wine production premises. Exhibit A-15. As set forth in the amended application, the Licensee was seeking to add an additional building and parking lot area directly across a public street from Buildings 1 and 2. Included with this amended application were floor plans for the new building and parking area which were identified at hearing as "Building 3." Exhibit A-16, Exhibit A-17, and Exhibit A-18. Included with this amended application was the legal description for Building 3 and its parking area. Exhibit A-19, 20, and 21. This amended application to add Building 3 was approved by the United States Department of the Treasury on January 22, 2007. Exhibit A-15.

8. The credible testimony of Walter Haig establishes that copies of the amended application submitted to the Department of the Treasury on September 10, 2006, and all associated documents, including floor plans and legal description for Building 3, were "cc'd" or copied and sent to the Board's office in Olympia, Washington. Mr. Haig's testimony establishes that he sent copies of the amended federal application to the Board via regular mail.

9. On October 30, 2006, Officer Russell McCabe performed an inspection of the Licensee's premises in Wilbur, Washington. During this inspection, Officer McCabe spoke to one of the Licensee's maintenance workers and inquired as to where either Walter Haig or Michael Haig were located. The maintenance worker advised that one of those gentlemen was across the street in their "new building." At hearing, Officer McCabe testified that this was the first time that he became aware that the Licensee was operating in Building 3, which is located across Anne Street from Buildings 1 and 2. Officer McCabe subsequently entered Building 3, N. 9 Anne St., and during this inspection, observed multiple full barrels of aging grape juice, multiple cases of wine, bottling equipment, and bins full of grape must. Michael Haig advised Officer McCabe that the Licensee had moved into this building in September, 2006, and was using the building in its wine making operation.

10. At hearing, the credible testimony of Walter Haig establishes that he was aware of Officer McCabe's inspection conducted on October 30, 2006. Mr. Haig explained that it was his understanding that Officer McCabe's inspection was as a result of the copied materials which had been sent to the Board in reference to the Licensee's

September 10, 2006 amended application to the United States Bureau of the Treasury. In other words, Mr. Haig explained that it was his understanding that the Board had in fact received these materials, and that Officer McCabe's inspection was in relation to the amended application to the United States Department of the Treasury.

11. On November 3, 2006, Officer McCabe engaged in a telephone conversation with Walter Haig and advised Mr. Haig of the need for the Licensee to apply for a new license at the Building 3-Anne Street location. Officer McCabe further advised Mr. Haig that the Licensee needed to submit floor plans to the Board for Building 2, so that Building 2 could be included in the Licensee's existing domestic winery license for the 115 N.E. Main Street location.

12. Following Walter Haig's conversation with Officer McCabe on November 3, 2006, the Licensee did in fact submit an application for a new domestic winery license at the North Anne Street-Building 3 location. As part of this application, the Licensee submitted floor plans for Buildings 2 and 3 to the Board on or about December 12, 2006. The Board subsequently issued a new domestic winery license to the Licensee for the N. 9 Anne Street location on February 21, 2007. Exhibit 8.

13. As set forth above, Building 1 has a street address of 115 N.E. Main Street, Wilbur, Washington. Building 2 has a street address of 4 N.E. Anne Street, Wilbur, Washington. Building 3 actually has two street addresses as follows: The West half of Building 3 has a street address of N. 9 Anne Street, Wilbur, Washington. The East half of Building 3 has a street address of 203 N.E. Main Street, Wilbur, Washington. Exhibit A-26.

14. At hearing, Officer McCabe explained that although Building 2 may have a separate street address from Building 1, that the Board would allow the Licensee to include Building 2 in the license granted in 2003 as long as floor plans were submitted and approved by the Board with regard to Building 2. Officer McCabe further explained, however, that it is the Board's position that any time a Licensee seeks to add a new building or portion of the premises which is separated from the existing license by a public roadway or street, that the Board will require a new domestic winery license to be applied for and issued with regard to the new building or premises. When specifically asked for any statutory, regulatory, or policy provision stating this requirement, Officer McCabe testified that was simply the way "it had always been done." Similarly, Heidi Ensign, Non-retail Compliance Supervisor, also acknowledged that she could not specify any statute, regulation, or policy statement setting forth a requirement that a new license was required if a new building or premises was separated from an existing licensed premises by a public roadway or street. Ms. Ensign testified that the requirement asserted by the Board herein was simply the way that she had been trained.

