

ADMINISTRATIVE PROCESS DIVISION

VIOLATION CASES TO BE RATIFIED BY COMMISSION

June 2 - 3, 2005

| <u>LICENSEE/PERMITTEE</u> | <u>VIOLATION</u> | <u>SANCTION & COMMENTS</u> |
|--|---|--|
| 1. M S Bar, Inc. Michael Stafford, President Samuel Stafford, Secretary CINNABAR (FCOM) 121 E 3 RD Street Prineville Or 97754 (07-06538-FCOM) | ORS 471.410 (1) - Licensee's Employee, Elizabeth Moore, knowingly sold, served or otherwise made alcohol available to a visibly intoxicated person (February 5, 2005). (First, Category III) Note: Service Permittee Elizabeth Moore received a fast track ticket for this violation. Permittee Moore served a six day suspension in lieu of paying the \$150 fine. | \$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION Note: Licensee's \$1,980 fine payment was received on May 23, 2005. <u>AGGRAVATION</u> Licensee had received prior warnings about compliance laws regarding over service and visibly intoxicated persons. |
| 2. Rocky Mountain Pizza Huts, Inc. Gerald Waller, President Allan Humphries, Vice Pres./Stockholder Harold Noack, Jr., Asst. Secretary Pizza Hut of Idaho, Inc., Stockholder PIZZA HUT (L) 2602 Island Ave. La Grande OR 97850 (31-21641-L) | ORS 471.360 (1)(b) - Licensee permitted Employees Robert Robbins and Carla Bates to sell, mix or serve alcohol without valid service permits (from about May 1997 to about February 9, 2005). (First, Category III) | \$2,970 CIVIL PENALTY - OR - 18-DAY SUSPENSION <u>AGGRAVATION</u> 1. Two employees were working without valid service permits. 2. Employees Robbins and Bates worked for approximately eight years and three years, respectively, without valid service permits. |

PIZZA HUT continued

3. Franca's Place, Inc.
Franca Eggleton, President
HOT SHOTZ BAR & GRILL (FCOM)
12309 SE Division
Portland OR 97236
(26-36380-FCOM)

OAR 845-005-0400 (1) - Licensee failed to maintain liquor liability insurance or a bond with a corporate surety in the amount of not less than \$300,000 (from August 10, 2004 to March 1, 2005).

(First, Category I)

4. K & M American Investment Properties LLC
Mee Yung Choe, Member
Kyoo Wan Yoo, Member
MA & PA MARKET (O)
800 Highland Avenue NE
Salem OR 97303
(24-03036-O)

OAR 845-006-0426 - Licensee failed to maintain staff on the licensed premises who can communicate effectively with Commission regulatory employees (March 28, 2005).

(First, Category III)

5. Indalecio Segura
**FELIPE'S FINEST MEXICAN &
SEAFOOD RESTAURANT** (FCOM)

OAR 845-006-0335 (1)(a)(b)(c) - Employee Ismael Guitron failed to verify the age of three minors before allowing

3. Employee Robert Robbins made an effort to conceal the fact that he did not have a valid service permit.

LETTER OF REPRIMAND

Note: Licensee was charged with this violation by Notice dated April 12, 2005. The proposed sanction was License Cancellation. Licensee has surrendered the liquor license and Staff now recommend the Commission issue a Letter of Reprimand to the Licensee. This reprimand will become a permanent part of the Licensee's Commission file and would be considered in any future application for a liquor license by the Licensee.

\$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION

Note: Licensee's \$1,980 fine payment was received on April 27, 2005.

AGGRAVATION

LLC Member Kyoo Wan Yoo was the only person on the premises and could not communicate effectively with Commission employees.

\$2,310 CIVIL PENALTY - OR - 14-DAY SUSPENSION

AGGRAVATION

635 Virginia Avenue
North Bend OR 97459
(06-37136-FCOM)

them to buy or be served alcohol when they reasonably appeared to be under 26 years of age (March 12, 2005).

There were three minors involved in this violation.

(First, Category III)

6. **ISMAEL GUITRON**
Service Permittee #130337

OAR 845-006-0335 (1)(a)(b)(c) - Service Permittee Ismael Guitron failed to verify the age of three minors before allowing them to buy or be served alcohol when they reasonably appeared to be under 26 years of age (March 12, 2005).

