

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

D-SONG LLC
d/b/a UNICORN SPORTS BAR

5302 N 49TH ST
RUSTON, WA 98407-3001

LICENSEE

LICENSE NO. 353065-1P
AVN NO. 1Q1352A

LCB NO. 24,052
OAH NO. 2012-LCB-0017

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 March 27, 2012, alleging that on or about December 17 – December 18, 2011, the Licensee or an employee(s) thereof, gave, sold, and/or supplied liquor to an apparently intoxicated person and/or permitted an apparently intoxicated person to possess and/or consume liquor on the licensed premises, contrary to RCW 66.44.200 and/or WAC 314-16-150.
2. The Licensee made a timely request for a hearing.
3. An administrative hearing was held on August 22, 2012 and September 13, 2012 before Administrative Law Judge Terry A. Schuh with the Office of Administrative Hearings.
4. At the hearing, Assistant Attorney General Marisa Broggel represented the Education and Enforcement Division of the Board, and Zenon P. Olbertz, Attorney at Law, represented the Licensee.

5. On November 8, 2012, Administrative Law Judge Terry A. Schuh entered his Findings of Fact, Conclusions of Law and Initial Order in this matter, which did not sustain the Complaint.
6. The parties filed no petitions for review.
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 charge in the Complaint filed in case 24,052 is DISMISSED.

DATED at Olympia, Washington this 11TH day of DECEMBER, 2012.

WASHINGTON STATE LIQUOR CONTROL BOARD

Ragnar Kuvore

Chad

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

December 11, 2012

Zenon S. Olbertz,
Attorney for Licensee
1008 S Yakima Ave Ste 302
Tacoma, WA 98408-4850

D-Song, LLC
d/b/a Unicorn Sports Bar
6836 S Alaska St
Tacoma, WA 98408-1325

Marisa E. 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: D-Song, LLC

TRADE NAME: Unicorn Sports Bar

LOCATION: 5302 N 49th St, Ruston, WA 98407

LICENSE NO. 353065-1P

ADMINISTRATIVE VIOLATION NOTICE NO: 1Q1352A

LCB HEARING NO. 24,052

OAH NO. 2012-LCB-0017

UBI: 602 198 516 001 0001

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.

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

Sincerely,

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Tacoma Enforcement and Education Division, WSLCB
Teresa Young, WSLCB

PO Box 43076, 3000 Pacific Ave. SE, Olympia WA 98504-3076, (360) 664-1602 www.liq.wa.gov

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

LCB NO. 24,052
OAH NO. 2012-LCB-0017

D-SONG, LLC d/b/a
UNICORN SPORTS BAR
5302 N 49TH ST
RUSTON, WA 98407-3001

DECLARATION OF SERVICE BY
MAIL

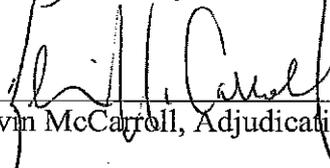
LICENSEE

LICENSE NO. 353065-1P
AVN NO. 1Q1352A

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 applicants and licensees, by campus mail for state offices, on the date below to:

ZENON S. OLBERTZ, ATTORNEY FOR LICENSEE 1008 S YAKIMA AVE STE 302 TACOMA, WA 98408-4850	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION MARISA E. BROGGEL, ASSISTANT ATTORNEY GENERAL
D-SONG, LLC d/b/a UNICORN SPORTS BAR 6836 S ALASKA ST TACOMA, WA 98408-1325	D-SONG, LLC d/b/a UNICORN SPORTS BAR 5302 N 49 TH ST RUSTON, WA 98407-3001

DATED this 11th day of December, 2012, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator

NOV 16 2012

Liquor Control Board
Board Administration

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

In The Matter Of:

D-SONG LLC dba
UNICORN SPORTS BAR
5302 N. 49th Street
Ruston, WA 98407,

Respondent/Licensee

License No. 353065
AVN No. 1Q1352A

OAH Docket No. 2012-LCB-0017
LCB No. 24,052

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND
INITIAL ORDER

I. ISSUES PRESENTED

1.1 Whether, on December 18, 2011, the Respondent/Licensee or one of its employees gave, sold, and/or supplied liquor to an apparently intoxicated person.

1.2 If so, whether by doing so the Respondent/Licensee violated RCW 66.44.200(1) and/or WAC 314-16-150.

1.3 If so, whether the Liquor Control Board properly assessed a five-day suspension of the Respondent/Licensee's liquor license or, in lieu of such suspension, a \$500.00 penalty.

