

**BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

MOHAMED NASSAR  
d/b/a 16<sup>th</sup> STREET MINUTE MART  
1121 S 16<sup>TH</sup> STREET  
SUNNYSIDE, WA 98944-2433

LICENSEE

LICENSE NO. 367413  
AVN NO. 4E3304A

LCB NO. L-24,960  
OAH NO. 2014-LCB-0006

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 19, 2014, alleging that on or about October 31, 2013, the above-named Licensee and/or an employee of the Licensee displayed alcohol advertising signs in excess of the number allowed, specifically displayed five (5) such signs, and/or displayed an outsize outdoor alcohol advertising sign in violation of WAC 314-52-070.
2. The Licensee made a timely request for a hearing.
3. An administrative hearing was held on August 14, 2014 before Administrative Law Judge Lisa N.W. Dublin with the Office of Administrative Hearings.
4. At the hearing, the Education and Enforcement Division of the Board was represented by Assistant Attorney General Kim O'Neal, and Mohamed Nassar represented the Licensee.
5. On October 10, 2014 Administrative Law Judge Lisa N.W. Dublin entered her 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 Mohamed Nassar d/b/a 16<sup>th</sup> Street Minute Mart, License No. 367413, 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 five hundred dollars (\$500.00) due within 30 days of this order. If timely payment is not received, the suspension will take place from 11:00 a.m. on Thursday, February 19, 2015 until 11:00 a.m. on Tuesday, February 24, 2015. Failure to comply with the terms of this order will result in further disciplinary action.

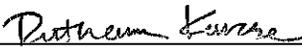
Payment in reference to this order should be sent to:

**Washington State Liquor Control Board  
Financial Division  
PO Box 43085  
Olympia, WA 98504-3085**

DATED at Olympia, Washington this 30 day of December, 2014.

WASHINGTON STATE LIQUOR CONTROL BOARD

  
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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, 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

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January 5, 2015

Mohamed Nassar  
d/b/a 16<sup>th</sup> Street Minute Mart  
PO Box 1412  
Sunnyside, WA 98944-3412

Kim O'Neal, 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: Mohamed Nassar**  
**TRADE NAME: 16<sup>th</sup> Street Minute Mart**  
**LOCATION: 1121 S 16<sup>th</sup> St, Sunnyside, WA 98944**  
**LICENSE NO. 367413**  
**LCB HEARING NO. L-24,960**  
**OAH NO. 2014-LCB-0006**  
**AVN NO. 4E3304A**  
**UBI: 601-198-727-001-0002**

Dear Parties:

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

**The applicable monetary of \$500.00 in reference to this matter was received on October 23, 2014.** 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: Spokane and Pasco Enforcement and Education Divisions, WSLCB  
Lisa Red, Enforcement and Education Division Headquarters, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

MOHAMED NASSAR d/b/a  
16<sup>TH</sup> STREET MINUTE MART  
1121 S 16<sup>TH</sup> ST  
SUNNYSIDE, WA 98944

LICENSEE

LICENSE NO. 367413  
AVN NO. 4E3304A

LCB NO. L-24,960

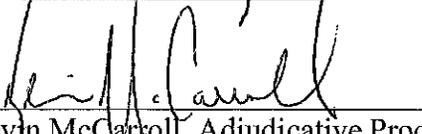
OAH NO. 2014-LCB-0006

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 applicants and licensees, by electronic mail for WSLCB offices, and Campus Mail via Consolidated Mail Services for state offices on the date below to:

MOHAMED NASSAR D/B/A 16 <sup>TH</sup> STREET MINUTE MART PO BOX 1412 SUNNYSIDE, WA 98944-3412	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION KIM O'NEAL, ASSISTANT ATTORNEY GENERAL
MOHAMED NASSAR d/b/a 16 <sup>TH</sup> STREET MINUTE MART 1121 S 16 <sup>TH</sup> ST SUNNYSIDE, WA 98944-2433	

DATED this 5<sup>th</sup> day of January, 2015, at Olympia, Washington.

  
Kevin McCarroll, Adjudicative Proceedings Coordinator

RECEIVED

OCT 24 2014

Liquor Control Board  
Board Administration

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

In The Matter Of:

MOHAMED NASSAR dba 16<sup>th</sup> STREET  
MINUTE MART,

Appellant.

