

**BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

ADDICTION INDUSTRIES CORP  
d/b/a CAN CAN

94 PIKE ST SPACE 11  
SEATTLE, WA 98101-2066

LICENSEE

LICENSE NO. 360434-2E  
AVN NO. 2D1209A

LCB NO. 23,901  
OAH NO. 2012-LCB-0010

FINAL ORDER OF THE BOARD

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

1. The Liquor Control Board issued a complaint dated February 28, 2012, alleging that on or about July 28, 2011, the above-named Licensee, or employee(s) thereof, committed the following violation(s) of Title 66 RCW and/or chapter 314 WAC: Misuse or unauthorized use of catering endorsement to the liquor license contrary to RCW 66.24.420(6)(a), to wit: Licensee or employee(s) thereof sold, served, or supplied liquor at an unlicensed location, at an event that was open to the public; and the event was not sponsored by a society or organization as defined by RCW 66.24.375;
2. The Licensee made a timely request for a hearing;
3. An administrative hearing was held on September 17, 2012 before Administrative Law Judge Steven C. Smith with the Office of Administrative Hearings. The hearing took place at the Office of the Attorney General in Seattle, Washington;

4. At the hearing, the Education and Enforcement Division of the Board was represented by Assistant Attorney General Marisa Broggel. The Licensee, Addiction Industries, Inc. d/b/a Can Can, was represented by its president, Chris Snell;
5. On November 19, 2012 Administrative Law Judge Steven C. Smith entered his Findings of Fact, Conclusions of Law and Initial Order in this matter which sustained the Complaint;
6. No petitions for review were filed by the parties;
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 Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order are, AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board;

IT IS HEREBY FURTHER ORDERED that the liquor license privileges granted to Addiction Industries, Inc. d/b/a Can Can, License No. 360434-2E, are hereby suspended for a term of five (5) days. In lieu of a license suspension, the Licensee may pay a monetary penalty in the amount of one-thousand five-hundred dollars (\$1,500.00) due within 30 days of this order. If timely payment is not received, then suspension will take place from 10:00 a.m. on March 7, 2013 until 10:00 a.m. on March 12, 2013. 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 Division  
PO Box 43085  
Olympia, WA 98504-3085**

DATED at Olympia, Washington this 27<sup>TH</sup> day of JANUARY, 2013.

WASHINGTON STATE LIQUOR CONTROL BOARD

Sharon Foster

Ruthanne Kurose

Ch

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).



Washington State  
**Liquor Control Board**

---

January 9, 2013

Chris Snell  
Addiction Industries Corp, Licensee  
d/b/a Can Can  
94 Pike St Space 11  
Seattle, WA 98101-2066

Marisa Broggel, 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: Addiction Industries Corp**  
**TRADE NAME: Can Can**  
**LOCATION: 94 Pike St Space 11, Seattle, WA 98101**  
**LICENSE NO. 360434-2E**  
**ADMINISTRATIVE VIOLATION NOTICE NO: 2D1209A**  
**LCB HEARING NO. 23,901**  
**OAH NO. 2012-LCB-0010**  
**UBI: 6025371270010001**

Dear Parties:

Please find the enclosed Declaration of Service by Mail and a copy of the Final Order of the Board in the above-referenced matter.

**The applicable monetary penalty is due by Friday, February 8, 2013. If payment is not received timely, then suspension will take place during the dates listed in the final order.** The address for payments is WSLCB, P.O. Box 43085, Olympia, WA 98504-3085. Please label the check with your License Number and Administrative Violation Notice Number listed above. If you have any questions, please contact me at (360) 664-1602.

Sincerely,

Kevin McCarroll  
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Tukwila and Seattle Enforcement and Education Divisions, WSLCB  
Teresa Young, WSLCB

1 **WASHINGTON STATE LIQUOR CONTROL BOARD**

2 IN THE MATTER OF:

3 ADDICTION INDUSTRIES CORP  
4 d/b/a CAN CAN  
5 94 PIKE ST SPACE 11  
6 SEATTLE, WA 98101-2066

6 LICENSEE

7 LICENSE NO. 360434-2E  
8 AVN NO. 2D1209A

LCB NO. 23,901  
OAH NO. 2012-LCB-0010

DECLARATION OF SERVICE BY  
MAIL

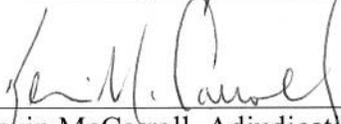
9 I certify that I caused a copy of the FINAL ORDER OF THE BOARD in the above-  
10 referenced matter to be served on all parties or their counsel of record by US Mail Postage  
11 Prepaid via Consolidated Mail Service for applicants and licensees, by campus mail for state  
12 offices, on the date below to:

15 CHRIS SNELL  
16 ADDICTION INDUSTRIES CORP  
17 d/b/a CAN CAN  
18 94 PIKE ST SPACE 11  
19 SEATTLE, WA 98101-2066

OFFICE OF THE ATTORNEY GENERAL  
MAIL STOP 40100, GCE DIVISION  
MARISA E. BROGGER, ASSISTANT  
ATTORNEY GENERAL

18 CHRIS SNELL  
19 ADDICTION INDUSTRIES CORP  
20 d/b/a CAN CAN  
21 127 BOYLSTON AVE  
22 SEATTLE, WA 98102-5606

21 DATED this 9<sup>th</sup> day of January, 2013, at Olympia, Washington.

23   
24 Kevin McCarroll, Adjudicative Proceedings Coordinator

DEC 19 2012

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

Liquor Control Board  
Board Administration

In the Matter of:

ADDICTION INDUSTRIES CORP.  
D/B/A CAN CAN  
94 PIKE STREET SPACE 11  
SEATTLE, WA 98101

Respondent-Licensee.

LICENSE NO. 360434-2E  
AVN NO. 2D1209A

OAH Docket No. 2012-LCB-0010

Agency No. 23,901

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND INITIAL ORDER

1. **ISSUES FOR DETERMINATION:**

1.1 **Issue One:** Did Respondent-Licensee violate Washington law as alleged in Complaint No. 23,901 issued against Respondent by the Washington Liquor Control Board on February 28, 2012. Specifically, on or about July 28, 2011, did Respondent misuse, or use without authorization, the catering endorsement to Respondent's liquor license contrary to RCW 66.24.420(6)(a) in that: "[Respondent-]Licensee or employee(s) thereof sold, served or supplied liquor at an unlicensed location, at an event that was open to the public; and, [t]he event was not sponsored by a society or organization as defined by RCW 66.24.375"?

1.2 **Issue Two:** If the determination of Issue One is against the interests of Respondent-Licensee, what is the appropriate sanction under Washington law?

2. **SUMMARY OF DETERMINATION OF ISSUES:**

2.1 **Issue One:** Respondent-Licensee did violate Washington law as alleged in Complaint No. 23,901 issued against Respondent by the Washington Liquor Control Board on February 28, 2012. Specifically, on or about July 28, 2011, Respondent did misuse, or use without authorization, the catering endorsement to Respondent's liquor license contrary to RCW 66.24.420(6)(a) in that: Respondent-Licensee or employee(s) thereof sold, served or supplied liquor at an unlicensed location, at an event that was open to the public; and, the event was not sponsored by a society or organization as defined by RCW 66.24.375.

2.2 **Issue Two:** The determination of Issue One is against the interests of Respondent-Licensee. The appropriate sanction (penalty) under Washington law is: 5-Day Suspension or \$1,500.00 payment to Liquor Control Board in lieu of suspension.

### 3. **STATEMENT OF THE CASE:**

3.1 **Nature of The Case and Authority for Proceeding:** This case arises from a timely request by Respondent-Licensee Addiction Industries Corp., dba Can Can (alternatively Respondent, Respondent-Licensee and Can Can) for an administrative hearing under WAC 314-29-010(1)(c) following the issuance to Licensee by Washington Liquor Control Board (LCB) on August 18, 2011 of an Administrative Violation Notice (AVN) for "Misuse or Unauthorized Use of Liquor License" under RCW 66.24.420, which assessed a penalty of "5-Day Suspension or \$1,500.00 in lieu of suspension" under WAC 314-29-030. In response to Licensee's request for administrative hearing, LCB issued and filed a formal Complaint (No. 23,901), substantively the same as the AVN, and requested Office of Administrative Hearings to appoint an Administrative Law Judge and conduct an evidentiary hearing under Chapter 34.05 RCW.

3.2 **Proceeding and Appearances:** On September 17, 2012, this case came before Administrative Law Judge (ALJ) Steven C. Smith for a full evidentiary hearing as to the issues stated above at paragraphs 1.1 and 1.2. The hearing took place at the Office of the Washington Attorney General in Seattle, Washington. The Washington Liquor Control Board appeared through LCB Enforcement and Education Division Lieutenant Frank Gallegos and was represented by Assistant Attorney General (AAG) Marissa Broggel. The Respondent-Licensee Addiction Industries Corp., dba Can Can (Respondent or Can Can), appeared through, and was represented by, its president, Chris Snell, who after reminder of his company's right to have legal counsel at the hearing, elected to undertake the hearing without legal counsel. The proceeding was electronically recorded. The hearing record was closed on September 17, 2012.

3.3 **Witnesses:** The following witnesses appeared, were sworn and testified in this matter; the testimony of each was considered by the ALJ:

Officer David Stitt; LCB Enforcement and Education Division (By Telephone)  
Lieutenant Frank Gallegos; LCB Enforcement and Education Division (In Person)  
Chris Snell; President of Respondent Can Can (In Person)

3.4 **Exhibits:** The following exhibits were admitted into evidence or excluded from evidence on sustained objections. Each admitted exhibit was considered by the ALJ and given its due weight. Each excluded exhibit is identified for record purposes only, but was given no consideration or weight in the determination of this matter.

LCB Exhibits: 1 through 15 (identification language as used by LCB) were admitted without objection. Exhibit 14 was augmented to include a new Section B, which is also Licensee's Exhibit A-1.

1. Administrative Violation Notice No. 2D1209A (2 pages)
2. Report of Officer David Stitt (8 pages)
3. Report of Lieutenant Frank Gallegos (2 pages)
4. Letter from Liquor Control Board to Licensee of January 27, 2011 (1 page)
5. Facebook.com page of FRED Wildlife Refuge, 127 E. Boylston, Seattle, WA (2 pages)
6. Brown Paper Tickets (www.brownpapertickets.com) event page for "Seattle v. NYC DJ Battle & Turntable.fm Dance Party" at FRED Wildlife Refuge (printed July 26, 2011)
7. Turntablebattle.com webpage advertising event on July 28, 2011 at FRED Wildlife Refuge (printed on August 8, 2011 (4 pages)
8. SeattlePI.com event listings for July 28, 2011, event at FRED Wildlife Refuge (printed August 8, 2011)
9. Washington Secretary of State records search and screen prints (6 pages)
10. Application for Certificate of Registration for Admission Tax filed by Oasis Digital, Inc. d/b/a Turntable Battle with the city of Seattle on July 27, 2011 (1 page)
11. Turntable.fm event listing on www.brownpapertickets.com for July 28, 2011, event at FRED Wildlife Refuge (2 pages)
12. Oasis Digital, Inc. Secretary of State corporation registration record (printed on August 15, 2011)
13. Letter from IRS to Shunpike Arts Collective dated April 4, 2006 (1 page)
- 14.1 Business Insider web article dated July 26, 2011; "Epic Battle: Seattle v. NYC DJ Battle" (4 pages) (This exhibit is in LCB Exhibit Book; it bears no Section marking, but is deemed Section A by reason of LCB adoption of Respondent-Licensee's Exhibit A-1 as Exhibit 14, Section B)
- 14.2 Shunpike Letter of 4/6/11 "To whom It May Concern" (This exhibit is in Respondent-Licensee's exhibit packet as Exhibit A-1)
15. Visual diagram of entities, organizations and individuals who relate to this matter (illustrative purposes only)(1 page)

Respondent-Licensee's Exhibits: A-1 through A-3 were admitted without objection; A-4 through A-9 excluded upon LCB objection for lack of relevancy to the citation that is the basis of this matter.

A-1: Shunpike Letter of 4/6/11 "To whom It May Concern"

A-2: US Dept. of Treasury, Internal Revenue Service letter of April 4, 2006 affirming Internal Revenue Code section 501(c) (3) public charity status.

A-3: Washington State Corporations Division website printout of 8/5/2011 showing active status as nonprofit entity of Shunpike.

A-4 through A-6: Seattle Times website news story dated Oct. 27, 2010 (print date unknown; no reference to this matter)(3 pages)

A-7 through A-9: Seattle Times website news story dated Nov. 9, 2009 (print date unknown; no reference to this matter)(3 pages)

### 3.5 **Non-Evidentiary Presentations Considered:**

3.5.1 The following non-evidentiary documents were filed with OAH and considered by the Administrative Law Judge (some of the following may also have been included by the parties as part of their evidentiary presentation): The Administrative Violation Notice, the Complaint, the Licensee's Request for Administrative Hearing, the Notice of Hearing and Order Following Prehearing Conference of May 15, 2012, and the LCB Hearing Brief (Respondent-Licensee did not file a hearing brief).

3.5.2 The closing arguments of the parties.

## 4. **FINDINGS OF FACT:**

Based on a preponderance of evidence, I make the following Findings of Fact:

### Jurisdictional Facts

4.1 At all relevant times, Respondent-Licensee Addiction Industries Corp., dba Can Can operated a licensed, on-premises Spirits/BR/WN/Restaurant Lounge venue at 94 Pike Street, Space 11, Seattle, WA 98101 under Washington State Liquor Control Board issued License Number 360434-2E, with catering license endorsement. (Testimony of Officer Stitt, Lt. Gallegos, Chris Snell and Ex. 4)

4.2 On or about August 18, 2011, LCB issued Administrative Violation Notice (AVN) No. 2D1209A to Respondent-Licensee related to Respondent-Licensee's catering license endorsement. (Date of service is deemed issuance date; Ex.1, p.1) The Licensee timely requested a formal administrative hearing of the alleged violations. (Ex.1, p.2)

4.3 In response to Licensee's request for administrative hearing, LCB issued a formal complaint (LCB Complaint No. 23,901) on February 28, 2012. In substance, the Complaint alleged that on or about July 28, 2011, Licensee misused, or used without authorization, the catering endorsement to Licensee's liquor license contrary to RCW 66.24.420(6)(a) in that: "[Respondent-]Licensee or employee(s) thereof sold, served or supplied liquor at an unlicensed location, at an event that was open to the public; and, [t]he event was not sponsored by a society or organization as defined by RCW 66.24.375" (OAH Case File: Pleadings List, Item 1)

4.4 On March 20, 2012, LCB filed a written request with OAH for assignment of an administrative law judge to schedule and conduct the hearing in the matter. (OAH Case File: Pleadings List, Item No. 1)

4.5 The Licensee was given timely written notice as to all proceedings in this matter, including the evidentiary hearing and appeared at each proceeding through the Licensee's president, Chris Snell. (OAH Case File: Pleadings List, Item Nos. 2, 3, 4, 7, 8 and recording of the evidentiary hearing)

#### *Resolution of Conflicting Testimony*

4.6 The testimony of the parties' witnesses conflicted on material points. The ALJ, carefully considered and weighed all of the evidence, including witness demeanor (as determined in part by posture, voice, attitude, straightforwardness, hesitancy or lack of hesitancy in responses), party and witness motivations, the reasonableness and consistency of testimony as related to other witnesses and exhibits, whether the testimony was of first-hand knowledge or hearsay, and the totality of circumstances presented. Based on the foregoing, the ALJ resolved the conflicting testimony in favor of the Agency.

#### *Substantive Facts*

4.7 At all relevant times, David Stitt was an LCB Enforcement and Education Division Officer properly trained to undertake the responsibilities of his office, including his activities enforcement activities in this matter. (Testimony of Officer Stitt)

4.8 At all relevant times, Frank Gallegos was an LCB Enforcement and Education Division Lieutenant properly trained to undertake the responsibilities of his office, including his enforcement activities in this matter. (Testimony of Lt. Gallegos)

4.9 At all relevant times, Chris Snell was principal (president) of Respondent-Licensee Can Can. (Testimony of Chris Snell, Officer Stitt and Lt. Gallegos; Exs. 2,3)

4.10 On or about January 27, 2011, LCB issued Respondent-Licensee the catering license endorsement and in its letter to Respondent-Licensee notifying of the issuance of the catering license endorsement, LCB stated, in relevant part, "The caterer's portion of your license extends the on-premises license privilege to allow the sale and service of liquor at approved locations other than the licensed premises. **Events open to the general public must be sponsored by a non-profit organization. Catering of events at another licensed premise is prohibited. You must notify you local liquor enforcement office five days prior to any event that is being held in a public place.** (Emphasis, original.) (Ex. 4)

4.11 At all relevant times, Respondent-Licensee's principal, Chris Snell had knowledge of the foregoing catering license endorsement requirements. (Testimony of Officer Stitt, Lt. Gallegos and Chris Snell; Ex. 4)

4.12 At all relevant times, Chris Snell was principal of Non-Licensee FRED Wildlife Refuge located at 127 Boylston Ave/ E, Seattle, WA 98102. (Testimony and Exs. 1 and 3)

4.13 On or about July 28, 2011, Respondent-Licensee catered an event (the event), including the provision of alcoholic beverages, at Wildlife Refuge, 127 Boylston Ave/ E, Seattle, WA 98102. The event was open to the public. (Testimony of Officer Stitt and Lt. Gallegos; Exs. 2,3,5,6,7,8)

4.14 At that time, Respondent-Licensee's on-premises license was limited to its 94 Pike Street, Space 11, Seattle, WA 98101 venue. Extension of Respondent-Licensee's on-premises authority to any other location, including FRED Wildlife Refuge, remained limited to the catering license endorsement above-referenced and the terms above-quoted and stated in the notice of issuance of the catering license endorsement. (Testimony of Officer Stitt and Lt. Gallegos and Exs. 1-4)

4.15 At the time of the event, Officer Stitt, in the fulfillment of his duties as an officer of LCB Education and Enforcement Division, went to FRED Wildlife Refuge, observed the premises, inquired of the doorman as to the cost of entry (\$10.00), went inside the premises, observed a bar with liquor and keg beer available for sale and an attended cash box, two "DJ's" behind mixing boards and sound equipment. Officer Stitt spoke with the person in charge at the time, Nathan Boothroyd, who told Officer Stitt that the sponsor of the event was Seattle Cabaret Festival. Officer Stitt observed that there were no signs or representatives related to Seattle Cabaret Festival. When questioned about a liquor license for the event, Mr. Boothroyd showed Officer Stitt a copy of Respondent-Licensee Can Can's catering license. From the totality of the circumstances Officer Stitt determined that the event was not sponsored by any non-profit charity, society or organization as defined by RCW 66.24.375 and made applicable under the licensee's catering license endorsement through RCW 66.24.420. ("not-for-profit group organized and operated (1) solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes"). Therefore, he advised Mr. Boothroyd that an AVN would likely be issued and requested that Mr. Boothroyd have Can Can's principal, Chris Snell, telephone Officer Stitt about the matter. Because the staffing was adequate and no minors were present, Officer Stitt exercised his discretion and allowed the event to proceed that evening. (Testimony of Officer Stitt and Ex. 2)

4.16 On August 4, 2011, Officer Stitt and Lt. Gallegos met with Chris Snell to serve the AVN. Mr. Snell protested and was adamant that his event was sponsored by a charitable organization. Specifically, Mr. Snell contended that he was head of Seattle International Cabaret Festival (SICF), that it was the sponsor of the event and that it was registered with the State of Washington as "an official non-profit organization." However, he could not immediately produce any documentation to that effect. Mr. Snell also stated that SICF was an "associated program" of Shunpike, a "501c3" charitable organization, through which SICF derived its status. Officer Stitt and Lt. Gallegos decided to delay service of the AVN to allow Mr. Snell time to obtain documentation to demonstrate the non-profit status of the organization he said he headed. No documentation was produced by Mr. Snell. Respondent-Licensee, was served with the AVN on August 18, 2011 by personal service on Mr. Snell. (Testimony of Officer Stitt, Lt. Gallegos and Chris Snell; Exs. 1, 2 & 3)

4.17 Chris Snell, on behalf of Can Can, maintained his foregoing contention at hearing that the event was sponsored by SICF, a charitable organization that derived its status, at least in part, from Shunpike and that the event fell within the catering license endorsement. To support his contention, Mr. Snell presented a letter from Shunpike, a letter from the IRS to Shunpike, and a Washington Corporations Division website printout regarding Shunpike. He further contended that there were no attendees at the event, so, no liquor or beer was sold. (Testimony of Chris Snell and Exs. A-1, A-2 and A-3)

4.18 The letter from Shunpike (Ex. A-1) was written "To Whom It May Concern" and did not reference Mr. Snell (who contended he was the head of SICF) either as addressee, in the body of the letter, or as recipient of a copy of the letter (i.e., "cc"). The letter also did not reference anything to do with the event in this matter for which the AVN was issued, even by reference to whatever SICF might be doing as an "Associated Program"; nor, did the letter reference any state or federal authority that might make an organization able to receive charitable status indirectly through the association with a recognized charitable organization.

4.19 The IRS letter to Shunpike, dated April 4, 2006 (Ex. A-2) confirmed that Shunpike was, at that time, a "public charity." It makes no mention of derivative public charity status for any "associated program" status organizations. The Washington Corporations Division website printout of "8/5/2012" shows Shunpike as a "non-profit" entity. It does not indicate any association with SICF.

4.20 At hearing, Mr. Snell did not present any documentation that would support his contention that SCIF existed, was a charitable organization registered with the State of Washington as "an official non-profit organization," or that he was head of the organization. For example, and not limitation, he did not present the same type of Corporations Division printout for SICF that he understood how to, and did, obtain as

related to Shunpike; he did not present SICF organization papers (i.e., Articles of Incorporation or similar documents) or minutes; he did not present tax or banking documents, business cards or letterhead, a website address or a telephone number. In short, there was no credible evidence presented at hearing to support Licensee's contentions regarding SICF.

4.21 On the other hand, LCB presented credible evidence that a search of relevant state and federal records by Officer Stitt revealed that there were no records of the corporate or other business form of existence of SICF, and therefore no support for the contention that SICF was a non-profit charity, society or organization as defined by RCW 66.24.375. (Exs. 2, 9)

4.22 LCB also presented compelling evidence (internet ticket sales, advertisements, and media references) that the true sponsor of the event was Oasis Digital, Inc. and its principal, Ali Daniali, (Testimony of Officer Stitt; Exs. 2, 5, 6, 7, 8, 10, 11, 12) There was no credible evidence that Shunpike or SICF were in any way involved with the event.

4.23 The overwhelming weight of evidence presented, established that the event was a public event held at an unlicensed location under the control of Mr. Snell, catered by Can Can, a licensee also under the control of Mr. Snell; it was not sponsored by a non-profit organization.

4.24 If the foregoing facts establish a violation of Washington law, it will be the first such violation of its kind within a two year penalty period. (LCB Hearing Brief)

## 5. **CONCLUSIONS OF LAW:**

Based on the above Findings of Fact, I make the following Conclusions of Law:

### Jurisdiction

5.1 Based on the foregoing Findings of Fact, the LCB issued an AVN for which the Licensee timely requested a formal administrative hearing. Pursuant to the Licensee's request for an administrative hearing, LCB issued and filed the instant Complaint. Therefore, OAH has jurisdiction over these cases pursuant to Title 66 RCW, Chapter 34.05 RCW and Title 314 WAC.

### Substantive Violation of Law

5.2 Liquor Licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the Licensee. WAC 314-11-015.

5.3 A liquor Licensee is responsible for the wrongful actions of the Licensee's employees on the licensed premises. WAC 314-11-015 (1) (a).

5.4 RCW 66.24.420 – Catering License:

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, . . . place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. . . .  
(Emphasis, added.)

5.5 RCW 66.24.375 provides:

"Society or organization" . . . means a not-for-profit group organized and operated (1) solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes, . . . A society or organization which is registered with the secretary of state or the federal internal revenue service as a nonprofit organization shall submit such registration, upon request, as proof that it is a not-for-profit group.

5.6 Therefore, based on the Findings of Fact, and pursuant to the foregoing legal authorities, Licensee violated Washington law by catering a public event at the time and unlicensed location above-discussed, that was not sponsored by a non-profit society or organization as defined by RCW 66.24.375 and as required by RCW 66.24.420(6)(a). Because RCW 66.24.420 applies to catering activities that are "open to the public", and does not limit itself to "attended by the public," Respondent-Licensee's contention that the event was not attended is not analyzed as it is not relevant. The Complaint shall be sustained.

