

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF

M&T ENTERPRISES, INC. d/b/a
SIFTON STOP N SHOP

Licensee

License No. 353701

OAH Docket No. 2008-LCB-0048
LCB NO. T-505

ORDER ON LICENSEE'S
MOTION FOR
RECONSIDERATION

On December 29, 2009, the Board issued its Final Order, affirming the Initial Order issued by the Administrative Law Judge, and imposing a penalty of a monetary fine in the amount of \$1,000, and a six month suspension of the license to sell tobacco products. The suspension is set to commence on February 4, 2010. The licensee filed a Motion for Reconsideration dated January 6, 2010, and received by the Board on January 7, 2010.

The Motion for Reconsideration requests, in the alternative, that the Board grant a stay of the effectiveness of its Final Order pending an appeal to Superior Court, or that the Board move the suspension dates so that the suspension commences on March 4, 2010, rather than on February 4, 2010.

The Board will not stay the effectiveness of its Final Order pending the possibility that the Licensee may appeal the Order to the Superior Court. The Final order provided, in part:

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.

If the Licensee chooses to appeal to Superior Court, the Licensee can request the court to issue a stay of the Order.

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If the Licensee chooses to appeal to Superior Court, the Licensee can request the court to issue a stay of the Order.

The Board grants the Licensee's request to set the dates of suspension to commence on March 4, 2010. The license suspension imposed by the Board's Final Order shall be served from March 4, 2010 through September 3, 2010.

Reconsideration. The Board will not entertain any further request from the licensee to reconsider its Final Order.

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).

DATED at Olympia, Washington this 14th day of January, 2010.

WASHINGTON STATE LIQUOR CONTROL BOARD





(via electronic mail approval)

RECEIVED

JAN 08 2010

**LIQUOR CONTROL BOARD
BOARD ADMINISTRATION**

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

In the Matter of:)	OAH No. 2008-LCB-0048
)	LCB No. T-505
)	
)	
M&T Enterprises, Inc.,)	MOTION FOR
dba Sifton Stop N Shop,)	RECONSIDERATION
)	OF FINAL ORDER
Licensee.)	
)	
License No. 353701)	
_____)	

COMES NOW the Licensee, and hereby moves the Board for an Order reconsidering the Final Order of the Board dated December 29, 2009. Specifically, Licensee requests that the Board reconsider its decision in two respects.

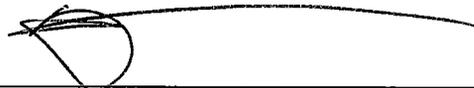
First, that the Board stay the effectiveness of the Order suspending the tobacco license from February 4, 2010 through August 3, 2010 pending an appeal to Superior Court.

Alternatively, Licensee requests that the Board reconsider the effective start date of the suspension from February 4, 2010 with the new proposed suspension start date of March 4, 2010, to allow Licensee adequate opportunity to prepare economically and

organizationally for the effects of the proposed suspension upon his business, which was, as noted during the hearing, great and far reaching. A request for an additional thirty (30) days before commencement of the suspension does not prejudice the Board and would allow the Licensee adequate opportunity to look at and review its options before the effective date of the suspension. The basis for this request is, as noted, that the Licensee will suffer a severe financial loss due to the loss of cigarette sales, by which may well end up causing Licensee to close the doors, sell the business, or considerably cut back staff, which would include layoffs and/or termination.

If the Board is inclined to reconsider its position relative to a stay of the effectiveness of the Order by judicial appeal, or alternatively, granting the Licensee's request that the effective date of the suspension be moved thirty (30) days to March 4, 2010, then Licensee respectfully requests that the Board issue an amended Final Order with a new commencement date.

Respectfully submitted this 10th day of January, 2010.



THOMAS C. PHELAN, WSBA# 11373
Attorney for M&T Enterprises, Inc.,
dba Sifton Stop N Shop, Licensee

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2010, I served a copy of Licensee's Motion for Reconsideration of Final Order on the following-named parties, by mailing a true copy thereof, via U.S. Mail, to said parties, at said parties' last-known addresses, as follows:

Washington State Liquor Control Board
Attn: Kevin McCarroll
3000 Pacific Avenue Southeast
P.O. Box 43076
Olympia, WA 98504-3076

Mary M. Tennyson
Assistant Attorney General
Office of the Attorney General
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0110

Brian Considine
Assistant Attorney General
Office of the Attorney General
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0100

Signed at Vancouver, Washington this 6th day of January, 2010.



Sonia Huddleston
Legal Assistant



Washington State
Liquor Control Board

January 14, 2010

Thomas C. Phelan, Attorney for Licensee
904 Esther St
Vancouver, WA 98660-3026

M & T Enterprises, Inc., Licensee
d/b/a Sifton Stop N Shop
13412 NE 4th Plain Rd
Vancouver, WA 98682-5243

Brian Considine, AAG
GCE Division, Office of Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

RE: Order on Licensee's Motion for Reconsideration
Licensee: M & T Enterprises, Inc.
Trade Name: Sifton Stop N Shop
Location: 13412 NE 4th Plain Rd, Vancouver, WA 98682-5243
LCB No. T-505
OAH No. 2008-LCB-0048
Administrative Violation Notice No. 23915
License No. (UBI): 601 061 312 001 0001

Dear Parties:

Enclosed please find a Declaration of Service by Mail and a copy of the Order on Licensee's Motion for Reconsideration in the above referenced matter.

The dates of the suspension have been changed. As stated in the order, the suspension will take place from March 4, 2010 through September 3, 2010.

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

Sincerely,

A handwritten signature in black ink that reads "Kevin McCarroll".

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Tacoma and Olympia Enforcement and Education Divisions, WSLCB
Monika Taylor, Tobacco Violations Coordinator, WSLCB

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

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3 **WASHINGTON STATE LIQUOR CONTROL BOARD**

4 IN THE MATTER OF:

5 M & T ENTERPRISES, INC.
6 d/b/a SIFTON STOP N SHOP
7 13412 NE 4TH PLAIN RD
8 VANCOUVER, WA 98682-5243

LCB NO. T-505
OAH No. 2008-LCB-0048

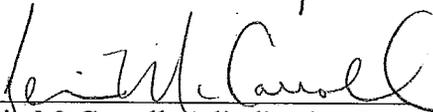
DECLARATION OF SERVICE BY
MAIL

9 LICENSEE

10 LICENSE NO. (UBI):
11 601 061 312 001 0001

12 I declare under penalty of perjury under the laws of the state of Washington that on
13 January 14, 2010, I served a true and correct copy of the ORDER ON LICENSEE'S MOTION
14 FOR RECONSIDERATION in the above-referenced matter, by placing a copy of said
15 documents in the U.S. mail, postage prepaid, to all parties or their counsel of record.

16 DATED this 14th day of January, 2010, at Olympia, Washington.

17 
18 Kevin McCarroll, Adjudicative Proceedings Coordinator

19 THOMAS C. PHELAN, ATTORNEY FOR
20 LICENSEE
21 904 ESTHER ST
22 VANCOUVER, WA 98660-3026

BRIAN CONSIDINE,
ASSISTANT ATTORNEY GENERAL
GCE DIVISION, OFFICE OF THE
ATTORNEY GENERAL
1125 WASHINGTON STREET SE
PO BOX 40100
OLYMPIA, WA 98504-0100

23 M & T ENTERPRISES, INC., LICENSEE
24 d/b/a SIFTON STOP N SHOP
25 13412 NE 4TH PLAIN RD
26 VANCOUVER, WA 98682-5243

DECLARATION OF SERVICE BY
MAIL