OAH Docket No. 2014-LCB-0006  
LCB No. 24,960

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND  
INITIAL ORDER

**INTERPRETATION: For an oral translation of this order from English into Arabic, Appellant may call (253) 476-6888 to schedule an appointment.**

**I. ISSUES PRESENTED**

- 1.1 On or around October 31, 2013, did Appellant and/or its employee(s) display an excessive number of outdoor alcohol advertising signs, or outdoor alcohol advertising signage larger than legally allowed, in violation of WAC 314-52-070?
- 1.2 If so, what is the appropriate penalty?

**II. ORDER SUMMARY**

- 2.1 Yes. On or around October 31, 2013, Appellant and/or its employees displayed an excessive number of outdoor alcohol advertising signs, in violation of WAC 314-52-070.
- 2.2 Because this is Appellant's second violation in a two-year period, the appropriate penalty is \$500.00 in lieu of a five-day suspension.

**III. HEARING**

- 3.1 **Hearing Date:** August 14, 2014
- 3.2 **Administrative Law Judge:** Lisa N. W. Dublin

3.3 **Appellant:** Mohamed Nassar dba 16<sup>th</sup> Street Minute Mart (“Appellant” or “16<sup>th</sup> Street Minute Mart”)

3.4 **Agency:** Liquor Control Board (“Board”)

3.4.1 **Representative:** Kim O’Neal, Assistant Attorney General

3.4.2 **Witness:** Marie Reddout, Enforcement Officer

3.5 **Exhibits:** Board Exhibits 1-4 were admitted into the record.

#### IV. FINDINGS OF FACT

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

##### Jurisdiction

4.1 On or around November 27, 2013, Enforcement Officer Marie Reddout served Administrative Violation Notice #4E3304A (herein “AVN”) on Abdul Saramah, employee of Appellant. (Ex. 2)

4.2 The Board received Appellant’s request for administrative hearing on December 12, 2013. (Ex. 3)

##### 16<sup>th</sup> Street Minute Mart

4.3 16<sup>th</sup> Street Minute Mart is a convenience store located at 1121 S. 16<sup>th</sup> Street, in Sunnyside, Washington. Licensee Mohamed Nassar has owned and operated this store for approximately one year. Before taking over store operations, the previous owner of 16<sup>th</sup> Street Minute Mart trained Mr. Nassar on alcohol advertising signage, including the maximum number of signs allowed by law.

4.4 On or around September 27, 2013, Enforcement Officer Marie Reddout observed that Appellant was displaying more than the maximum number of four outdoor alcohol advertising signs on the premises. Officer Reddout spoke with Appellant’s employee, Abdul Saramah, informed him that too many outdoor alcohol advertising signs were displayed, and advised him to correct this. Mr. Saramah stated he understood. (Ex. 4)

4.5 On or around October 16, 2013, Officer Reddout returned to the premises and observed that Appellant had not fully corrected the signage error, and that too many outdoor alcohol advertising signs were still posted on the premises.

Officer Reddout then spoke with Mr. Nassar who stated Mr. Sarameh had not told him about Officer Reddout's previous visit and verbal warning. *Id.*

4.6 A few days thereafter, Officer Reddout spoke again with Mr. Nassar on the telephone regarding the excessive outdoor alcohol advertising signage at 16<sup>th</sup> Street Minute Mart. During that conversation, Officer Reddout again explained to Mr. Nassar the outdoor alcohol advertising signage limitations imposed by state law.

4.7 On or around October 31, 2013, Officer Reddout went to 16<sup>th</sup> Street Minute Mart to serve an Administrative Violation Notice for excessive outdoor alcohol advertising signage displayed as of October 16, 2013. As she was leaving, Officer Reddout observed an outdoor Budweiser beer advertising sign displayed which she believed was too big according to state regulations. Officer Reddout then counted the number of outdoor posters within public view that advertised alcohol, which totaled five. Officer Reddout spoke with Mr. Nassar, brought him outside, and showed him the excessive signage. Mr. Nassar stated he understood, and that a beer distributor put up the allegedly oversized Budweiser sign. Mr. Nassar relied on the beer distributor's representation that the Budweiser sign was not oversized. Mr. Nassar took down the allegedly oversized Budweiser sign. (Ex. 4) No pictures or specific, measured dimensions of the allegedly oversized Budweiser sign were presented into evidence. Officer Reddout visually estimated that the Budweiser sign was approximately four feet by five feet in size.

