

BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE MATTER OF:

SHAREN JEANETTE MARSALL
d/b/a OUR STORE

541 LAUDERDALE LN A
CLE ELUM, WA 98922-9102

APPLICANT

LICENSE APPLICATION NO. 415462
UBI: 601 599 299 001 0002

LCB NO. M-25,118
OAH NO. 03-2015-LCB-00045

FINAL ORDER OF THE BOARD

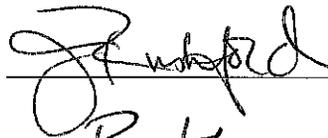
The above-captioned matter coming on regularly before the Board, and it appearing that:

1. The Licensing Division of the Liquor and Cannabis Board issued a Statement of Intent to Deny Marijuana License dated July 18, 2014, asserting that the Applicant failed to submit required documents to include a Signed Personal/Criminal History Statement.
2. The Applicant submitted a timely request for a hearing.
3. On June 2, 2015, a hearing was held before Administrative Law Judge T.J. Martin with the Office of Administrative Hearings.
4. At the hearing, the Applicant was represented by Attorney Eric J. Camm. Assistant Attorney General Aryna Anderson represented the Licensing Division of the Board.
5. On March 5, 2015, Administrative Law Judge T.J. Martin issued an Initial Order, affirming the decision to deny the Applicant's license application as expressed in the Statement of Intent to Deny Marijuana License.
6. No Petition for Review was received.

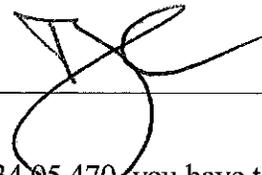
7. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises; NOW, THEREFORE, IT IS HEREBY ORDERED that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order are, AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board; IT IS HEREBY FURTHER ORDERED that Marijuana Retailer license application number 415462 for Sharen Jeanette Marsall d/b/a Our Store is DENIED.

DATED at Olympia, Washington this 1st day of September, 2015.

WASHINGTON STATE LIQUOR AND CANNABIS BOARD



Ruthann Kurose



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 and Cannabis 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 and Cannabis Board

September 2, 2015

Sharen Jeanette Marsall
d/b/a Our Store
48601 SE 116th St
North Bend, WA 98045-9102

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
APPLICANT: Sharen Jeanette Marsall
TRADE NAME: Our Store
LOCATION: 541 Lauderdale Ln A, Cle Elum, WA 98922-9102
LICENSE APPLICATION NO. 415462
LCB HEARING NO. M-25,118
OAH NO. 03-2015-LCB-00045
UBI: 601 599 299 001 0002

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,

A handwritten signature in black ink, appearing to read "Kevin McCarroll".

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Becky Smith, Licensing Director, WSLCB
Frank O'Dell, Licensing Supervisor, WLSCB
Linda Thompson, Licensing Adjudications Coordinator, WSLCB

WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE MATTER OF:

SHAREN JEANETTE MARSALL
d/b/a OUR STORE
541 LAUDERDALE LN A
CLE ELUM, WA 98922-9102

APPLICANT

LICENSE APPLICATION NO. 415462
UBI: 601 599 299 001 0002

LCB NO. M-25,118

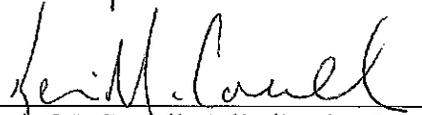
OAH NO. 03-2015-LCB-00045

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:

SHAREN JEANETTE MARSALL d/b/a OUR STORE 48601 SE 116 TH ST NORTH BEND, WA 98045-9102	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION ARYNA ANDERSON, ASSISTANT ATTORNEY GENERAL
SHAREN JEANETTE MARSALL d/b/a OUR STORE 541 LAUDERDALE LN A CLE ELUM, WA 98922-9102	

DATED this 2nd day of September, 2015, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator

RECEIVED

AUG 03 2015

Liquor Control Board
Board Administration

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Sharen Jeanette Marsall d/b/a Our Store,

Applicant.

Location address: 541 Lauderdale Lane A
Cle Elum, WA 98922

License Application No. 415462

UBI No. 601-599-299-001-0002

Docket No. 03-2015-LCB-00045

INITIAL ORDER

Agency: Liquor Cannabis Board
Program: Marijuana Licensing (MLI)
Agency No. M-25,118

1. ISSUES PRESENTED

- 1.1 Regarding the Liquor Cannabis Board's 'Statement of Intent to Deny Marijuana License', dated July 18, 2014, whether the Applicant failed to submit required documents to include: Signed Personal/Criminal History Statement.
- 1.2 If so, whether the Liquor Cannabis Board properly denied the Applicant's retail marijuana license application for failing to submit required documents, based on RCW 69.50.331 and WAC 314-55-020(2); and WAC 314-55-020(12).

