

**BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

TONQUIN, INC  
d/b/a JOKER PUB AND GRILL  
5614 E LAKE SAMMAMISH PKWY SE  
ISSAQUAH, WA 98029-8921

LICENSEE

LICENSE NO. 072566-2M  
AVN 209357A

LCB NO. 23,623  
OAH NO. 2010-LCB-0023

FINAL ORDER OF THE BOARD

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

1. The Liquor Control Board issued a complaint dated May 12, 2010, alleging that on December 23, 2009, the above-named Licensee, or employee(s) thereof, sold, gave or otherwise supplied liquor to a person(s) under twenty-one (21) years of age, contrary to RCW 66.44.270 and WAC 314-11-020(1).
2. The Licensee made a timely request for a hearing.
3. A hearing took place on September 13, 2010 and continued December 16, 2010 before Administrative Law Judge Rynold C. Fleck.
4. The Licensee was represented by its owner, Joseph Wingen. The Education and Enforcement Division of the Board was represented by Assistant Attorney General Timothy D. Ford.
5. On February 14, 2011, Administrative Law Judge Rynold C. Fleck entered his Findings of Fact, Conclusions of Law, and Proposed Order sustaining the violation.
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 proposed order for case 23,623 is adopted.

IT IS HEREBY FURTHER ORDERED that the Complaint filed in case 23,623 is sustained and that the liquor license privileges granted to Tonquin, Inc. d/b/a Joker Pub and Grill at 5614 E Lake Sammamish Pkwy SE in Issaquah, Washington, License 072566-2M, 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, suspension will take place from 5:00 p.m. on April 29, 2011 until 5:00 p.m. on May 4, 2011. 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:

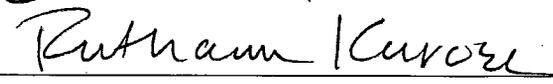
**Washington State Liquor Control Board**

**PO Box 43085**

**Olympia, WA 98504-3085**

DATED at Olympia, Washington this 15<sup>th</sup> day of March, 2011.

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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March 16, 2011

Tonquin, Inc.  
d/b/a Joker Pub and Grill  
5614 E Lake Sammamish Pkwy SE  
Issaquah, WA 98029-8921

Timothy Ford, 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: Tonquin, Inc.**  
**TRADE NAME: Joker Pub and Grill**  
**LOCATION: 5614 E Lake Sammamish Pkwy SE, Issaquah, WA 98029-8921**  
**LICENSE NO. 072566-2M**  
**ADMINISTRATIVE VIOLATION NOTICE NO: 209357A**  
**LCB HEARING NO. 23,623**  
**OAH NO. 2010-LCB-0023**  
**UBI: 601 854 201 001 0001**

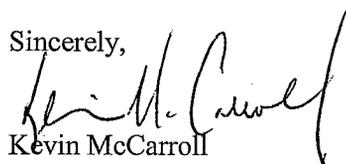
Dear Parties:

Enclosed please find a Declaration of Service by Mail and a copy of the Final Order in the above referenced matter.

**The applicable monetary penalty is due by April 15, 2011. If payment is not received timely, then suspension will take place during the dates stated in the order.**

Please send payment to WSLCB, P.O. Box 43085, Olympia, WA 98504-3085 and label the check with your License Number and Administrative Violation Notice Number listed above. If you have any questions, please contact me at (360) 664-1602.

Sincerely,

  
Kevin McCarroll  
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Tukwila Enforcement and Education Division, WSLCB  
Amber Harris, WSLCB

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

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3 **WASHINGTON STATE LIQUOR CONTROL BOARD**

4 IN THE MATTER OF:

5 TONQUIN, INC.  
6 D/B/A JOKER PUB AND GRILL  
7 5614 E LAKE SAMMAMISH  
8 PKWY SE  
9 ISSAQUAH, WA 98029-8921

LICENSEE

10 LICENSE NO. 072566-2M  
11 AVN NO. 209357A

LCB HEARING NO. 23,623  
OAH NO. 2010-LCB-0023

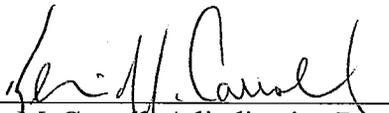
DECLARATION OF SERVICE BY  
MAIL

12 I certify that I caused a copy of the *FINAL ORDER OF THE BOARD* in the above-  
13 referenced matter to be served on all parties or their counsel of record by US Mail Postage  
14 Prepaid via Consolidated Mail Service for Licensees; by Campus Mail for the Office of  
15 Attorney General, on the date below to:

17 TONQUIN, INC.  
18 D/B/A JOKER PUB AND GRILL  
19 5614 E LAKE SAMMAMISH  
20 PKWY SE  
ISSAQUAH, WA 98029-8921

TIMOTHY FORD, ASSISTANT ATTORNEY  
GENERAL, GCE DIVISION  
OFFICE OF THE ATTORNEY GENERAL  
MAIL STOP 40100

21 DATED this 16<sup>th</sup> day of March, 2011, at Olympia, Washington.

23   
24 Kevin McCarroll, Adjudicative Proceedings Coordinator

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DECLARATION OF SERVICE BY  
MAIL

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

MAILED

FEB 14 2011

SEATTLE-OAH

IN THE MATTER OF:

TONQUIN, INC. d/b/a  
JOKER PUB AND GRILL  
5614 E LK SAMMAMISH PKWY  
ISSAQUAH, WA 98029

LICENSEE/APPELLANT.