II. ORDER SUMMARY

2.1 On December 18, 2011, no employee of the Respondent/Licensee gave, sold, and/or supplied liquor to an apparently intoxicated person.

2.2 Accordingly, the Respondent/Licensee did not violate RCW 66.44.200(1) or WAC 314-16-150.

2.3 Therefore, the Liquor Control Board did not properly assess a five-day suspension of the Respondent/Licensee's liquor license or, in lieu of such suspension, a \$500.00 penalty.

III. HEARING

3.1 **Hearing Dates:** August 22, 2012, and September 13, 2012

- 3.2 **Administrative Law Judge:** Terry A. Schuh
- 3.3 **Respondent/Licensee:** D-Song LLC dba Unicorn Sports Bar
- 3.3.1 **Representative:** Zenon P. Olbertz, Attorney at Law
- 3.3.2 **Witnesses:**
- 3.3.2.1 David Cason, employee (security)
- 3.3.2.2 Frank Rossiter, Jr., customer
- 3.3.2.3 Darrell Bone, employee (bartender)
- 3.3.2.4 Kye Barker, owner
- 3.4 **Agency:** Liquor Control Board
- 3.4.1 **Representative:** Marisa E. Broggel, Assistant Attorney General
- 3.4.2 **Witnesses:**
- 3.4.2.1 Officer James Kaylor, Ruston PD
- 3.4.2.2 Officer Kandra Ordiway, Liquor Control Board
- 3.4.2.3 Officer Victor Celis, Ruston PD
- 3.4.2.4 Chief Jeremy Kunkel, Ruston PD
- 3.5 **Exhibits:** Exhibits 1 through 7 from the Liquor Control Board and A1, A2, and B from the Respondent/Licensee were admitted into the record. Ex. B is an illustrative exhibit only.
- 3.6 **Other references:** Chad Standifer, Assistant Attorney General, and Margaret Clarkson attended as observers. Mr. Standifer appeared only on August 22, 2012. On August 22, 2012, Annie Lee (morning) and C. Rebecca Kamran (afternoon) appeared as interpreters on a standby basis.

IV. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

Jurisdiction

4.1 On January 11, 2012, Officer Kandra Ordiway served AVN No. 1Q1352A on Kye Barker, owner of D-Song LLC dba Unicorn Sports Bar (hereafter, "the Unicorn"). Ex. 1.

4.2 On or about January 23, 2012, Ms. Barker requested an administrative hearing if the matter could not be resolved through settlement. Ex. 2.

Service to Frank Rossiter, Jr.

4.3 Undercover Officer James Kaylor entered the Unicorn on December 17, 2011, at approximately 11:15 p.m. Testimony of Kaylor. Officer Kaylor sat down at the bar and began observing the business.

4.4 That night a security employee staffed the entry into the Unicorn and two employees worked behind the bar. Testimony of Kaylor.

4.5 Officer Kaylor ordered food and a soft drink from the bartender, Darrell Bone. Testimony of Kaylor. The only conversation Officer Kaylor had with Mr. Bone was to order food. Testimony of Kaylor.

4.6 Shortly after Officer Kaylor ordered food, the person seated to his right – later identified as Frank Rossiter, Jr. – began visiting with Officer Kaylor. Testimony of Kaylor. Officer Kaylor never met Mr. Rossiter before December 17, 2011. Testimony of Kaylor.

4.7 Mr. Rossiter had a drink in front of him. Testimony of Kaylor. Mr. Rossiter took his time drinking it and, when he finished it, ordered another. Testimony of Kaylor. The second drink was served at approximately midnight on December 18, 2011. Testimony of Kaylor.

4.8 Officer Kaylor observed Mr. Rossiter for approximately 30-45 minutes and concluded that Mr. Rossiter was "overly intoxicated" at the time he was served the second drink. Testimony of Kaylor.

4.9 Bartender Darrell Bone was nearby and Mr. Rossiter was plainly in view of Mr. Bone. Testimony of Kaylor.

4.10 Officer Kaylor notified the outside officers by cell phone. Testimony of Kaylor; Testimony of Kunkel; Ex. 4, p. 4. Officer Kaylor remained undercover. Testimony of Kaylor.

