

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

FAMILY LEGACY RESTAURANTS LLC
PETE'S BAR & GRILL
1360 SE BISHOP BLVD
PULLMAN, WA 99163

LICENSEE

LICENSE NO. 357538

LCB NO. 22,838

OAH NO. 2008-LCB-0027

FINAL ORDER OF THE BOARD
FOLLOWING REMAND

I. BOARD'S CONSIDERATION

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

1. A formal hearing was held on October 15, 2008 at the licensee's timely request for a hearing on an administrative violation notice issued by the Liquor Control Board.

2. The Complaint alleged that on April 1, 2008 the Licensee or employee(s) thereof, allowed or permitted an apparently intoxicated person(s) to consume and/or possess alcohol on a licensed premises contrary to RCW 66.44.200 and WAC 314-16-150.

4. On October 30, 2008 Administrative Law Judge Edward S. Steinmetz entered his Findings of Fact, Conclusions of Law and Initial Order in this matter which dismissed the Complaint.

5. A Petition for Review of the Initial Order was filed timely by the Enforcement and Education Division, accepting the facts as found by the ALJ but taking exception to the ALJ's conclusions of law and dismissal of the complaint.

6. No reply to Enforcement Division's Petition for Review of the Initial Order was

filed by the Licensee.

7. On January 26, 2009 the Board issued a Final Order in which it reversed the October 30, 2008 Initial Order, sustained the Board's complaint, but remanded to the ALJ for a determination of whether there were aggravating or mitigating facts relevant to the assessment of a penalty.

8. On February 3, 2009 ALJ Steinmetz issued an Order on Remand in which he found no aggravating or mitigating circumstances and imposed the standard penalty of a five day suspension of the liquor license privileges or a \$2,500 monetary penalty in lieu of the suspension.

9. No petitions for review of the Order on Remand were received from the parties.

10. The Board hereby adopts the February 3, 2009 Order on Remand as the Final Order of the Board in this matter.

II. ORDER

NOW THEREFORE; IT IS HEREBY ORDERED that that liquor license privileges granted to Pete's Bar & Grill, 1360 SE Bishop Blvd in Pullman, WA, License Number 357538, be and the same are hereby suspended for a term of five days (5) days effective from 10:00 a.m. on May 14, 2009, until 10:00 a.m. on May 19, 2009; PROVIDED, HOWEVER, that said suspension shall be vacated upon payment of a monetary penalty in the amount of two-thousand five hundred dollars (\$2,500), due on or before May 8, 2009. Failure to comply with the terms of this order will result in further disciplinary action.

Payment should be labeled in reference to this matter and sent to:

Washington State Liquor Control Board

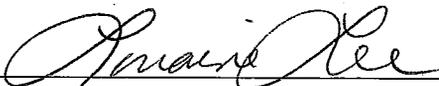
Enforcement and Education Division

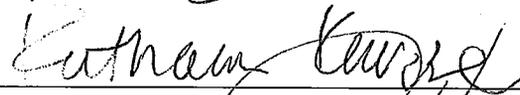
P.O. Box 34094

Olympia, WA 98504-3094

DATED at Olympia, Washington this 8th day of April, 2009.

WASHINGTON STATE LIQUOR CONTROL BOARD







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).

MAILED

FEB 03 2009

Office of Administrative Hearings
Spokane

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

In the Matter of:

FAMILY LEGACY RESTAURANTS, LLC
PETE'S BAR & GRILL
1360 SE BISHOP BLVD
PULLMAN, WA 99163

Licensee

LICENSE NO. 357538

Docket No. 2008-LCB-0027
LCB Case No. 22,838

ORDER ON REMAND

STATEMENT OF THE CASE

On October 30, 2008, the undersigned Administrative Law Judge issued Findings of Fact, Conclusions of Law and Initial Order which ultimately found and concluded that the evidence had failed to establish that the Licensee had violated the provisions of WAC 314-16-150 on the evening of April 1, 2008. Accordingly, this tribunal ordered that the Board's Complaint in the matter be dismissed. The Liquor Control Board's Enforcement Division subsequently filed a Petition for Review of the Initial Order. On January 26, 2009, the Board entered its Final Order in this matter in which it adopted the Findings of Fact entered by the undersigned Administrative Law Judge, and a portion of the Conclusions of Law. However, the Board then substituted its own Conclusions of Law and ordered: "This matter is REMANDED to the Administrative Law Judge with instructions to enter an order finding a violation of RCW 66.44.200 and WAC 314-16-150 and assigning an appropriate penalty for such violation.

In compliance with the Board's Final Order, NOW THEREFORE,

RECEIVED

MAR 20 2009

**LIQUOR CONTROL BOARD
BOARD ADMINISTRATION**

ORDER ON REMAND

IT IS HEREBY ORDERED, That the Board's Complaint in this matter be SUSTAINED. Pursuant to WAC 314-29-020, and in the absence of any Findings of Fact or Conclusions of Law regarding the existence of any aggravating or mitigating circumstances, the licensed privileges of Family Legacy Restaurants LLC, d/b/a Pete's Bar & Grill, under License No. 357538, shall be suspended for a period of five (5) days. In lieu of a license suspension, the Licensee may pay a civil monetary penalty in the amount of two-thousand five-hundred dollars (\$2,500.00).

DATED at Spokane, Washington, this 3rd day of February, 2009.

WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS



Edward S. Steinmetz
Administrative Law Judge
Office of Administrative Hearings
221 N. Wall St., Suite 540
Spokane, WA 99201-0826
Phone: 509-456-3975 / 1-800-366-0655
Fax: 509-456-3980

ESS:sr