

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

SNOQUALMIE MARKET LLC
d/b/a SMOQUALMIE MARKET
8030 SE RAILROAD AVE
SNOQUALMIE, WA 98065

LICENSEE

LICENSE NO. 351009
AVN NOS. 3W4087A, 3M4223A,
3M4254A

LCB NOS. L-25,097
L-25,335
L-25,364

OAH NOS. 10-2014-LCB-00033
10-2014-LCB-00032
10-2014-LCB-00055

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 August 18, 2014, alleging that on March 28, 2014 the above-named Licensee violated restrictions of its liquor license contrary to RCW 66.24.010; the Liquor Control Board issued a complaint dated September 25, 2014, alleging that on July 23, 2014 the above-named Licensee violated restrictions of its liquor license contrary to RCW 66.24.010; and the Liquor Control Board issued a complaint dated October 16, 2014, alleging that on September 11, 2014 the above-named Licensee violated restrictions of its liquor license contrary to RCW 66.24.010;
2. The Licensee made a timely request for a hearing for each of the three violations.
3. A hearing was held on December 11 & 12, 2014 before Administrative Law Judge Joshua Sundt with the Office of Administrative Hearings;
4. At the hearing, Licensee Min J. Kim represented herself. The Enforcement and Education Division of the Board was represented by Assistant Attorney General Aryna Anderson;

5. On February 4, 2015, Administrative Law Judge Joshua Sundt entered his Findings of Fact, Conclusions of Law and Initial Order in this matter which sustained the Complaints;
6. On February 24, 2015 a Petition for Review was filed by the Licensee. On March 5, 2015 Enforcement's Response to Licensee's Petition for Review was received;
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;

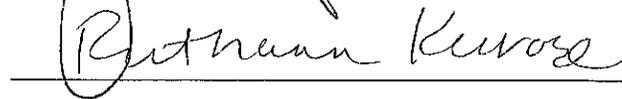
NOW, THEREFORE, IT IS HEREBY ORDERED that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order are, AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board.

IT IS HEREBY FURTHER ORDERED that the liquor license privileges granted to Snoqualmie Market LLC d/b/a Snoqualmie Market, License Number 351009, is CANCELLED.

DATED at Olympia, Washington this 14th day of April, 2015.

WASHINGTON STATE LIQUOR CONTROL BOARD





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

April 14, 2015

Min J. Kim
Snoqualmie Market LLC
d/b/a Snoqualmie Market
P O Box 1646
Snoqualmie, WA 98065-1646

Aryna Anderson, 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: Snoqualmie Market LLC
TRADE NAME: Snoqualmie Market
LOCATION: 8030 SE Railroad Ave, Snoqualmie, WA 98065
LICENSE NO. 351009
LCB HEARING NO. L-25,097, L-25,335 & L-25,364
OAH NO. 10-2014-LCB-00033, 10-2014-LCB-00032 & 10-2014-LCB-00055
AVN NO. 3W4087A, 3M4223A & 3M4254A
UBI: 603 334 467 001 0001

Dear Parties:

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

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

Sincerely,

Kevin McCarroll
Adjudicative Proceedings Coordinator

KM:mg

Enclosures (2)

cc: Mount Vernon and Mountlake Terrace Enforcement and Education Division, WSLCB
Lisa Red, Enforcement and Education Division, Headquarters, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

SNOQUALMIE MARKET LLC
d/b/a SNOQUALMIE MARKET
8030 SE RAILROAD AVE
SNOQUALMIE, WA 98065

LICENSEE

LICENSE NO. 351009
AVN NOS. 3W4087A, 3M4223A,
3M4254A

LCB NOS. L-25,097
L-25,335
L-25,364

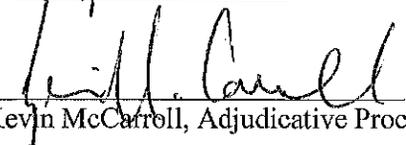
OAH NOS. 10-2014-LCB-00033
10-2014-LCB-00032
10-2014-LCB-00055

FINAL ORDER OF THE BOARD

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:

| | |
|---|--|
| MIN J. KIM SNOQUALMIE MARKET LLC d/b/a SNOQUALMIE MARKET P O BOX 1646 SNOQUALMIE, WA 98065-1646 | OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION ARYNA ANDERSON, ASSISTANT ATTORNEY GENERAL |
| SNOQUALMIE MARKET LLC d/b/a SNOQUALMIE MARKET 8030 SE RAILROAD AVE SNOQUALMIE, WA 98065 | MIN J. KIM SNOQUALMIE MARKET LLC 1505 16 th LN NE UNIT 0202 ISSAQUAH, WA 98029-7685 |

DATED this 14th day of April, 2015, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator

FEB 06 2015

Liquor Control Board
Board AdministrationSTATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
LIQUOR CONTROL BOARD

In the matter of:

Snoqualmie Market LLC

Licensee

Location address:

8030 Railroad Ave

Snoqualmie, WA 98065-1646

License No. 351009

AVN Nos. 3M4223A, 3W4087A, 3M4254A

Docket Nos. 10-2014-LCB-00032
10-2014-LCB-00033
10-2014-LCB-00055Agency Nos. L-25,335
L-25,097
L-25,364**INITIAL ORDER**

1. ISSUES PRESENTED

- 1.1 10-2014-LCB-00033. The issues are a) whether Seung Baik was working at the licensed premises on March 28, 2014; b) if so, whether that constituted a violation of applicable license restrictions under RCW 66.24.010(6); and c) whether Snoqualmie Market LLC is therefore subject to a five day suspension, or \$1,500 fine in lieu of suspension, as set forth in the Administrative Violation Notice 3W4087A, dated April 17, 2014.
- 1.2 10-2014-LCB-00032. The issues are a) whether Seung Baik was working at the licensed premises on July 25, 2014; b) if so, whether that constituted a violation of applicable license restrictions under RCW 66.24.010(6); and c) whether Snoqualmie Market LLC is therefore subject to cancellation of its license as set forth in the Administrative Violation Notice 3M4223A, dated August 11, 2014.
- 1.3 10-2014-LCB-00055. The issues are a) whether Seung Baik was working at the licensed premises on September 11, 2014; b) if so, whether that constituted a violation of applicable license restrictions under RCW 66.24.010(6); and c) whether Snoqualmie Market LLC is therefore subject to cancellation of its license as set forth in the Administrative Violation Notice 3M4254A, dated September 13, 2014.

2. ORDER SUMMARY

- 2.1 10-2014-LCB-00033. Seung Baik was working at the licensed premises on March 28, 2014 in violation of an applicable license restriction under RCW 66.24.010(6).

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Snoqualmie Market LLC is therefore subject to a five day suspension, or a \$1,500 fine in lieu of suspension.

- 2.2 10-2014-LCB-00032. Seung Baik was working at the licensed premises on July 25, 2014 in violation of an applicable license restriction under RCW 66.24.010(6). Snoqualmie Market LLC is therefore subject to cancellation of its license.
- 2.3 10-2014-LCB-00055. Seung Baik was working at the licensed premises on September 11, 2014 in violation of an applicable license restriction under RCW 66.24.010(6). Snoqualmie Market LLC is therefore subject to cancellation of its license.
- 2.4 The Liquor Control Board's action in all three cases is affirmed. Under RCW 66.24.010(6), the liquor license of Snoqualmie Market LLC, License No. 351009, is CANCELLED. Due to the cancellation Snoqualmie Market LLC's license, suspension of the license is rendered moot.

3. HEARING

- 3.1 Hearing Date: December 11 & 12, 2014
- 3.2 Administrative Law Judge: Joshua Sundt
- 3.3 Licensee: Snoqualmie Market LLC
 - 3.3.1 Representative: Min J. Kim, sole member
 - 3.3.2 Witnesses: Min J. Kim, Seung Baik, Youhwa Seo
- 3.4 Agency: Liquor Control Board
 - 3.4.1 Representative: Aryna Anderson, Assistant Attorney General
 - 3.4.2 Witnesses: Frank Gallegos, Troy McCallister, Scott Wernecke
- 3.5 Observers: Joseph Bussman was also present during the hearing as an observer.
- 3.6 Interpreter: Korean language interpreter, Nicole Y. Chae-Lee provided interpretation for the hearing.
- 3.7 Exhibits: The administrative law judge admitted exhibits 1 through 16, which were offered by the Liquor Control Board, and Exhibit A, offered by Snoqualmie Market LLC. Exhibits B through J, offered by Snoqualmie Market LLC, were excluded.
- 3.8 Consolidation: All three matters were consolidated for hearing and presentation of evidence. The testimony provided was offered for purposes of all three matters. Likewise, the admitted exhibits were admitted for purposes of all three matters.