4.11 It took Chief Kunkel and Officer Victor Celis only a minute or two to

respond. Testimony of Celis. They entered the Unicorn and observed Officer Kaylor sitting next to Mr. Rossiter. Testimony of Celis; Ex. 5, p. 3. They approached Mr. Rossiter. Testimony of Celis. Officer Celis initiated verbal contact. Testimony of Celis.

4.12 Chief Kunkel and Officer Celis persuaded Mr. Rossiter to go outside with them. Testimony of Celis; Ex. 5, p. 3.

4.13 Chief Kunkel took possession of Mr. Rossiter's drink. Testimony of Celis; Testimony of Bone; Ex. 5, p. 3. The Ruston Police Department submitted a sample of the drink to the Washington State Patrol Toxicology Lab which identified the drink as ethanol. Ex. 7.

4.14 Darrell Bone told Chief Kunkel that he only served Mr. Rossiter one drink and that he did not appear to be intoxicated at that time; rather that he was acting as he always does. Testimony of Bone; Ex. 6, p. 2.

4.15 After the officers completed their contact with Mr. Rossiter, Officer Celis issued a citation to Mr. Bone for serving an apparently intoxicated person. Testimony of Celis; Testimony of Kunkel.

4.16 The Ruston Police Department filed a report with the Liquor Control Board alleging that the Unicorn had served Mr. Rossiter when he was apparently intoxicated. Testimony of Ordiway. Officer Ordiway received the report on December 19, 2011. Testimony of Ordiway. That police report was the basis of Officer Ordiway's incident report and the AVN she served on the Unicorn. Testimony of Ordiway; see Exs. 1 and 3.

Observations of David Cason

4.17 Mr. Cason has been the doorman for the Unicorn for approximately six years. Testimony of Cason. One of his responsibilities is to screen for intoxicated customers and deny them entry into the business. Testimony of Cason. Frank Rossiter is a regular customer at the Unicorn. Testimony of Cason. Mr. Cason has known Mr. Rossiter for four years. Testimony of Cason. Mr. Cason is familiar with Mr. Rossiter's mannerisms. Testimony of Cason. Mr. Rossiter has a speech impediment and his speech is always slurred. Testimony of Cason. Mr. Rossiter's natural speech sounds like he is under the influence of intoxicants. Testimony of Rossiter. On December 17, 2011, Mr. Rossiter came to the Unicorn sometime between 10:00 p.m. and 11:00 p.m. Testimony of Cason. Mr. Cason observed Mr. Rossiter walking for approximately 200 feet as Mr. Rossiter approached the Unicorn, likely walking there from his home. Testimony of Cason. Mr. Rossiter did not sway while he walked and had no trouble walking. Testimony of Cason. The men greeted one another. Testimony

of Cason. Mr. Cason observed no indications that Mr. Rossiter had been drinking prior to coming to the Unicorn, nor did he observe any such indications while Mr. Rossiter was there. Testimony of Cason. When Mr. Rossiter stood up from his bar stool to leave with the officers, Mr. Cason observed no indications of intoxication. Testimony of Cason. Mr. Cason observed Mr. Rossiter while the officers questioned Mr. Rossiter outside of the Unicorn. Testimony of Cason. During that time, Mr. Rossiter did not stagger, did not move about, and did not exhibit difficulty maintaining his balance. Testimony of Cason.

Observations of Darrell Bone

4.18 Darrell Bone has been a bartender for approximately 20 years. Testimony of Bone. He has worked for the Unicorn more than once, for a total of approximately 15 years, including the last eight or nine years. Testimony of Bone. Mr. Bone has known Frank Rossiter for approximately 20 years, both as a regular customer and as a friend. Testimony of Bone. Mr. Rossiter has kind of a lisp and he does not articulate well. Testimony of Bone. Mr. Rossiter's natural speech could be interpreted as intoxicated speech. Testimony of Bone. Mr. Bone observed Mr. Rossiter walk into the Unicorn on December 17, 2011, and sit down at the bar, which he typically does. Testimony of Bone. He looked fine to Mr. Bone. Testimony of Bone. They talked. Testimony of Bone. Mr. Rossiter was coherent and making sense. Testimony of Bone. Mr. Bone observed no signs of intoxication and no basis for refusing Mr. Rossiter service. Testimony of Bone. Mr. Bone served Mr. Rossiter two alcoholic drinks, one initially and one after he had consumed the first. Testimony of Bone. Over an hour passed between the first and second drink. Testimony of Bone.

