BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF: WAYNE ENTERTAINMENT LLC d/b/a QUARTERDECK BAR 4300 E 4TH PLAIN BLVD VANCOUVER, WA 98661-5652 LICENSEE LICENSE NO. 360460-1L AVN: 1L0156A	LCB NO. 23,724 OAH NO. 2010-LCB-0053 FINAL ORDER OF THE BOARD

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

1. On August 4, 2010, the Washington State Liquor Control Board ("Board") issued a Complaint against Wayne Entertainment, LLC, d/b/a Quarterdeck Bar, License No. 360460-1L, located at 4300 NE 4th Plain Boulevard, Vancouver, Washington, alleging that on June 5, 2010, the Licensee, or an employee thereof, sold, supplied, or otherwise provided alcohol to a person apparently under the influence of liquor, in violation of WAC 314-16-150.

2. The Licensee requested a hearing, which was held before an Administrative Law Judge on November 11, 2010.

3. After hearing the testimony of witnesses for both parties and considering the evidence admitted at the hearing. Administrative Law Judge Bruce E. Herkamp issued an Initial Order in this matter on February 22, 2011, sustaining the Board's Complaint and seven day suspension of the liquor license.

4. On March 10, 2011, the Licensee mailed a Petition for Review of the final order along with a DVD titled "QD Surveillance Video 6/4/2010."

5. On March 14, 2001, the Enforcement Division of the Board, through Assistant Attorney General Gordon Karg, emailed a Response to Licensee's Petition for Review requesting to extend the filing time for a reply in this matter. Enforcement requested an extension with a proposed due date of April 5, 2011. The Board granted the request of the Enforcement Division, and the Board received the Enforcement Division's Reply to Licensee's Petition for Review on April 4, 2011.

6. The Board did not consider the video evidence presented with the Licensee's Petition for Review, as it was not admitted into evidence at the administrative hearing, and was not properly authenticated. To be considered, evidence must be authenticated, and subject to cross-examination by the opposing party. The Enforcement Division did not have the opportunity to view the video or to challenge its authenticity. The Board did open the video to view the initial frames, and noted that although the file name on the disc indicated that it was recorded on June 4, 2010, there were at least two dates on the face of the recording, including "2000 Jan 26" and "Jan 29(SAT)". The inconsistency in this information lends support to Enforcement's objections to the video as lacking authentication.

7. As found by the Administrative Law Judge, both Ms. Burkett and Ms. Skaurud were observed consuming liquor on the premises, while they appeared to be intoxicated.

8. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises;

NOW THEREFORE; IT IS HEREBY ORDERED that that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order heretofore made and entered in this matter

be, and the same hereby are, AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board.

The Board further ORDERS that the Complaint is sustained, and the license of the Wayne Entertainment, LLC, d/b/a Quarterdeck Bar, License No. 360460, located at 4300 NE 4th Plain Boulevard, in Vancouver, Washington, is hereby suspended for a period of seven (7) days, beginning at 1:00 p.m. on July 8, 2011, and continuing until 1:00 p.m. on July 15, 2011.

DATED this 24 day of May, 2011.

Sharon Foster, Chair

Ruthann Kurose, Member

Chris Marr, Member

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, (insert address), 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 Mary M. Tennyson, 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).

Washington State Liquor Control Board
3000 Pacific Ave, S.E.
P.O. Box 43076
Olympia, WA 98504-3076
Phone: 360-664-1602

Washington State
Liquor Control Board

May 25, 2011

Wayne Entertainment LLC
d/b/a Quarterdeck Bar
4300 E 4th Plain Blvd
Vancouver, WA 98661-5652

Gordon Karg, AAG
GCE Division, Office of Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

RE: ***FINAL ORDER OF THE BOARD***
LICENSEE: Wayne Entertainment LLC
TRADE NAME: Quarterdeck Bar
LOCATION: 4300 E 4th Plain Blvd, Vancouver, WA 98661-5652
LICENSE NO. 360460-1L
ADMINISTRATIVE VIOLATION NOTICE NO: 1L0156A
LCB HEARING NO. 23,724
OAH DOCKET NO. 2010-LCB-0053
UBI: 602 612 675 001 0001

Dear Parties:

Enclosed please find a Declaration of Service by Mail and a copy of the order in the above-referenced matter.

If you have any questions, please contact me at (360) 664–1602.