4. FINDINGS OF FACT

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

- 4.1 Min J. Kim, at all times relevant to the alleged violations of the Licensee's license restriction, was the sole member of Snoqualmie Market LLC (Snoqualmie Market).
- 4.2 Snoqualmie Market operated a beer/wine specialty shop at 8030 SE Railroad Avenue in Snoqualmie.
- 4.3 Prior to Ms. Kim's operation at the location, the business was owned and operated by Bexco Retail Inc. (Bexco). Bexco was managed by Ms. Kim's husband, Seung Baik.
- 4.4 Due to Bexco's accumulation of three tobacco violations and Mr. Baik's failure to pay a \$3,200 fine that was part of a resulting settlement agreement, there was an imminent possibility that the Liquor Control Board (LCB) would move to cancel Bexco's license.
- 4.5 Rather than attempting to keep Bexco's license, Mr. Baik sold the business to his wife, Min J. Kim, who would operate the shop under the business entity Snoqualmie Market LLC.
- 4.6 LCB suspected that the sale was sham designed to allow Mr. Baik to continue operating at the premises, and that he would have hidden ownership in Snoqualmie LLC. Exhibit 1, page 2.
- 4.7 Ms. Kim, on behalf of Snoqualmie Market, applied for a beer/wine specialty shop license on September 20, 2013. Exhibit 1, page 1.
- 4.8 On January 6, 2014, Ms. Kim travelled to Korea, not to return until May 2014.
- 4.9 On February 10, 2014, LCB issued license number 351009 to Snoqualmie Market, subject to the following restriction:

Seung Il Baik is prohibited from having any involvement with the licensed business to include ownership, management or employment

Exhibit 3, page 4.
- 4.10 On March 28, 2014, Mr. Baik was working at Snoqualmie Market, including waiting on customers and conducting sales. The parties offered conflicting testimony on this point, but I find LCB's testimony more credible as to this incident because 1) Ms. Kim admitted that her husband was working at the store on all three dates alleged by LCB (see, for example, Exhibit A, which was drafted by Ms. Kim and reviewed by Mr. Baik prior to Snoqualmie Market offering it as evidence in these matters), 2) LCB's testimony was further bolstered by Ms. Kim's own witness,

Youhwa Seo, who conceded that Mr. Baik was working at the premises in March 2014. Moreover, Mr. Baik's testimony regarding his involvement with Snoqualmie Market was inconsistent, evasive and, on the whole, not credible. In specific, Mr. Baik's dubious credibility was further damaged by the color photograph clearly showing Mr. Baik working at the store, taken by Lieutenant Frank Gallegos on March 28, 2014 during the compliance check. Exhibit 7.

- 4.11 On April 18, 2014, LCB served Snoqualmie Market with an Administrative Violation Notice relating to the March 28, 2014 incident (AVN #3W4087A). The notice informed Snoqualmie Market that it was in violation of RCW 66.24.010(6) and subject to a penalty consisting of a five day suspension or a \$1,500 fine in lieu of suspension. Exhibit 5, page 1.
- 4.12 On May 7, 2014, Ms. Kim filed a request for settlement and/or administrative hearing of the Administrative Violation Notice. Exhibit 8, page 1.
- 4.13 On July 25, 2014, Mr. Baik was again observed working at Snoqualmie Market, including training an employee and filling a growler for a customer. The parties offered conflicting testimony on this point, but I find LCB's testimony more credible as to this incident because 1) Ms. Kim admitted that her husband was working at the store on all three dates alleged by LCB, 2) Mr. Baik's testimony regarding his involvement with Snoqualmie Market was inconsistent, evasive and, on the whole, not credible.
- 4.14 On August 12, 2014, LCB served Snoqualmie Market with an Administrative Violation Notice relating to the July 25, 2014 incident (AVN #3M4223A). The notice informed Snoqualmie Market that it was in violation of RCW 66.24.010(6) and subject to cancellation of its license. Exhibit 9, page 1.
- 4.15 On August 15, 2014, Ms. Kim filed a request for administrative hearing of the Administrative Violation Notice relating to the July 25, 2014 incident. Exhibit 12, page 1.
- 4.16 On September 11, 2014, Mr. Baik was again observed working at Snoqualmie Market, training another employee. The parties offered conflicting testimony on this point, but I find LCB's testimony more credible as to this incident because 1) Ms. Kim admitted that her husband was working at the store on all three dates alleged by LCB, 2) Mr. Baik's testimony regarding his involvement with Snoqualmie Market was inconsistent, evasive and, on the whole, not credible.
- 4.17 On September 18, 2014, LCB served Snoqualmie Market with an Administrative Violation Notice relating to the September 11, 2014 incident (AVN #3M4254A).

The notice informed Snoqualmie Market that it was in violation of RCW 66.24.010(6) and subject to cancellation of its license. Exhibit 13, page 1.

- 4.18 On October 2, 2014, Ms. Kim filed a request for administrative hearing of the Administrative Violation Notice relating to the September 11, 2014 incident. Exhibit 16, page 1.

5. CONCLUSIONS OF LAW

Based on the facts above, I make the following conclusions:

- 5.1 The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case under Revised Code of Washington (RCW) 66.08.150, Chapter 34.12 RCW, Chapter 34.05 RCW and under Washington Administrative Code (WAC) 314-42-051.
- 5.2 Under Chapter 66.08 RCW, LCB is charged with the responsibility and the authority to enforce the liquor laws of the state and regulate the issuance of liquor licenses.
- 5.3 RCW 66.24.010(6) provides, in relevant part:
- Every license issued under this section is subject to all conditions and restrictions imposed by this title or by rules adopted by the board. All conditions and restrictions imposed by the board in the issuance of an individual license may be listed on the face of the individual license along with the trade name, address, and expiration date.
- 5.4 In particular, WAC 314-07-015(3) provides that "[i]n approving a liquor license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a liquor license." Thus, in the present case, the restriction LCB imposed on Snoqualmie Market's liquor license was appropriate and valid.
- 5.5 In this case, Snoqualmie Market repeatedly violated its valid license restriction by allowing Mr. Baik to be involved with the operation of the business. There is nothing in the applicable statutes or regulations which conditions the imposition of a penalty on the licensee's knowledge or understanding of the restriction. Similarly, the reasons why Ms. Kim needed her husband to work at the store are irrelevant. In short, the licensee is subject to strict liability for violating a license restriction. Mr. Baik's protestations that he had no ownership, was not employed by Snoqualmie Market, and was not involved in managing the business—even if taken at face value—would not have a material impact on my conclusions in this

case, as he was clearly involved with the licensed business as a trainer and worker (whether paid by his wife's business or not). In his wife's absence, his "helping out" appears to have been in the role of a de facto manager.

- 5.6 Similarly, Mr. Baik's assertion that, if a hearing on the first violation had been held earlier, Snoqualmie Market would not have committed the subsequent two violations, is not well taken. If in any doubt, either Ms. Kim or Mr. Baik could have requested and awaited clarification of the restriction. Furthermore, by the terms of her license, Ms. Kim could have applied to have the restriction removed. See Exhibit 2, page 1. All that was required to avoid the subsequent violations was to not have Mr. Baik working at the store. Ms. Kim appears to have understood this at the time she accepted the license restriction, stating in reference to her husband: "Yes, I agree with not having him around." Exhibit 2, page 1.
- 5.7 WAC 314-29-030, Group 3 license violations, prescribes the penalty for misuse or unauthorized use of a liquor license. A 5 day suspension or \$1,500 monetary fine in lieu of suspension is imposed for the first violation. Subsequent violations result in cancellation of the liquor license.
- 5.8 Because Snoqualmie Market on three separate occasions violated the restriction against Mr. Baik's involvement with the business, Snoqualmie Market should be subject to suspension and cancellation of its liquor license under RCW 66.24.010(6). LCB's action in suspending then cancelling Snoqualmie Market's liquor license was supported by law and denial of the application is appropriate. LCB's action in all three matters should be affirmed.

6. ORDER

- 6.1 10-2014-LCB-00033. Seung Baik was working at the licensed premises on March 28, 2014 in violation of an applicable license restriction under RCW 66.24.010(6). Snoqualmie Market LLC is therefore subject to a five day suspension, or a \$1,500 fine in lieu of suspension.
- 6.2 10-2014-LCB-00032. Seung Baik was working at the licensed premises on July 25, 2014 in violation of an applicable license restriction under RCW 66.24.010(6). Snoqualmie Market LLC is therefore subject to cancellation of its license.
- 6.3 10-2014-LCB-00055. Seung Baik was working at the licensed premises on September 11, 2014 in violation of an applicable license restriction under RCW 66.24.010(6). Snoqualmie Market LLC is therefore subject to cancellation of its license.

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6.4 The Liquor Control Board's action in all three cases is affirmed. Under RCW 66.24.010(6), the liquor license of Snoqualmie Market LLC, License No. 351009, is CANCELLED. Due to the cancellation Snoqualmie Market LLC's license, suspension of the license is rendered moot.

Dated: February 2, 2015



Joshua D. Sundt
Administrative Law Judge
Office of Administrative Hearings

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)(b). Copies of the reply must be mailed to all other parties and their representatives at the time the reply is filed.

Mail the petition for review of initial order to:

Washington State Liquor Control Board
Attention: Kevin McCarroll
P.O. Box 43076
Olympia, Washington 98504-3076

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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).

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that today I served a copy of this document, by placing it in the mail with postage prepaid, addressed to the following parties of record:

Aryna Anderson
Assistant Attorney General
PO Box 40100
Olympia, WA 98504-0100

Agency Representative

Snoqualmie Market LLC
c/o Min J Kim
PO Box 1646
Snoqualmie, WA 98065

Licensee

Kevin McCarroll
Adjudicative Proceedings Coordinator
P.O. Box 43076
Olympia, WA 98504-3076

Agency Contact

Dated February 4, 2015, at Olympia, Washington.
(DATE OF MAILING)



Representative
Office of Administrative Hearings
2420 Bristol Court SW
Olympia, WA 98502