Observations of Officer James Kaylor

4.19 Mr. Rossiter's breath smelled strongly of intoxicants. Testimony of Kaylor. His eyes were bloodshot. Testimony of Kaylor; Ex. 4, p. 4. Intermittently, Mr. Rossiter leaned on the barstool next to him for balance. Testimony of Kaylor; Ex. 4, p. 4. Mr. Rossiter was very friendly and offered personal information, which Mr. Kaylor considered to be unusual behavior and to be a sign of intoxication. Testimony of Kaylor. His speech was very slurred, including when he ordered another drink. Testimony of Kaylor; Ex. 4, p. 4.

Observations of Officer Victor Celis

4.20 When Officer Celis approached Mr. Rossiter, Mr. Rossiter was leaning on an elbow, lying over onto the front of the bar and resting. Testimony of Celis; Ex. 5, p. 3. Mr. Rossiter smelled strongly of intoxicants and his speech was very slurred and ran together as if one long word. Testimony of Celis; Ex. 5, p. 3. Officer Celis had difficulty understanding Mr. Rossiter. Testimony of Celis; Ex. 5,

p. 3. When Mr. Rossiter exited the bar at the officers' request, he walked side-to-side and initially with very short, choppy steps. Testimony of Celis; Ex. 5, p. 3. He could not walk in a straight line and was unsteady. Testimony of Celis; Ex. 5, p. 3. After the officers and Mr. Rossiter exited the bar, Mr. Rossiter could not stand still, moving side-to-side, and kept putting his hands in his pockets shortly after each time Officer Celis asked him to remove his hands from his pockets. Testimony of Celis. Mr. Rossiter's eyes were bloodshot and droopy. Ex. 5, p. 3.

Observations of Chief Jeremy Kunkel

4.21 Mr. Rossiter's speech was extremely slurred and he appeared to be very intoxicated. Testimony of Kunkel. Chief Kunkel did not observe Mr. Rossiter's movements while he exited the Unicorn but Mr. Rossiter's balance after he exited was horrible. Testimony of Kunkel. After exiting the Unicorn, Mr. Rossiter was moving side-to-side while standing on the sidewalk. Testimony of Kunkel. Chief Kunkel does not remember if Mr. Rossiter smelled of intoxicants. Testimony of Kunkel.

Explanation of Frank Rossiter, Jr.

4.22 Prior to coming to the Unicorn on December 17, 2011, Mr. Rossiter had two vodka-based drinks at home. Testimony of Rossiter. Mr. Rossiter consumed one alcoholic drink at the Unicorn and later Darrell Bones served him a second drink which he did not finish. Testimony of Rossiter. That evening, Mr. Rossiter sat at the north end of the bar where he nearly always sits. Testimony of Rossiter. He has known Darrell Bones, the bartender, for a long time. Testimony of Rossiter.

Frank Rossiter, Jr. was not apparently intoxicated

4.23 The observations offered by Mr. Cason and Mr. Bone, employees of the Unicorn, differ from those offered by the police officers. What is at issue is not whether Mr. Rossiter was *actually* intoxicated but, rather, whether he was *apparently* intoxicated. Moreover, what is at issue is whether he was apparently intoxicated *at the time of service*. Finally, what is at issue is what Mr. Bone, who served the drink, observed or should have observed.

4.24 Both Officer Celis and Chief Kunkel observed that Mr. Rossiter had difficulty standing and walking. Mr. Cason disputed that testimony. However, there is no evidence in the record that Mr. Bone did or could have observed Mr. Rossiter walking except when Mr. Rossiter entered the Unicorn approximately one hour before Mr. Bone allegedly over-served Mr. Rossiter. Therefore, whether Mr. Rossiter did or did not have difficulty standing and walking is not relevant here. Further, Officer Kaylor observed that Mr. Rossiter emitted the