LICENSE NO. 072566

Docket No. 2010-LCB-0023  
Number: 23,623

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND PROPOSED ORDER

Liquor Control Board

RYNOLD C. FLECK, Administrative Law Judge (ALJ), conducted a hearing in the above-noted matter on December 16, 2010. The Appellant/Licensee, Tonquin, Inc., DBA Joker Pub and Grill, was represented by Joseph Wingen, its owner. The Washington State Liquor Control Board (the Department) was represented by Timothy D. Ford, Assistant Attorney General (AAG). John Jung, Joshua Bolender, and [REDACTED] appeared as witnesses for the Department. Somer Berg appeared as a witness for the Appellant/Licensee.

ISSUE

Whether or not an employee of Tonquin Inc., DBA the Joker Pub and Grill, furnished liquor to a minor on or about December 23, 2009.

RESULT

The Appellant violated Revised Code of Washington (RCW) 66.44.270(1). The Liquor Control Board Administrative Violation Notice issued January 5, 2010 is sustained. The Appellant shall pay a monetary penalty in the amount of \$500.00.

**RECEIVED**

FEB 17 2011

**LIQUOR CONTROL BOARD  
BOARD ADMINISTRATION**

## FINDINGS OF FACT

1. Tonquin, Inc., DBA Joker Pub and Grill is a licensee of the Washington State Liquor Control Board ("Liquor Control Board") which has an establishment commonly known as Joker Pub and Grill, located at 5614 E. Lake Sammamish Parkway, Issaquah, Washington.

2. [REDACTED] date of birth is July 9, 1989.

3. On December 23, 2009, at approximately 7:30 in the evening, [REDACTED] entered the Joker Pub and Grill as part of the Washington State Liquor Control Board Compliance Check in that general area. On December 23, 2009, [REDACTED] was 20 years of age. [REDACTED] had been used by the Liquor Control Board in their compliance checks as an underage person who would go into the licensees of the Washington State Liquor Control Board to determine whether or not such establishments and their employees were complying with state law with respect to serving alcohol to individuals who are under the age of 21.

4. Prior to the compliance check at the Joker Pub and Grill, [REDACTED] had been involved in approximately 30 such compliance investigations during the nine months that he had been an investigative aide with the Liquor Control Board. [REDACTED] was provided with buy money by the Liquor Control Officers who were also participating in the compliance check. He went into the Joker Pub and Grill, asked for Corona, which was presented to him. He did not pay for the beer, but took it in his possession. Once it was in his possession, he texted his partners who had waiting outside the Joker Pub and Grill. There was no one checking identification at the door of the Joker Pub and Grill that evening. [REDACTED] opened the door, walked into the establishment, and sat down at one end of the bar. The bartender asked [REDACTED] what he wanted to drink, and provided him with the Corona. At no time did she ask him for identification to establish that he was in fact over the age of 21.

5. The other two officers who were involved with [REDACTED] were Officer Jung and Officer Bolender. Neither officer observed the sale or the presentation of the Corona to [REDACTED]. They did, however, observe it in his possession when they entered the establishment.

6. The bar at the Joker Pub and Grill is L-shaped, with one side being approximately 20 feet, and the other approximately four feet. As many as 15 people can occupy the long side and no more than four on the short side.

7. Ms. Berg has been a bartender at the Joker Pub and Grill for approximately 12 years. She has not had any violation during that 12-year period. Ms. Berg testified that it is not uncommon for those people who are at the bar having alcoholic beverages to leave a beer standing on the bar while going to the restroom.

8. On that day, the Liquor Control Board Officer cited Somer Berg with a non-traffic criminal citation for sale or service to a minor, citing Revised Code of Washington (RCW) 66.44.270(1). That citation was subsequently processed through the Seattle District Court for the State of Washington, County of King.

9. On January 5, 2010, Officer Jung served Administrative Violation Notice on Tonquin Inc., DBA Joker Pub and Grill for violation of RCW 66.44.270(1). The violation was identified as sale or service to a minor. Ms. Berg at the time of the hearing denied having served [REDACTED] although on the evening of December 23, 2010, Ms. Berg did not state that she asked for [REDACTED] ID, but observed that she always checks ID and that she didn't know what had happened on that date.

