

**BEFORE THE WASHINGTON STATE
LIQUOR CONTROL BOARD**

IN THE MATTER OF

AMBASSEL RESTAURANT CORP
d/b/a JEFFERSON GROCERY

1220 EAST JEFFERSON STREET
SEATTLE, WA 98122-5536

License No. 082930
AVN NO. 2C1264A

LCB NO. 2011-LCB-0069
OAH NO. 23,902

FINAL ORDER OF THE BOARD

I. PROCEDURAL BACKGROUND

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

1. On May 29, 2012, an Initial Order of Default was entered against the Licensee, Ambassel Restaurant Corp d/b/a Jefferson Grocery, because the licensee did not appear at a scheduled hearing on the Complaint issued against the licensee.

2. On November 16, 2011, a Complaint was issued by the Enforcement Division of the Liquor Control Board, and the Licensee timely requested a hearing. The Complaint alleged that on or about September 21, 2011, the Licensee or an employee of the licensee violated RCW 66.44.270 and WAC 314-11-020, by selling or supplying liquor to a person under the age of 21 years. The Complaint sought a five-day suspension of the liquor license, or a fine of \$500.00 in lieu of suspension.

3. A formal hearing was held on May 24, 2012 at the request of the Licensee, Ambassel Restaurant Group d/b/a Jefferson Grocery. Administrative Law Judge (ALJ) Terence Schuh and Assistant Attorney General (AAG) Marisa Broggel, representing the Enforcement

Division of the Board, appeared, and waited 33 minutes. At that time, AAG Broggel moved for entry of an Order of Default. ALJ Schuh orally granted the motion for default.

4. On May 29, 2012 Administrative Law Terence Schuh (ALJ) entered an Initial Order of Default Dismissing Respondent's Appeal for Failure to Appear, and mailed a copy to the licensee and to AAG Gordon Karg and AAG Marisa Broggel. The Initial Order of Default included the following Notice of Appeal rights:

Motion to Vacate Default:

RCW 34.05.440(3) provides: "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." 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 recovered by this OAH office within a total of seven (7) days after the date of the mailing of the default order.**

5. On June 19, 2012, ALJ Schuh issued a Corrected Initial Order of Default, with identical language regarding the merits of the default. The Corrected Initial Order included the language in paragraph 4 above, and added notice of right to request administrative review of the Initial Order by the Board within 20 days of the date of service. The only change between the Initial Order issued on May 29, 2012 and the Corrected Initial Order was the addition of the language regarding the ability to request administrative review, the address for filing a petition for review with the Board, and a recitation of the process for entry of a Final Order, and additional appeal rights once a Final Order is issued by the Board.

6. On of about June 19, 2012, the Licensee's agent, Tsedalu Kebede, mailed a document titled "Motion of Defendant for Reconsideration to Vacate the Initial Order of Default

Dismissing Appeal” to the Government Compliance and Enforcement Division of the Attorney General’s Office. No certificate of Service is attached, but the document is stamped as received by the Government Compliance and Enforcement Division on June 21, 2012. The Motion to Vacate the Initial Order of Default recites that it is sent in response to the May 29, 2012, Initial Order of Default. The Motion on its face is not timely, as it is dated more than seven (7) days after the service of the Initial Order of Default, which was mailed on May 29, 2012, it was not timely. In addition, the Motion to Vacate was not served on the Office of Administrative Hearings.

7. On June 29, 2012, AAG Marisa Broggel filed Enforcement’s Response in Opposition to Licensee’s Petition to Vacate Initial Order of Default with the Office of Administrative Hearings. ALJ Schuh forwarded the file, and Enforcement’s Response, to the Liquor Control Board, stating in the cover letter that OAH had not received the Licensee’s Motion to Vacate, and the matter was being referred to the Board for action. The Licensee did not file a Motion to Vacate the Corrected Initial Order of Default (corrected as to appeal rights) after it was served on June 18, 2012.