\$350 CIVIL PENALTY - OR - 14-DAY SUSPENSION

AGGRAVATION

There were three minors involved in this violation.

Employer: FELIPE'S FINEST MEXICAN & SEAFOOD RESTAURANT
635 Virginia Ave
North Bend OR 97459

(First, Category III)

7. Jose Banuelos
Rosa Banuelos
EL KORA RESTAURANT & BAR (L/O)
12437 SE Division
Portland OR 97236
(26-36382-L/O)

Violation Number One
ORS 471.405 (1) - Licensees sold or offered for sale distilled liquor, including but not limited to tequila, gin, rum, vodka, whiskey, cognac, coffee liqueur, creme de cacao and schnapps. Licensees' Limited On-Premises and Off-Premises Sales licenses do not allow Licensees to sell, or offer for sale, distilled liquor (August 2004 to February 2005).

LICENSE CANCELLATION

AGGRAVATION

1. Licensee Jose Banuelos personally committed Violations Number One and Two.
2. Violation Number Two was committed by two persons.
3. The false statements made in Violation Number Two were intentional.

(First, Category I)

Violation Number Two
ORS 417.315 (1)(a)(B) - Licensee Jose Banuelos and Employee Jasmine Banuelos both made false representations or statements to Commission staff in order to induce or prevent action by the Commission. Licensee told staff there was no distilled

EL KORA RESTAURANT & BAR continued

liquor on the premises and that the business did not sell distilled liquor (February 24, 2005). Employee, Jasmine Banelos, told Commission staff the only distilled liquor on the premises was rum and vodka for cooking purposes and that the business does not sell distilled liquor (February 24, 2005).

(First, Category II)

Note: Service Permittee Jasmine Banelos also received a violation ticket for making false representations or statements to Commission staff. Permittee Banelos has requested a hearing.

8. Ochoco Foods, Inc.
Robert Eberhard, President
Ronald Bryant, Secretary/Treasurer
ERICKSON SENTRY MARKET OF PRINEVILLE (O)
315 W 3RD St.
Prineville OR 97754
(07-05388-O)

OAR 845-006-0335 (1)(a)(b)(c) - Employee Martha Rassmussen failed to verify the age of two minors before allowing the minors to buy alcohol when they reasonably appeared to be under 26 years of age (March 4, 2005).

(First, Category III)

\$990 CIVIL PENALTY - OR - 6-DAY SUSPENSION AND CREDIT GIVEN FOR PURCHASE/USE OF AGE VERIFICATION EQUIPMENT.

AGGRAVATION

1. Licensee's employee failed to verify the age of two minors.
2. The two minors were under 18 years of age (juveniles).

MITIGATION

Licensee purchased and installed age verification equipment in lieu of paying an additional \$1,650 civil penalty or serving 10 additional days of suspension.

9. Ausraco LLC
Austin Yoon, Member

OAR 845-006-0345 (1) - Licensee's Employee Anna Beck and Agent Thomas

\$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION

Connie Yoon, Member
BOSTON PIZZA & PASTIMES (FCOM)
22605 NE Halsey #A
Fairview OR 97024
(26-25465-FCOM)

Southern each consumed an alcoholic beverage while on duty (March 3, 2005).

(First, Category III)

Note: Service Permittee Beck and Agent Southern both received violation tickets for consuming alcohol while on duty. Permittee Beck has requested a hearing. Agent Southern chose to serve a six day permit suspension in lieu of the \$150 fine.

AGGRAVATION
Two persons were drinking on duty.

10. Mark Melino
Marlene Melino
Yaeko Y. Aoki
HOUSE OF TERIYAKI (FCOM)
915 Oak Street
Eugene OR 97401
(20-38551-FCOM)

Violation Number One
OAR 845-006-0457 (2)(a) - Licensees allowed Tyrone Yamamoto to maintain an interest in a licensed business, House of Teriyaki, without prior Commission approval (October 1, 2004 to January 28, 2005).

(First, Category I)

Violation Number Two
ORS 471.315 (1)(a)(B) - Licensee Mark Melino and Licensees' Employee/Servant/Agent Tyrone Yamamoto made false representations or statements to the Commission in order to induce or prevent action by the Commission. Licensee Melino told Commission staff that Tyrone Yamamoto did not serve alcohol or manage beverage staff (November 20, 2004). Licensees' Employee/Servant/Agent Tyrone Yamamoto told Commission staff that he was not a manager (November 20,

LETTER OF REPRIMAND

Note: Because Licensees surrendered their liquor license, Staff propose that the Commission issue Licensees a Letter of Reprimand. This reprimand will become a permanent part of the Licensees' Commission file and may be considered in any future application for a liquor license by the Licensees.