*Penalty (Sanction)*

5.7 Further, based on the foregoing Finds of Fact, this is a first violation by the Licensee of RCW 66.24.420(6)(a) within a two-year penalty period. This violation is a "group three – license violation" pursuant to WAC 314-29-020 and WAC 314-29-030. The standard penalty in such circumstance is a 5-day suspension of the Licensee's liquor license or a \$1,500 monetary penalty. WAC 314-29-020. The penalty may be adjusted for mitigating or aggravating circumstances. Based on the Findings of Fact, the penalty shall not be adjusted.

6. **ORDER:**

**NOW THEREFORE, IT IS ORDERED:**

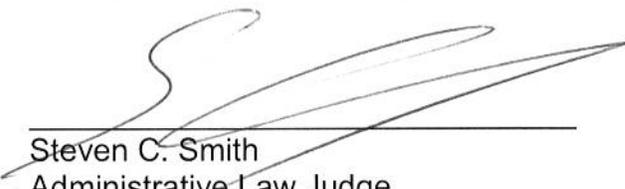
6.1 The Office of Administrative Hearings has jurisdiction over this case.

6.2 Respondent did violate Washington law as alleged in Complaint No. 23,901 issued against Respondent by the Washington Liquor Control Board on February 28, 2012. Specifically, on or about July 28, 2011, Respondent did misuse, or use without authorization, the catering endorsement to Respondent's liquor license contrary to RCW 66.24.420(6)(a) in that: Respondent-Licensee or employee(s) thereof sold, served or supplied liquor at an unlicensed location, at an event that was open to the public; and, the event was not sponsored by a society or organization as defined by RCW 66.24.375.

6.3 The Complaint No. 23,901 herein is **sustained**.

6.4 Subject to the Liquor Control Board's further determination, the Licensee's liquor license shall be suspended for 5 days, or the Licensee shall pay a monetary penalty of \$1,500.00.

**Signed and Issued** this November 19, 2012 at Tacoma, Washington.



Steven C. Smith  
Administrative Law Judge  
Office of Administrative Hearings

**NOTICE TO PARTIES OF APPEAL RIGHTS**

**Petition for Review of Initial Order**

**Either the Licensee or permit holder or the assistant attorney general may file a petition for the 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. WAC 10-08-211 and WAC 314-42-095.**

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 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 ten (10) 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 314-42-095(2)(a) and (b). Copies of the reply must be mailed to all other parties and their representatives at the time the reply is filed.

**Address for filing a petition for review with the board:**

Washington State Liquor Control Board  
Attention: Kevin McCarroll,  
3000 Pacific Avenue, PO Box 43076  
Olympia, Washington 98504-3076.

**Final Order and Additional Appeal Rights:** The administrative record, the initial order, any petitions for review, and any replies filed by the parties will be circulated to the board members for review. WAC 314-42-095(3).

Following this review, the board will enter a final order. WAC 314-42-095(4). Within ten days of the service of a final order, any party may file a petition for reconsideration with the board, stating the specific grounds upon which relief is requested. RCW 34.05.470 and WAC 10-08-215.

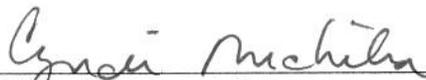
The final decision of the board is appealable to the Superior Court under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act).

**Certificate of Service – OAH Docket No. 2012-LCB-0010**

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

Address: <b>Marisa E. Broggel</b> <b>Assistant Attorney General</b> <b>Office of the Attorney General</b> <b>PO Box 40100</b> <b>Olympia WA 98504-0100</b>	First Class US Mail, postage prepaid
Address: <b>Mr. Chris Snell</b> <b>Addiction Industries Corp.,</b> <b>d/b/a Can Can</b> <b>94 Pike Street Space 11</b> <b>Seattle WA 98101-2066</b>	First Class US Mail, postage prepaid
Address: <b>Mr. Chris Snell</b> <b>Addiction Industries Corp.,</b> <b>d/b/a Can Can</b> <b>127 Boylston Avenue E</b> <b>Seattle WA 98102-5606</b>	First Class US Mail, postage prepaid
Address: <b>Kevin McCarroll</b> <b>Adjudicative Proceedings Coordinator</b> <b>Washington State Liquor Control Board</b> <b>PO Box 43076</b> <b>Olympia WA 98504-3076</b>	First Class US Mail, postage prepaid
Address:	
Address:	

Date: November 19, 2012

  
Authorized Representative  
Office of Administrative Hearings