odor of intoxicants, had bloodshot eyes, leaned on the barstool next to him for balance, demonstrated slurred speech, and was overly friendly and talky. Officer Celis observed the odor, bloodshot eyes, and slurred speech, as well as Mr. Rossiter leaning on an elbow and laying over the front of the bar. Chief Kunkel also observed the slurred speech. None of the officers had met Mr. Rossiter prior to the evening of December 17-18, 2011. Mr. Bone, on the other hand, has known Mr. Rossiter for approximately 20 years. Mr. Bone knew that Mr. Rossiter's speech, which the officers characterized as slurred, was his normal speech pattern. Mr. Rossiter leaned intermittently on the bar and on a bar stool. Officer Celis and Kaylor determined that behavior to be predicated on imbalance but they did not explain why it indicated imbalance. The officers observed an odor of intoxicants, but the odor of intoxicants establishes nothing more than that Mr. Rossiter consumed intoxicants, which is not disputed. So, I am not persuaded by the slurred speech, possible imbalance while sitting, or odor of intoxicants. That leaves bloodshot eyes and an overly friendly manner. It is not obvious to me at what point being overly friendly, a highly subjective description, becomes an indication of intoxication. Moreover, Mr. Bone knows Mr. Rossiter, visited briefly with him that evening, and observed nothing about his conduct that suggested intoxication. On the other hand, bloodshot eyes are commonly associated with intoxication, particularly where, as here, no alternative explanation is offered regarding the condition of the eyes. So, in short, Mr. Bone could have observed that Mr. Rossiter smelled of intoxicants, had bloodshot eyes, had slurred speech, was overly friendly, and leaned on the bar and a bar stool intermittently. Being familiar with Mr. Rossiter, Mr. Bone knew that what he observed was normal for Mr. Rossiter, apart from the bloodshot eyes. Bloodshot eyes alone, even if Mr. Bone could have seen them, were not enough for Mr. Bone to determine that Mr. Rossiter was apparently intoxicated. Thus, at the time of service, Mr. Rossiter was *not* apparently intoxicated.

V. CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I make the following Conclusions of Law:

Jurisdiction

5.1 I have jurisdiction to hear and decide this matter under WAC 314-29-010(1)(c); chapter 34.05 RCW, and chapter 10-08 WAC.

Service to a person who was not apparently intoxicated did not violate the law

5.2 "No person shall sell any liquor to any person apparently under the influence of liquor." RCW 66.44.200(1).

5.3 "No retail licensee shall give or otherwise supply liquor to any person . . . apparently under the influence of liquor; nor shall any licensee or employer thereof permit any person . . . in said condition to consume liquor on his/her premises." WAC 314-16-150(1).

5.4 "No retail licensee shall permit any person apparently under the influence of liquor to physically possess liquor on the licensed premises." WAC 314-16-150(2).

5.5 Here, Darrell Bone, a bartender employed by the Unicorn, served an alcoholic drink to Frank Rossiter, Jr. but Mr. Rossiter was *not* apparently under the influence of liquor at that time.

5.6 Accordingly, the Unicorn did not violate RCW 66.44.200(1) or WAC 314-16-150.

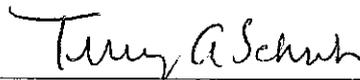
5.7 Therefore, the Liquor Control Board did not properly assess a five-day suspension of the Unicorn's liquor license or, in lieu of such suspension, seek payment of a \$500.00 penalty.

INITIAL ORDER

IT IS HERBY ORDERED THAT:

The Liquor Control Board shall not, predicated upon an alleged instance of over-service on December 17-18, 2011, suspend the liquor license of D-Song LLC dba Unicorn Sports Bar nor shall the Liquor Control Board seek payment from D-Song LLC dba Unicorn Sports Bar of a cash penalty.

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



Terry A. Schuh
Administrative Law Judge
Office of Administrative Hearings

NOTICE OF APPEAL RIGHTS -- PLEASE READ CAREFULLY

Petition for Review of Initial Order

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; WAC 10-08-211; 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 the 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 granted. RCW 34.05.470; 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).

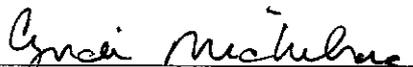
CERTIFICATION OF MAILING IS ATTACHED

Certificate of Service – OAH Docket No. 2012-LCB-0017

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

Address: D-Song LLC d/b/a Unicorn Sports Bar 5302 North 49th Street Ruston WA 98407	First Class US Mail, postage prepaid
Address: Kye S. Barker D-Song LLC d/ba/ Unicorn Sports Bar 6836 S Alaska Street Tacoma WA 98408	First Class US Mail, postage prepaid
Address: Zenon P. Olbertz Attorney at Law 1008 S Yakima Avenue Suite 302 Tacoma WA 98405	First Class US Mail, postage prepaid
Address: Marisa E. Broggel Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia WA 98504-0100	First Class US Mail, postage prepaid
Address: Kevin McCarroll Adjudicative Proceedings Coordinator Washington State Liquor Control Board PO Box 43076 Olympia WA 98504-3076	First Class US Mail, postage prepaid

Date: November 8, 2012


Cyndi Michelena
Office of Administrative Hearings