

**STATE OF WASHINGTON
WASHINGTON STATE LIQUOR CONTROL BOARD**

In the Matter of:

**JUSE CHESTER BARROS
d/b/a EVERGREEN BUD DEPOT
1676 NE MCWILLIAMS RD, STE #B
BREMERTON, WA 98312**

APPLICANT

**License Application No. 414560
UBI No. 603-099-197-001-0004**

**LCB No. M-25,297
OAH No. 2014-LCB-0075**

**FINAL ORDER ON REVIEW
FOLLOWING BRIEF
ADJUDICATIVE PROCEEDING**

I. REVIEWERS' CONSIDERATION

1.1 Review. This matter comes before the Members of the Liquor Control Board to review the Findings of Fact, Conclusions of Law and Initial Order of Brief Adjudicative Proceeding entered by Administrative Law Judge, Terry A. Schuh on September 18, 2014, and served on the Applicant by mail on September 18, 2014. The Initial Order is attached and incorporated into this Order by this reference.

1.2 Record of Proceeding. The entire record of this proceeding was presented to the Members of the Liquor Control Board for review and the entry of a final decision.

II. ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order are hereby adopted as the final decision of the Reviewing Officers.

2.1 The Liquor Control Board Licensing Division's decision to deny Mr. Barros's application for a marijuana retailer license is affirmed.

2.2 The Applicant's application for a marijuana retail license is denied.

DATED this 7TH day of OCTOBER, 2014.

WASHINGTON STATE LIQUOR CONTROL BOARD



RIGHTS OF REVIEW

Reconsideration. Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering it directly to the Washington State Liquor Control Board, Attn: Kevin McCarroll, 3000 Pacific Avenue Southeast, PO Box 43076, Olympia, WA 98504-3076, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board's office. RCW 34.05.010(6). A copy shall also be sent to Mary M. Tennyson, Sr. Assistant Attorney General, 1125 Washington St. SE, P.O. Box 40110, Olympia, WA 98504-0110. A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on the petition. An order denying reconsideration is not subject to judicial review.

RCW 34.05.470(5). The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

Stay of Effectiveness. The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Board has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW and RCW 34.05.550.

Judicial Review. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).



Washington State
Liquor Control Board

October 9, 2014

Juse Chester Barros
Juice Enterprises Inc.
d/b/a Evergreen Bud Depot
81 Glacier Ridge Road
Quilcene, WA 98376-9650

Alan Rathbun,
Licensing Director
WSLCB
PO Box 43098
Olympia, WA 98504-3098

RE: FINAL ORDER ON REVIEW FOLLOWING BRIEF ADJUDICATIVE PROCEEDING

APPLICANT: Juse Chester Barros, Juice Enterprises Inc.

TRADE NAME: Evergreen Bud Depot

LOCATION: 1676 NE McWilliams Rd, Ste B, Bremerton, WA 98312

LICENSE NO. 414560

LCB HEARING NO. M-25,297

OAH NO. 2014-LCB-0075

UBI: 603 099 197 001 0004

Dear Parties:

Please find the enclosed Final Order on Review Following Brief Adjudicative Proceeding 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 Manager, WSLCB
Kim Gabbard, Licensing Supervisor, WSLCB
Mary Henley, Administrative Assistant, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

In the Matter of:

JUICE ENTERPRISES INC.
d/b/a EVERGREEN BUD DEPOT
1676 NE MCWILLIAMS RD, STE B
BREMERTON, WA 98312

APPLICANT

License Application No. 414560
UBI No. 603 099 197 001 0004

LCB NO. M-25,297

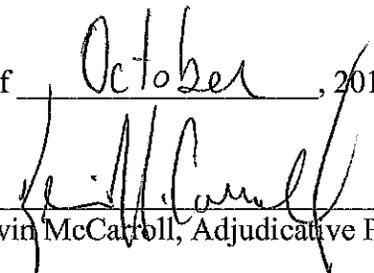
OAH NO. 2014-LCB-0075

DECLARATION OF SERVICE BY
MAIL

I certify that I caused a copy of the FINAL ORDER ON REVIEW FOLLOWING BRIEF ADJUDICATIVE PROCEEDING 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:

JUSE CHESTER BARROS JUICE ENTERPRISES INC. d/b/a EVERGREEN BUD DEPOT 81 GLACIER RIDGE ROAD QUILCENE, WA 98376-9650	LIQUOR CONTROL BOARD MAIL STOP 43098, LICENSING DIVISION ALAN RATHBUN, LICENSING DIRECTOR
--	--

DATED this 9th day of October, 2014, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator

MAILED

SEP 18 2014

OLYMPIA OAH

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

In the Matter of the Denial of the
Marijuana license application for the
privileges of a Marijuana Retailer for:

Juse Chester Barros,
Evergreen Bud Depot,

1676 NE McWilliams Rd, Ste #B
Bremerton, WA 98312,

Applicant.

License Application No.414560
UBI 6030991970010004

OAH Dkt. No. 2014-LCB-0075
LCB No. M-25,297

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
INITIAL ORDER ON BRIEF
ADJUDICATIVE PROCEEDING**

RECEIVED

SEP 19 2014

Liquor Control Board
Board Administration

1. ISSUE PRESENTED

1.1. Whether the Liquor Control Board's decision to deny the Applicant's application for a marijuana license should be affirmed.

2. ORDER SUMMARY

2.1. The Liquor Control Board's decision to deny the Applicant's application for a marijuana license is affirmed.

3. HEARING

3.1. **Brief Adjudicative Proceeding:** A Brief Adjudicative Proceeding was conducted in this matter by the Administrative Law Judge, as delegated by the Liquor Control Board. The proceeding was conducted under RCW 34.05.482 through .494, Title 66 RCW, and Title 314 WAC.

3.2. **Administrative Law Judge:** Terry A. Schuh

3.3. **Applicant:** Juse Chester Barros dba Evergreen Bud Depot

3.4. **Agency:** Liquor Control Board

3.5. **Documents reviewed:** The Administrative Law Judge reviewed the marijuana licensing records as listed in the "Index of Marijuana Licensing Records for BAP" attached to the scheduling letter for this proceeding and consisting of 63 pages. The Administrative Law Judge also reviewed any additional documents submitted

by the Applicant for this proceeding. Here, the Applicant did not submit additional documents.

4. FINDINGS OF FACT

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

4.1. The Applicant ("Mr. Barros") applied for a marijuana retail license on March 28, 2014.

4.2. A required content of that application was Mr. Barros's Personal/Criminal History Statement.

4.3. Mr. Barros submitted the Personal/Criminal History Statement on March 28, 2014. However, Mr. Barros's Criminal History Statement was incomplete. To the question regarding whether he had ever been arrested, cited, convicted, placed on probation, charged with a crime, jailed, forfeited bail, or paid a fine, Mr. Barros responded "yes". Mr. Barros was directed to explain each such charge. He left that part of the application blank.

4.4. Investigation by the Liquor Control Board revealed that Mr. Barros had seven criminal convictions that he did not disclose on his Criminal History Statement:

DWLS 3rd Degree, misdemeanor, 2000;

Possession of Drug Paraphernalia, misdemeanor, 2000;

Malicious Mischief DV, gross misdemeanor, 2000;

DWLS 3rd Degree, misdemeanor, 1999;

Reckless Driving, gross misdemeanor, 1998;

Reckless Driving, gross misdemeanor, 1998; and

Controlled Substance Violation Section A, felony, 2003.

Record, page 41; see Arrest Records, Record, pp. 19-33.

4.5. Mr. Barros did not dispute the existence or classification of the recited criminal history.

4.6 Based upon the foregoing criminal history, the Liquor Control determined that Mr. Barros had accumulated 28 points. Record, p. 41.

5. CONCLUSIONS OF LAW

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

- 5.1. I have jurisdiction over Mr. Barros and the subject matter of this proceeding under RCW 69.50.334, RCW 34.05.485(1)(c), RCW 34.12.040, chapter 34.05, WAC 314-42-120(1), and chapter 314-42 WAC.
- 5.2. When the Liquor Control Board denies a marijuana license application based upon the Applicant's criminal history, an appeal of that denial is addressed with a brief adjudicative proceeding. WAC 314-42-110. Accordingly, this appeal is appropriately resolved by a brief adjudicative proceeding.
- 5.3. An Applicant's failure to meet the criminal history standards outlined in WAC 314-55-040 constitutes a basis for the Liquor Control Board to deny a marijuana license application. WAC 314-55-050(4).
- 5.4. More specifically, a criminal history accumulating eight or more points as described in WAC 314-55-040(1) is grounds for denying a marijuana license application. WAC 314-55-040(1), (3).
- 5.5. Failure to report any conviction for a felony, gross misdemeanor, or misdemeanor, regardless of when it occurred, accumulates four points for each such failure. WAC 314-55-040(1). Even if a conviction might have been excepted from criminal history point assignment, failure to report a conviction will result in point accumulation. WAC 314-55-040(3)(a)(i). Here, Mr. Barros failed to report any criminal history, including the seven criminal convictions listed in paragraph 4.4 above. Accordingly, the Liquor Control Board correctly determined a criminal history points accumulation for Mr. Barros of 28.
- 5.6. The Liquor Control Board may decline to issue a marijuana retailer license to an Applicant who accumulates eight or more criminal history points. WAC 314.55-040(3). Mr. Barros accumulated 28 criminal history points. Therefore, the Liquor Control may deny his application for a marijuana retailer license.

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

- 6.1. The Liquor Control Board's decision to deny the Applicant's application for a marijuana retailer license is **AFFIRMED**.
- 6.2. The Applicant's application for a marijuana retailer license is denied..

Issued from Olympia, Washington, on the date of mailing



Terry A. Schuh, Sr. Admin. Law Judge
Office of Administrative Hearings

RIGHTS OF REVIEW

Under RCW 34.05.488, RCW 34.05.491, and WAC 314-42-130, within twenty-one (21) days of the date of mailing of this order, the Applicant may request an administrative review of this order. The request must state the reasons for requesting an administrative review. The request must be received by the Washington State Liquor Control Board Reviewing Officer ("Reviewing Officer") within twenty-one (21) days from the date of the mailing of this order.

Address for filing a request for administrative review:
Washington State Liquor Control Board
Attention: Kevin McCarroll
3000 Pacific Avenue S.E.
PO Box 43076
Olympia, WA 98504-3076.

The Reviewing Officer will either uphold or overturn this initial order. The Reviewing Officer's decision will be the final agency decision and will be mailed to the last address the Applicant furnished to the Liquor Control Board. That order will include a description of any further appeal rights the Applicant may have.

CERTIFICATE OF SERVICE IS ATTACHED

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 2014-LCB-0075

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

<p>Juse Chester Barros Evergreen Bud Depot 81 Glacier Ridge Road Quilcene, WA 98376 Applicant</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>Washington State Liquor Control Board Attention: Kevin McCarroll PO Box 43076 Olympia, WA 98504-3076 Agency Representative</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: Thursday, September 18, 2014

OFFICE OF ADMINISTRATIVE HEARINGS



Becky Gogan
Assistant Office Manager