2. ORDER SUMMARY

- 2.1 Our Store (hereafter the 'Applicant'), represented by Sharen Jeannette Marsall, Sole Proprietor, did not submit the required, necessary documents, including a signed Personal/Criminal History Statement.
- 2.2 Under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2), the marijuana retail license application of Our Store, License Application No. 415462, is **denied**. The Liquor Cannabis Board's 'Statement of Intent to Deny', dated July 18, 2014, is **affirmed**.

[Continued]

3. HEARING

- 3.1 Hearing Date: June 2, 2015
3.2 Administrative Law Judge: T.J. Martin
3.3 Licensee/Applicant: Sharen Jeanette Marsall
3.3.1 Representative: Eric J. Camm of The Apex Law Group LLP
3.4 Agency: Liquor Cannabis Board
3.4.1 Representative: Aryna Anderson, Assistant Attorney General
3.4.2 Witnesses: Nicola Reid, Marijuana Licensing Investigator
3.5 Exhibits: The administrative law judge admitted the Appellant's Exhibits A & B and the Liquor Cannabis Board's Exhibits 1 through 8.

4. FINDINGS OF FACT

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

Jurisdiction

- 4.1 On July 18, 2014, the Liquor Cannabis Board ('LCB') issued to the Applicant, Our Store, a 'Statement of Intent To Deny Marijuana License', regarding License Application Number 415462. *Ex. 1.*
- 4.2 On August 7, 2014, the Applicant, Our Store, filed a 'Request for Hearing, Response To Statement Of Intent To Deny.' *Ex. 2.*

Retail Pre-Screen Personal/Criminal History Statement Form

- 4.3 Prior to February 2014, Our Store applied for a license to operate a retail marijuana business in Washington State. *Testimony of Nicola Reid (hereafter 'Testimony of Reid').*
- 4.4 Sharen Jeanette Marsall is the sole proprietor of Our Store and the person responsible for making the application for the retail marijuana license to the Liquor Cannabis Board. *Testimony of Sharen Jeanette Marsall (hereafter 'Testimony of Marsall').*

- 4.5 After receiving the Applicant's application, the Liquor Cannabis Board notified Ms. Marsall, that due to a higher number of retail marijuana applications of over 2,100 applicants for 334 retail marijuana permits, the Liquor Cannabis Board (LCB) would be instituting a lottery for marijuana retail licenses. The LCB would be requesting certain information from applicants before they would be entered into this retail marijuana lottery. The LCB referred to the lottery application materials as the 'Retail Pre-screen Information.' *Testimony of Reid ; Ex. 8, pg. 2.*
- 4.6 On February 23, 2014, the LCB sent the Applicant a Pre-Screen Information Packet requesting the Applicant to fill out and submit certain documents and information in order to be considered for the lottery. These documents were required to be provided within 30 days of the Retail Pre-Screen packet being sent to an applicant. *Testimony of Reid; Ex. 3, pp. 14 and 17; Ex. 8.*
- 4.7 The Applicant's deadline for filing the Pre-Screen Information Packet, including signing all required documents and submitting the requested documentation, was March 23, 2014. *Testimony of Reid.*
- 4.8 The LCB required applicants to submit five documents for the Pre-Screen Information packet to be complete. The Retail Pre-screen Information form and Personal/Criminal History Statement had to be signed. Three additional documents including the Personal Information, Business Structure, and Real/Business Property documentation needed to be provided, but did not require signatures on the face of the documents. *Testimony of Reid; Ex. 8.*
- 4.9 Retail Marijuana applicants could submit their documents by regular mail, facsimile, electronic mail, or through the DocuSign online computer software program. Anyone using the DocuSign program could call a toll-free telephone number if the applicant had questions or issues with submitting information through the computer program. *Testimony of Reid.*
- 4.10 The LCB included with the Pre-screen application packet a guide for how to submit documentation using the DocuSign online software computer program. *Testimony of Reid; Ex. 7.*
- 4.11 On the Retail Pre-screen Information Form, the applicant must sign a statement acknowledging that failure to provide all required documentation may result in his or her application being administratively withdrawn. *Testimony of Reid.*

- 4.12 On March 25, 2014, Ms. Marsall electronically submitted a Retail Pre-screen Information Form and a Personal/Criminal History Form and other materials. *Testimonies of Reid; Testimony of Marsall.*
- 4.13 Ms. Marsall also submitted a Washington State Criminal History Abstract of her prior criminal record. *Exhibit 3; pp. 21-24.*
- 4.14 The LCB required a signature on the Personal/Criminal History Form in order to obtain authorization from the applicant so it could conduct its own investigation of each applicant, beyond just a Washington State Criminal History Abstract from the Washington State Patrol. *Testimony of Reid.*
- 4.15 Ms. Marsall struggled with using the on-line submission system, DocuSign. However, she did not consider using any of the alternatives offered by LCB. *Testimony of Marsall.*
- 4.16 Immediately following the submission of documents, Ms. Marsall sent an email to the LCB regarding her difficulty in electronically signing the forms, including the Retail Pre-screen Information Form and Personal/Criminal History Statement. *Ex. A.*
- 4.17 The LCB staff did not respond to Ms. Marsall's email because the LCB staff did not review any of the applications for completeness prior to their respective deadlines. *Testimony of Reid.*
- 4.18 The LCB staff confirmed it had received Ms. Marsall's pre-screen submission but the staff did not review that submission for completeness until after the time for submitting had passed. This was because LCB did not have sufficient staff to review all of the submissions before the deadline and it would have been unfair to review only some. *Testimony of Reid.*
- 4.19 Ms. Marsall believed she electronically signed and initialed the documents as instructed before she submitted her pre-screen materials via the DocuSign computer program. However, she never reviewed the copies. *Testimony of Marsall.*