Sincerely,

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Tacoma and Vancouver Enforcement and Education Divisions, WSLCB
Amber Harris, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF: WAYNE ENTERTAINMENT LLC d/b/a QUARTERDECK BAR 4300 E 4TH PLAIN BLVD VANCOUVER, WA 98661-5652 LICENSEE LICENSE 360460 AVN NO. 1L0156A	LCB NO. 23,724 OAH DOCKET NO. 2010-LCB-0053 DECLARATION OF SERVICE BY MAIL

I certify that I caused a copy of the *FINAL ORDER OF THE BOARD* in the above-referenced matter to be served on all parties or their counsel of record by US Mail Postage Prepaid via Consolidated Mail Service for Licensees; by Campus Mail for the Office of Attorney General, on the date below to:

WAYNE ENTERTAINMENT LLC d/b/a QUARTERDECK BAR 4300 E 4TH PLAIN BLVD VANCOUVER, WA 98661-5652	GORDON KARG, ASSISTANT ATTORNEY GENERAL, GCE DIVISION OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100

DATED this 25th day of May, 2011, at Olympia, Washington.

Kevin McCarroll, Adjudicative Proceedings Coordinator

Washington State Liquor Control Board
3000 Pacific Avenue SE
PO Box 43076
Olympia, WA 98504-3076
(360) 664-1602

RECEIVED
FEB 25 2011
LIQUOR CONTROL BOARD
BOARD ADMINISTRATION

MAILED
FEB 22 2011
VANCOUVER OFFICE OF
ADMINISTRATIVE HEARINGS

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

In the Matter of: Wayne Entertainment, LLC dba Quarterdeck Bar Licensee License No. 360460	OAH No.: 2010-LCB-0053 LCB No.: 23,724 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND INITIAL ORDER**

TO: Wayne Entertainment, LLC
dba Quarterdeck Bar, Licensee
Gordon Karg, Assistant Attorney General

STATEMENT OF THE CASE

On August 4, 2010, the Washington State Liquor Control Board ("The Board") issued a Complaint on Wayne Entertainment, LLC doing business as the Quarterdeck Bar ("Licensee")at 4300 NE 4th Plain Boulevard, Vancouver, Washington.

In its Complaint, The Board alleged that on June 5, 2010, the Licensee, or an employee thereof, sold alcohol to persons already intoxicated in violation of WAC 314-16-150.

The board also issued a violation notice setting a seven day suspension as the penalty due to the fact that it was a second over service violation within two years.

The Licensee made a timely request for hearing.

Pursuant to notice duly given, an administrative hearing was held before Bruce E. Herkamp, Administrative Law Judge, at the Vancouver Office of Administrative Hearings, 5300 MacArthur Boulevard, Suite 100, Vancouver, WA 98661, on the 11th day of November, 2010.

The Washington State Liquor Control Board was represented by Gordon Karg, Assistant Attorney General, Also present were Liquor Control Board Enforcement Officers, Paul Magerly and Almir Karic, Clark County Deputy Sheriffs, Chris Lugue and Eric Zimmerman, Quarterdeck bar owner, Luke Wayne, Bartenders Stephanie Petracca and Joellene Slaught, and witnesses for Licensee Robert Pfingston and John Lacoufiere.

OFFICE OF ADMINISTRATIVE HEARINGS
5300 MacArthur Boulevard, Suite 100
Vancouver, Washington 98661
(360) 690-7189 or 1-800-243-3451

ISSUE

Whether Licenseeviolated WAC 314-16-150 by serving alcohol to persons apparently under the influence of alcohol.

The administrative law judge, having considered the entire record in this proceeding, including the arguments of the respective representatives, now enters the following findings of fact.

FINDINGS OF FACT

1. Deputies, Chris Luque and Eric Zimmerman along with Liquor Control Officers, Amir Karic and Paul Magerly were conducting enforcement activity outside of the Quarterdeck Bar and Dodge City Saloon on June 5, 2010.

2. Deputies Zimmerman and Luque observed two females, later identified as Christina Burkett, ("Burkett"), and Alexis Skaurud ("Skaurud") leaving the Dodge City Saloon and walking toward the Quarterdeck Bar. The deputies were in plain clothes and followed Burkett and Skaurud. The girls appeared to be intoxicated because as they walked they were leaning on each other and had trouble balancing and walking.

3. The deputies engaged the women in conversation and noted that their speech was slurred and that both had the odor of liquor on their breath.

4. Several minutes later, the deputies observed both women enter the Quarterdeck Bar at 4300 East 4th Plain Blvd, Vancouver, Washington. The quarterdeck bar is adjacent to the Doge City bar.

5. The deputies then entered the Quarterdeck Bar and observed both Burkett and Skaurud holding, and drinking from drinks. Deputy Luque eventually gained possession of Burkett's drink, but admitted that he was unable to determine whether there was any alcohol in it.

6. Both Deputies also observed Burkett and Skaurud swaying or staggering as walked around within the bar.

7. Both Burkett and Skaurud eventually took seats at the bar. A male patron, Robert Pfingston ("Pfingston") approached the women and stood between them at the bar. After some discussion, Pfingston gestured to the bartender, Stephanie Petracca ("Petracca"), who then filled several shot glasses with Fireball, an alcoholic beverage, and placed the full shots in front

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of Pfingston, Burkett and Skaurud. Both deputies then observed Burkett and Skaurud each consume one of the shots and place the empty shot glasses on the bar.

8. Liquor Control Board Enforcement Officers, Paul Magerly ("Magerly") and Almir Karic,("Karic") then entered the Quarterdeck bar and observed Burkett and Skaurud. Both observed that Burkett and Skaurud were swaying and appeared to be intoxicated.

9. Karic then approached Burkett and Skaurud, identified himself as a liquor control officer, and asked both women to step outside of the bar with him.

10. Both women verbally refused to do so. Burkett then physically resisted. After a struggle, Burkett was placed in handcuffs and removed from the bar.

CONCLUSIONS OF LAW

1. The undersigned Administrative Law Judge has jurisdiction in this matter pursuant to Revised Code of Washington (RCW) 34.12, Chapter 34.05 and Washington Administrative Code (WAC) 10-08 and WAC 314-29-010.

2. The Washington State Liquor Control Board has jurisdiction over the Licensee Wayne Entertainment, LLC, who is the holder of license number 360460, which was issued under the provisions of RCW 66.24.

3. WAC 314-16-150 specifically prohibits licensee's and their employees from supplying liquor to, or allowing the possession or consumption of liquor by, any person apparently under the influence of liquor on the licensed premises.

4. After careful consideration of the testimony and evidence presented at hearing it is determined that both Burkett and Skaurud were apparently under the influence of liquor on Appellant's premises on June 5, 2010. Appellant's employee served liquor to both Burkett and Skaurud and thereby allowed possession and consumption of liquor by intoxicated persons on at least one occasion on June 5, 2010.

5. It is therefore determined that the Licenseedid violate the provisions of WAC 314-16-150 by serving alcohol to persons apparently under the influence of liquor. The statutory penalty for a second such violation within two years is a 7 day suspension pursuant to WAC 314-29-020

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED, That the Board violation is **SUSTAINED**, and that the Licensee shall be suspended for seven days.

OFFICE OF ADMINISTRATIVE HEARINGS
5300 MacArthur Boulevard, Suite 100
Vancouver, Washington 98661
(360) 690-7189 or 1-800-243-3451

DATED and mailed at Vancouver, Washington, this 22nd day of February , 2011.

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

Bruce E. Herkamp
Administrative Law Judge
5300 MacArthur Blvd, Suite 100
Vancouver, WA 98661
Telephone: (360) 690-7189 or 1-800-243-3451
FAX: (360) 696-6255

Mailed to:

Wayne Entertainment, LLC
dba Quarterdeck Bar
4300 E 4th Plain Blvd
Vancouver, WA 98661-5652

Gordon Karg
Office of the Attorney General
1125 Washington St SE
PO Box 40100
Olympia, WA 98504-0100

Kevin McCarroll
Adjudicative Proceedings Coordinator
Washington State Liquor Control Board
PO Box 43076
Olympia, WA 98504

NOTICE TO PARTIES

Either the licensee or permit holder or the assistant attorney general may file a petition for review of the initial order with the liquor control board within twenty (20) days of the date of service of the initial order. RCW 34.05.464 and WAC 10-08-211, 314-29-010(4)(b) and 314-42-080(1).

The petition for review must:

(i) Specify the portions of the initial order to which exception is taken;

(ii) Refer to the evidence of record which is relied upon to support the petition; and

(iii) Be filed with the liquor control board and within twenty (20) days of the date of service of the initial order.

A copy of the petition for review must be mailed to all of the other parties and their representatives at the time the petition is filed. Within (10) ten days after service of the petition for review, any of the other parties may file a response to that petition with the liquor control board. WAC 314-42-080(3). Copies of the reply must be mailed to all other parties and their representatives at the time the reply is filed.

The administrative record, the initial order, and any exceptions filed by the parties will be circulated to the board members for review. WAC 314-29-010(4)(c).

Following this review, the board will enter a final order WAC 314-29-010(4)(d). Within ten days of the service of a final order, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. RCW 34.05.470 and WAC 10.08.215.

The final decision of the board is appealable to the Superior Court under the provisions of RCW 34.05.510 through 34.05.598

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