4.8 On November 27, 2013, Officer Reddout issued 16<sup>th</sup> Street Minute Mart a second AVN for violating the alcohol advertising signage requirements of WAC 314-52-070. (Ex. 2)

## 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 chapter 34.05 RCW, chapter 314-29 WAC, and chapter 10-08 WAC.

### 16<sup>th</sup> Street Minute Mart posted too many alcohol advertising signs, in violation of state law.

5.2 The Board limits each retail licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed

or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way. WAC 314-52-070.

5.3 The Board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way to sixteen hundred square inches. *Id.*

5.4 The weight of credible evidence establishes that on October 31, 2013, five signs referring to alcoholic beverages, brand names, or manufacturers were posted on the premises in a location visible to the general public from the public right of way, in violation of WAC 314-52-070. Five such signs is one too many under state law. Mr. Nassar knew from the time he started operating the 16<sup>th</sup> Street Minute Mart that state law allowed him to post only four such signs. In addition, Officer Reddout verbally instructed and warned Mr. Nassar about the signage restrictions, and even cited him on October 16, 2013 for having too many outdoor alcohol advertising signs posted. Despite this, Mr. Nassar continued to maintain more than four outdoor alcohol advertising signs on the premises, deflecting responsibility for such signage in part by blaming the Budweiser delivery man. Given the speculative nature of the evidence presented regarding the allegedly oversized Budweiser poster, I am unable to conclude by a preponderance of the evidence that, on October 31, 2013, a sign larger than 1600 square inches advertising alcohol was posted at 16th Street Minute Mart, in violation of state law. However, because Mr. Nassar, as licensee, is solely responsible for the alcohol advertising signage on the licensed premises, knew the maximum number of signs permitted by law, and violated state law on October 31, 2013 by posting too many alcohol advertising signs visible to the public from the public right of way, AVN #4E3304A is AFFIRMED.

#### Penalty

5.5 The Board may suspend or revoke a retailer's license, or may impose a monetary penalty, if it finds that the licensee has violated WAC 314-52-070. For a second violation of WAC 314-52-070 within any two-year period, the Board may impose a monetary penalty of five hundred dollars (\$500.00). WAC 314-29-025.

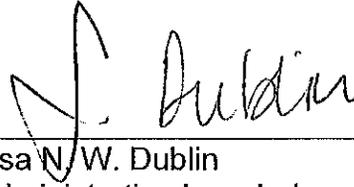
5.6 This is 16<sup>th</sup> Street Minute Mart's second violation of WAC 314-52-070 within two years. Consequently, the Board's assessment of a \$500.00 fine against 16<sup>th</sup> Street Minute Mart is AFFIRMED.

### **VI. INITIAL ORDER**

IT IS HERBY ORDERED THAT:

1. 16<sup>th</sup> Street Minute Mart violated WAC 314-52-070 on October 31, 2013 by posting in excess of four alcohol advertising signs on its premises, visible to the public from the public right of way.
2. Because this is a second violation of this kind for 16<sup>th</sup> Street Minute Mart within two years, 16<sup>th</sup> Street Minute Mart is required to pay a \$500.00 penalty under WAC 314-29-025.

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



Lisa N. W. Dublin  
Administrative Law Judge  
Office of Administrative Hearings

**NOTICE OF APPEAL RIGHTS – PLEASE READ CAREFULLY**

**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 received by this OAH office within a total of seven (7) days after the date of the mailing of the default order.

**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 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 (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 314-42-095(2) (a) and (b). Copies of the response must be mailed to all other parties and their representatives at the time the response 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).

**CERTIFICATION OF MAILING IS ATTACHED**

**CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 2014-LCB-0006**

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

Mohamed Nassar 16 <sup>th</sup> Street Minute Mart PO Box 1412 Sunnyside, WA 98944	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Kim O'Neal Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia, WA 98504	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Kevin McCarroll Adjudicative Proceedings Coordinator Washington State Liquor Control Board PO Box 43076 Olympia WA 98504	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail

Date: Friday, October 10, 2014

OFFICE OF ADMINISTRATIVE HEARINGS

Melanie Barnhill  
Legal Secretary