- 4.20 The undersigned administrative law judge is persuaded Ms. Marsall believed she had signed and initialed the appropriate documents, she nevertheless failed to do so, including failing to electronically sign the Retail Pre-screen Information Form and Personal/Criminal History Statement.
- 4.21 On May 19, 2015, over one year and three months after the deadline, the Applicant submitted a signed copy of the Retail Pre-Screen Information document. However, the Applicant's Personal/Criminal History Statement was not included in the submitted, signed documents. *Ex. A; pp. 1-3.*
- 4.22 Ms. Marsall's failure to sign the Personal/Criminal History Statement was the basis for the LCB issuing the 'Statement of Intent to Deny Marijuana License.' *Ex. 1.*

5. CONCLUSIONS OF LAW

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

Jurisdiction

- 5.1 I have jurisdiction over the persons and subject matter of this case under Revised Code of Washington (RCW) 66.08.150, RCW 69.50.334, chapter 34.05 RCW, chapter 34.12 and Washington Administrative Code (WAC) 314-55-070.

Our Store's failure to sign pre-screen documents constituted a basis for the LCB to deny its application for a marijuana retailer license

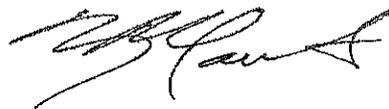
- 5.2 "Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought." WAC 314-55-020(12).
- 5.3 LCB may deny a marijuana application for "[f]ailure . . . to submit information or documentation requested by the board during the application process" WAC 314-55-050(2) (in pertinent part).
- 5.4 In the present case, the LCB required information from the Applicant, Our Store, through Ms. Marsall's certified signature, so that it could determine whether the Applicant qualified for the marijuana retailer license. By failing to sign the forms she completed, Ms. Marsall submitted information that was not certified.

The missing signature of Ms. Marsall effectively did not grant the LCB permission to investigate and confirm her criminal history. Ms. Marsall argued that her failure to sign was an error, an error caused by the defective computerized process for submission, an error amplified by the LCB's failure to review her submission and inform her of any deficiencies. I am persuaded that Ms. Marsall's failure to sign was an error. I am persuaded that, if Ms. Marsall had been timely informed by the LCB that her submission was not signed, she would have promptly corrected the deficiency. Nevertheless, I am not persuaded the LCB is responsible for Ms. Marsall's failure to properly submit her pre-screen documents or to timely rectify the deficiency. Had Ms. Marsall reviewed her application prior to submission or afterward, within the deadline allotted, she likely would have observed her electronic signature was missing. She could have signed a copy and mailed it in. Ms. Marsall was responsible for submitting completed pre-screen documents. She failed to do so. The LCB had authority to request the information it sought and to require it to be submitted certified. Accordingly, based on the authority recited above, the LCB was correct to close Ms. Marsall's application and deny the Applicant the opportunity to enter into the Retail Marijuana Pre-screen lottery.

6. INITIAL ORDER

- 6.1 Under RCW 69.50.331, WAC 314-55-020(2) and WAC 314-55-050(12), the marijuana retail license application of Our Store, application number 415462, is **Denied**.
- 6.2 The Liquor Cannabis Board's 'Statement of Intent to Deny' is **Affirmed**.

Issued from Tacoma, Washington on the date of mailing.



TJ Martin
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF MAILING IS ATTACHED

NOTICE OF APPEAL RIGHTS – PLEASE READ CAREFULLY

Petition for Review of Initial Order: Either the applicant or the assistant attorney general may file a petition for review of the initial order with the liquor Cannabis 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 cannabis 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 Cannabis 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 Cannabis 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 FOR OAH DOCKET NO. 03-2015-LCB-00045

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

<p>Sharen Jeanette Marsall d/b/a Our Store 48601 SE 116th Street North Bend, WA 98045</p>	<p><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</p>
<p>Aryna Anderson Assistant Attorney General PO Box 40100 Olympia, WA 98504</p>	<p><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</p>
<p>Kevin McCarroll Adjudicative Proceedings Coordinator P.O. Box 43076 Olympia, WA 98504</p>	<p><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</p>
<p>Becky Smith Licensing Manager P.O. Box 43098 Olympia, WA 98504</p>	<p><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</p>

Date: Monday, July 27, 2015

OFFICE OF ADMINISTRATIVE HEARINGS



Melanie Barnhill
Legal Assistant