10. This was the first violation in a two-year period for Tonquin, Inc. DBA the Joker Pub and Grill.

#### CONCLUSIONS OF LAW

1. There is jurisdiction to hear this matter pursuant to Chapter 66.44 of the Revised Code of Washington (RCW) and Chapter 314-29 of the Washington Administrative Code (WAC).

2. RCW 66.44.270(1) reads as follows:

**Furnishing liquor to minors — Possession, use — Penalties —  
Exhibition of effects — Exceptions.**

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person

under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

3. WAC 314-11-020 reads as follows:

**What are the guidelines regarding sales to persons under twenty-one years of age and where persons under twenty-one are allowed on a licensed premises?**

(1) Per RCW 66.44.270, licensees or employees may not supply liquor to any person under twenty-one years of age, either for his/her own use or for the use of any other person.

(2) Per RCW 66.44.310, licensees or employees may not allow persons under twenty-one years of age to remain in any premises or area of a premises classified as off-limits to persons under twenty-one. (See RCW 66.44.310 (1)(b) regarding nonprofit, private club licensees.)

(3) Per RCW 66.20.180, at the request of any law enforcement officer, a holder of a card of identification must present his/her card of identification if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present a card of identification it may be considered a violation of Title 66 RCW and:

(a) The person may not remain on the licensed premises after being asked to leave by a law enforcement officer; and

(b) The person may be detained by a law enforcement officer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth.

4. WAC 314-11-015(1)(a) reads as follows:

**What are my responsibilities as a liquor licensee?**

(1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

5. A licensee is responsible for the conduct of employees and obligated to see to it that an employee's conduct comports with the laws of the State of Washington. See WAC 314-11-015(3).

6. WAC 314-29-020 reads as follows:

**Group 1 violations against public safety.**

Group 1 violations are considered the most serious because they present a direct threat to public safety. Violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-29-015(4).

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
<b>Violations involving minors:</b> <b>Sale or service to minor:</b> Sale or service of alcohol to a person under 21 years of age.	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
<b>Minor frequenting a tavern, lounge, or other restricted area.</b>  RCW 66.44.270  RCW 66.44.310  WAC 314-11-020  WAC 314-16-150				
<b>Sale or service to a apparently intoxicated person:</b> Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person.	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
RCW 66.44.200  WAC 314-16-150				
<b>Conduct violations:</b> <b>Disorderly conduct</b> by licensee or employee, or permitting on premises.	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
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**Licensee and/or employee** intoxicated on the licensed premises and/or drinking on duty.

**Criminal conduct:** Permitting or engaging in criminal conduct.

WAC 314-11-015

<b>Lewd conduct:</b> Engaging in or permitting conduct in violation of WAC 314-11-050.	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
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<b>Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties.</b> RCW 66.28.090	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
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RCW 66.44.370

WAC 314-11-090

<b>Condition of suspension violation:</b> Failure to follow any suspension restriction while liquor license is suspended. WAC 314-29-040	Original penalty plus 10 day suspension with no monetary option	Cancellation of license		
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7. The evidence is clear that [REDACTED] who, on December 23, 2009, was under the age of 21, was served an alcoholic beverage by an employee of Tonquin Inc., DBA as Joker Pub and Grill. As such, the licensee is responsible and is in violation of RCW 66.44.270(1) and Washington Administrative Code (WAC) 314-11-015(1)(a). Although the Appellant's employee indicates that her recollection, at least at the time of the hearing, was that she had checked ID, [REDACTED] testimony was credible that he in fact walked into the Joker Pub and Grill without being asked for identification, was asked what his preference in drink was, and was served an alcoholic

beverage, specifically a Corona beer. [REDACTED] took possession of that beer. He was under the age of 21. The employee of the Joker Pub and Grill failed to request identification from [REDACTED] and did serve him an alcoholic beverage on that date.

DECISION AND ORDER

Based upon the foregoing, the Appellant violated RCW 66.44.270(1). The Liquor Control Board Administrative Violation Notice issued January 5, 2010 is sustained. The Appellant shall pay a monetary penalty in the amount of \$500.00.

SERVED on the date of mailing.



Rynold C. Fleck  
Administrative Law Judge  
Office of Administrative Hearings

cc: Joseph A. Wingen, Appellant  
Kevin McCarroll, WA State Liquor Control Board  
Tim Ford, AAG, 360-586-0768

## NOTICE TO PARTIES

Either the licensee or permit holder or the assistant attorney general may file a petition 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 and 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 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 reply must be mailed to all other parties and their representatives at the time the reply is filed.

The administrative record, the initial order, any petition 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, stating the specific ground 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 34.05.058 (Washington Administrative Procedure Act).