II. DECISION ON MOTION TO VACATE INITIAL ORDER OF DEFAULT

8. The Board has reviewed the documents in the hearing file, the Motion to Vacate, and Enforcement’s Response. The Licensee admits participating in the Prehearing Conference, held by telephone on January 17, 2012. The date, time, and location of the May 24, 2012 hearing was agreed to in the course of the Prehearing Conference. The ALJ mailed the Notice of Hearing and Order Following Prehearing Conference of January 17, 2012 to the Licensee and to the Assistant Attorney General representing the Enforcement Division.

9. The May 24, 2012 hearing was convened and held at the location listed in the Notice of Hearing. Licensee’s representative did not appear at the hearing for at least 33 minutes after the

scheduled time, and did not contact the ALJ at the hearing location prior to granting of the default. Licensee has not shown any legally defensible grounds for her failure to appear. Appearing in a timely manner was within her control, yet she failed to do so. Licensee's assertion that she misplaced the address, and went to a different location, does not excuse her failure to arrive at the hearing location in a timely fashion.

10. The Board declines to vacate the entry of the default order. Not only was the Enforcement Division ready and available to put on the case in support of the Complaint, but an interpreter, requested by the Licensee, was scheduled and available to interpret the proceedings on her behalf. This cost has already been incurred by the state, due to the failure of the Licensee to appear or to request a continuance of the proceedings prior to the hearing date.

11. The Motion to Vacate Initial Order of Default was not filed in a timely manner. Although it was dated June 19, 2012, the day after the Corrected Initial Order of Default Dismissing Appeal for Failure to Appear, the Motion to Vacate was clearly directed to the May 29, 2012 order, and not the order entered on June 18. The licensee has shown no adequate reason, other than carelessness, for the failure to appear for the hearing in a timely manner.

III. ORDER

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 Complaint is sustained, due to the entry of the Order of Default. The Licensee has committed the offense as alleged in the Complaint, in violation of RCW 66.44.270 and WAC 314-11-020, by the Licensee or an employee of the licensee selling or supplying liquor to a person under the age of 21 years.

IT IS FURTHER ORDERED that License No. 082930, issued to Ambassel Restaurant Corp., d/b/a Jefferson Grocery, is suspended for a period of five (5) days. In lieu of a license suspension, the Licensee may pay a monetary penalty in the amount of five-hundred dollars (\$500) due within 30 days of this order. If timely payment is not received, suspension will begin at 10:00 a.m. on September 14, 2012 until 10:00 a.m. on September 19, 2012. 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 31 day of July 2012.

WASHINGTON STATE LIQUOR CONTROL BOARD

Sharon Foster
Ruthanne Kurose
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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. 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, Sr. 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

August 1, 2012

Ambassel Restaurant Corp
d/b/a Jefferson Grocery
1224 E Jefferson St
Seattle, WA 98122-5536

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: Ambassel Restaurant Corp
TRADE NAME: Jefferson Grocery
LOCATION: 1220 E Jefferson St, Seattle, WA 98122
LICENSE NO. 082930-2D
ADMINISTRATIVE VIOLATION NOTICE NO: 2C1264A
LCB HEARING NO. 23,902
UBI: 602 974 259 001 0002

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 August 31, 2012 or suspension will take place on the dates indicated in the 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

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

LCB NO. 23,902

AMBASSEL RESTAURANT
CORP d/b/a
JEFFERSON GROCERY
1220 E JEFFERSON ST
SEATTLE, WA 98122-5536

DECLARATION OF SERVICE BY MAIL

LICENSEE

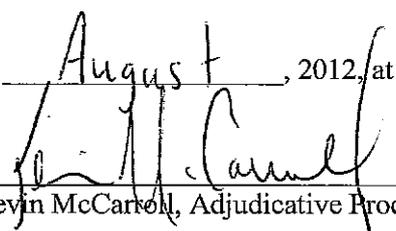
LICENSE NO. 082930
AVN NO. 2C1264A

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:

AMBASSEL RESTAURANT CORP
D/B/A JEFFERSON GROCERY
1224 E JEFFERSON ST
SEATTLE, WA 98122-5536

OFFICE OF THE ATTORNEY GENERAL
MAIL STOP 40100, GCE DIVISION
MARISSA BROGGEL, ASSISTANT
ATTORNEY GENERAL

DATED this 1st day of August, 2012, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator