

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

PW VENTURE INC.
d/b/a CLUB LAVA
930 SE PIONEER WAY
OAK HARBOR, WA 98277

LICENSEE

LICENSE NO. 351800-3D
AVN NO. 3D0226A

OAH DOCKET 2010-LCB-0079
LCB NO. 23,748

FINAL ORDER OF THE BOARD

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

1. The Liquor Control Board issued a complaint dated October 12, 2010, alleging that on or about August 14, 2010 the above-named Licensee sold, allowed, and/or permitted an apparently intoxicated person(s) to consume liquor and/or possess liquor on the licensed premises, contrary to RCW 66.44.200 and/or WAC 314-16-150.
2. A prehearing conference was held on March 1, 2011 at 9:00 a.m. at the licensee's timely request for a formal administrative hearing.
3. The Licensee did not appear for the prehearing conference and no representative appeared for the Licensee. Assistant Attorney General Timothy Ford represented the Enforcement Division of the Board.
4. On March 8, 2011, Administrative Law Judge Jason H. Grover entered his Initial Order of Default (Failure to Appear at Proceeding), ordering that the appellant was in default and dismissing the request for a hearing.
5. No request to vacate the default was filed.
6. No petition for review was filed.

FINAL ORDER OF THE BOARD
LCB NO. 23,748
CLUB LAVA
LICENSE 351800

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

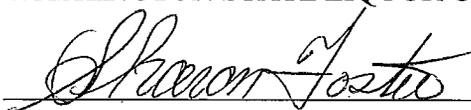
7. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises; NOW THEREFORE; IT IS HEREBY ORDERED that the default order for case 23,748 is adopted.

IT IS FURTHER ORDERED that the Complaint filed in case 23,748 for Administrative Violation Notice No. 3D0226A is sustained.

IT IS FURTHER ORDERED that there shall be no penalty associated with this violation, as the license was previously revoked. Administrative Violation Notice 3D0226A will be a matter of record, and may be considered by the Board if the licensee applies for a liquor license in the future.

DATED at Olympia, Washington this 10 day of May, 2011.

WASHINGTON STATE LIQUOR CONTROL BOARD



 
-per telephonic approval

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. 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 Mary M. Tennyson, Senior 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).

RECEIVED

APR 04 2011

**LIQUOR CONTROL BOARD
BOARD ADMINISTRATION**

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

In the Matter of:

**PW VENTURE, INC. dba CLUB LAVA
930 SE PIONEER WAY
OAK HARBOR, WA 98277-4058,**

Licensee.

No. 3D0226A

OAH DOCKET NO. 2010-LCB-0079

LCB No. 23,748

**INITIAL ORDER OF DEFAULT
(Failure to Appear at Proceeding)**

1. ORDER SUMMARY

- 1.1. The Licensee was given due notice, but failed to appear for prehearing proceeding (PHC) without first obtaining an order of postponement. Therefore, the Licensee was held in default under RCW 34.05.440. Based on the Licensee's default, the penalties appropriate to the allegations stated in the Complaint and it's attached documents in this matter shall be imposed, subject to further Liquor Control Board action.
- 1.2. Specifically, the penalty shall be: As set forth in the citation.
- 1.3. The Licensee's Request for Hearing shall be dismissed.

2. HEARING

- 2.1 Administrative Law Judge: Jason H. Grover
- 2.2 Date and Time of Prehearing Proceeding (PHC): March 1, 2011 at 9:00 AM.

2.3 Appearances By Parties:

2.3.1 The Licensee, Susan Kim, PW Venture dba Club Lava, did not appear.

2.3.2 No representative for the Licensee appeared.

2.3.3 Washington State Liquor Control Board appeared through
Assist. Attorney General Timothy Ford.

3. STATEMENT OF THE CASE

3.1 A prehearing proceeding was scheduled for this matter at the date and time above stated. Written notice of the proceeding was timely mailed to the parties by First Class United States Mail, postage prepaid. The notice informed the parties that they were required to attend the proceeding before an Administrative Law Judge of the Washington Office of Administrative Hearings and how to attend. The notice also informed the parties that failure to attend the scheduled proceeding could result in an order of default against the party who failed to attend. The notice provided both parties with instructions on how to apply to the Administrative Law Judge for a postponement of the proceeding.

3.2 The Administrative Law Judge timely convened the proceeding as set forth in the written notice of the proceeding. The Washington State Liquor Control Board timely appeared and was represented by the above-named person. The Administrative Law Judge waited 15 minutes beyond the scheduled start time for the proceeding, but the Licensee did not appear. Therefore, the Administrative Law Judge deemed the Licensee to be in default.

3.3 Based on the Licensee's default, the penalties appropriate to the allegations stated in the Complaint and its attached documents in this matter shall be imposed, subject to further Liquor Control Board action.

3.4 Specifically, the actions and penalties alleged and the penalties to be awarded by this Initial Order of Default are: As set forth in the citation.

3.5 The Licensee's Request for Hearing shall be dismissed.

4. ORDER

THEREFORE, IT IS ORDERED:

- 4.1 The above-named Licensee is in DEFAULT.
- 4.2 The Licensee's Request for Hearing is dismissed.

Signed and Issued at Olympia, Washington, on the date of mailing.



Jason H. Grover
Administrative Law Judge
Office of Administrative Hearings

NOTICE OF APPEAL RIGHTS – PLEASE READ CAREFULLY

Motion to Vacate Default: RCW 34.05.440 provides, "(3) Within seven days after service of a default order under subsection (2) of this section, or such longer period as provided by agency rule, the party against whom it was entered may file a written motion with the Administrative Law Judge who issued the Initial Order of Default requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. By agency rule (WAC 10-08-110), service is complete upon mailing of this order; therefore, **any motion to vacate a default order must be made within a total of seven (7) days after the date of the mailing of the default order.**

Petition for Review of Initial Order: The foregoing order is an "initial order" as that term is intended by WAC 314-42-095. **Any party may file a petition for review of the initial order with the Liquor Control Board within twenty days of the date of service of the initial order.** RCW 34.05.464, WAC 10-08-211, and WAC 314-42-095(2)(a). The petition for review must (a) identify the parts of the initial order to which the petitioner objects and (b) refer to the evidence in the record that supports the petitioner's position.

A petitioner must mail a copy of the petition for review to each of the other parties and their representatives at the same time the petitioner files the petition. Within ten days after service of the petition for review, any other parties may file a response to the petition. WAC 314-42-095(2)(b). A responding party must likewise mail a copy of the response to each of the other parties and their representatives at the same time the responding party files the response.

The members of the Liquor Control Board will review the administrative record, the initial order, the petition for review, and any responses. WAC 314-42-095(3). Following this review, the Board will enter a final order WAC 314-42-095(4). Within ten days of when the Board issues the final order, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. RCW 34.05.470(1) and WAC 10.08.215. A party may appeal the Liquor Control Board's final order to the Superior Court under RCW 34.05.510 and following (see especially, RCW 34.05.514).

INITIAL ORDER MAY BECOME FINAL IF NO TIMELY ACTION IS TAKEN: If a party in default does not timely file a Motion to Vacate Default, or a party in disagreement with the Initial Order does not timely file a Petition for Review of Initial Order, the order may become a Final Order.

CERTIFICATE OF SERVICE OF THIS DOCUMENT IS ATTACHED



Washington State
Liquor Control Board

May 10, 2011

PW Venture Inc, Licensee
d/b/a Club Lava
5306 154th Ave SE
Bellevue, WA 98006-5152

Brian J. Considine, 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: PW Venture Inc

TRADE NAME: Club Lava

LOCATION: 930 SE Pioneer Way, Oak Harbor, WA 98277-4058

LICENSE NO. 351800-3D

ADMINISTRATIVE VIOLATION NOTICE NO: 3D0226A

LCB HEARING NO. 23,748

OAH No. 2010-LCB-0079

UBI: 602 689 345 001 0001

Dear Parties:

Enclosed please find a Declaration of Service by Mail and a copy of the Final Order for the above referenced matter.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin McCarroll".

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Mt Vernon Enforcement and Education Division, WSLCB.
Amber Harris, WSLCB

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3 **WASHINGTON STATE LIQUOR CONTROL BOARD**

4 IN THE MATTER OF:

LCB NO. 23,748

5 PW VENTURE INC
6 d/b/a CLUB LAVA
7 930 SE PIONEER WAY
8 OAK HARBOR, WA 98277-4058

DECLARATION OF SERVICE BY
MAIL

9 LICENSEE

10 LICENSE 351800-3D
11 AVN NO. 3D0226A

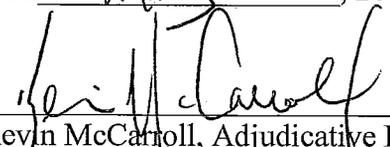
12 I certify that I caused a copy of the *FINAL ORDER OF THE BOARD* in the above-
13 referenced matter to be served on all parties or their counsel of record by US Mail Postage
14 Prepaid via Consolidated Mail Service for Licensees, by Campus Mail for the Office of
15 Attorney General, on the date below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

16
17 PW VENTURE INC, LICENSEE
18 d/b/a CLUB LAVA
19 930 SE PIONEER WAY
20 OAK HARBOR, WA 98277-5730

TIMOTHY FORD, ASSISTANT ATTORNEY
GENERAL, GCE DIVISION
OFFICE OF THE ATTORNEY GENERAL
MAIL STOP 40100

21 PW VENTURE INC, LICENSEE
22 d/b/a CLUB LAVA
23 5306 154TH AVE SE
24 BELLEVUE, WA 98006-5152

25 DATED this 10th day of May, 2011, at Olympia, Washington.

26 
Kevin McCarroll, Adjudicative Proceedings Coordinator

DECLARATION OF SERVICE BY
MAIL