15. At hearing, Walter Haig testified that although he did not agree with the Board's position that a new domestic winery license was required for Building 3, the N. 9 Anne Street location, that he nevertheless submitted the application and obtained the license for that building in order to stay in the good graces of the Board. Mr. Haig further testified that it was his understanding that a new license would not be required for Building 3 under the provisions of WAC 314-01-005(1), which defined "licensed premises," or "premises" as: "all areas of a premises under the legal control of the Licensee and

available to or used by customers and/or employees in the conduct of business operations. Specific alcohol consumption areas of a licensed premises shall be approved by the Board." Mr. Haig further testified that Buildings 1, 2 & 3 are used in conjunction for the Licensee's wine making process. Specifically, Building 1 houses the Licensee's tasting room and offices and is now a totally "non-bonded" facility. Building 2 is used by the Licensee for bulk wine storage. Building 3 is used for barrel aging, case storage and fermentation. After this fermentation process, the barrels are then transferred to Building 2. A photograph showing the physical proximity of Buildings 1, 2 & 3 has been admitted into the record as Exhibit A-29.

Based upon the above Findings of Fact, the following Conclusions of Law are entered:

#### CONCLUSIONS OF LAW

1. The provisions of RCW 66.24.170 are applicable and provide in relevant part as follows:

(1) There shall be a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

2. The provisions of RCW 66.44.090 are applicable and state as follows:

Any person doing any act required to be licensed under this title without having in force a license issued to him shall be guilty of a gross misdemeanor.

3. The provisions of WAC 314-02-130 are applicable and address what type of changes to a licensed premises require Board approval. One provision under this regulation sets forth that for the alteration "storing liquor off of the licensed premises" that Board approval will be based on the alteration meeting the requirements outlined in Title 314 WAC.

4. The provisions of WAC 314-01-005 are applicable and state in relevant part as follows:

(1) "Licensed premises" or "premises" means all areas of a premises under the legal control of the licensee and available to or used by customers and/or employees in the conduct of business operations. Specific alcohol consumption areas of a licensed premises shall be approved by the board.

5. It is the Board's position in this matter that when the Licensee expanded its domestic winery operation to Building 3 which is situated across Anne Street from Buildings 1 & 2, that a new domestic winery license is required. However, neither the Board's enforcement officer, nor its non-retail compliance supervisor, were able to cite any specific statutory, regulatory, or written policy provision setting forth this requirement. The Licensee has relied upon the provisions of WAC 314-01-005(1) which define the licensed premises to mean all areas of a premises under the legal control of the Licensee and available to or used by customers and/or employees in the conduct of business operations. The facts in this case establish that Building 3 is under the legal control of the Licensee and is available for use by employees in the conduct of business operations. Therefore, the Licensee's reliance on this regulatory provision to infer that Building 3 would be included in the original license granted in 2003 by the Board is in fact a reasonable

conclusion. If there is a statutory, regulatory, or written policy provision which requires Licensees to obtain a new domestic winery license under the circumstances at issue herein, then certainly the Board's representatives should be ready, willing and able to provide such provision to Licensees to make them aware of the law's requirements.

6. However, this tribunal understands the Board's concern in this matter and notes that when the Licensee was initially contacted by Officer McCabe in 2002, the Licensee was then made aware that a license issued by the Board was required, and that floor plans for the licensed premises were required. Although the facts do show that when the Licensee expanded to Building 3, and filed an amended application with the United States Department of the Treasury, that copies of the amended application, including floor plans and a legal description, were sent to the Board via regular U.S. mail. However, this does not satisfy the Licensee's obligation to communicate clearly and directly with the Board, and to submit any alterations or amendments to the original license application directly to the Board. The Licensee should clearly be aware at this point that any future action which deviates from the licenses granted by the Board will require clear and direct communication with the Board in a manner prescribed by the Board.

7. After careful consideration of the facts in this matter, this tribunal concludes that the evidence fails to establish that the Licensee has violated the provisions of either RCW 66.24.170 or RCW 66.44.090. The Board's Complaint in this matter should therefore be dismissed.

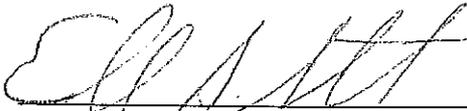
Based upon the foregoing Conclusions of Law, NOW THEREFORE,

INITIAL ORDER

IT IS HEREBY ORDERED, That on a date to be established in the Board's Final Order, the Board's Complaint dated March 22, 2007 shall be DISMISSED.

DATED at Olympia, Washington, this 17<sup>th</sup> day of May, 2007.

WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS

  
\_\_\_\_\_  
Edward S. Steinmetz  
Administrative Law Judge

ESS:sr

Copies mailed to:

Whitestone Winery, Inc.  
Whitestone Winery  
9 NE Anne St  
Wilbur WA 99185

Walter Haig II  
Whitestone Winery  
42399 Jump Canyon Rd N  
Creston WA 99117  
Telephone (509) 636-2012

Jennifer Elias  
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Office of the Attorney General  
PO Box 40100  
Olympia WA 98504-0100  
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