- AGGRAVATION
1. Licensees received a prior warning about making false statements or representations to the Commission.
 2. Licensee Mark Melino was personally involved in Violation Number Two.
 3. Violation Number Two was committed by two persons.
 4. Violations Number Two and Three were intentional.
 5. There were multiple minors involved in Violation

HOUSE OF TERIYAKI continued

2004).

Number Four.

(First, Category II)

Violation Number Three

ORS 471.315 (1)(a)(B) - Licensee's Employee/Servant/Agent Tyrone Yamamoto made false representations or statements to the Commission in order to prevent action by the Commission when he identified himself to Commission staff only as the cook and the son of the owner (January 16, 2005).

(Second, Category II)

Violation Number Four

OAR 845-006-0335 (3)(b) - Licensees allowed minors to enter and remain on the licensed premises in a area prohibited to minors (January 16, 2005).

(First, Category IV)

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

11. Matthew C. Byrnes
Ann T. Pyne
Robert A. Pyne
HORSESHOE TAVERN (FCOM)
410 North Main
Prineville OR 97754
(07-06122-FCOM)

ORS 471.410 (1) - Employee Erika Beebe knowingly sold, served or otherwise made alcohol available to a visibly intoxicated person (August 29, 2004).

(First, Category III)

SETTLEMENT AGREEMENT

Note: Licensees were charged with this violation by OLCC Violation Notice No. 07324, dated September 27, 2004, and an Amended Notice dated December 9, 2004. The proposed sanction was a 10-day license suspension or a \$1,650 civil penalty. Licensees originally requested a hearing and now withdraw that request to enter into this Settlement Agreement.

TERMS OF AGREEMENT

1. Licensees accept responsibility for the violation as set out in the Amended Notice of Proposed License Suspension or Civil Penalty. This was Licensees' first Category III violation within two years. Any subsequent violation of this type within the same two-year period will be charged at the second level.
2. Regulatory staff originally proposed the standard sanction of a 10-day suspension or a \$1,650.00 civil penalty.
3. The Commission will reduce the sanction by 3 days. This is equivalent to a 30% reduction of the standard sanction.
4. Licensees will serve a 7-day suspension beginning at 7:00 AM on June 25, 2005 and ending at 7:00 AM on July 2, 2005 or pay a \$1,155.00 civil penalty before 5:00 PM on June 20, 2005.
5. Licensees withdraw the request for a hearing.
6. If Licensees' interest in the license expires before the Commission issues a final order on this allegation, Licensees agree to accept a Letter of Reprimand for this violation. This reprimand will become a permanent part of the Licensees' Commission file and may be considered in any future application for a liquor license by the Licensees.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 9-10, 2005 [reflects meeting dates as previously scheduled]. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

12. David Kiraz
CABARET (L)
503 W Burnside
Portland OR 97211
(26-28805-L)

ORS 471.405 (1) - Licensee operated the business in a manner other than the license permitted by allowing George Kiraz to participate in the operation and management of the business and/or to be on the licensed premises. Licensee's liquor license contains a restriction which stated, "George Kiraz may not participate in the operation or management of the business and may not be on the licensed premises" (Between August 25, 2004 and September 1, 2004).

(First, Category I)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated February 14, 2005. The proposed sanction, after aggravation, was a 38-day suspension **or** a \$4,950 civil penalty and an 8-day suspension. Licensee originally requested a hearing and now withdraws that request to enter into this Settlement Agreement.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed License Suspension/Civil Penalty dated February 14, 2005. This was Licensee's first Category I violation within two years. Any subsequent violation of this type within the same two-year period will be charged at the second level.
2. Regulatory staff originally proposed a sanction of a 30-day suspension and added eight days for aggravation, for a total of 38-day suspension or a civil penalty of \$4,950.00 in lieu of 30 days with the remaining eight days of the suspension mandatory.
3. The Commission will reduce the sanction by nine days. This is equivalent to a 30% reduction of the sanction before aggravation.
4. Licensee will pay a civil penalty of \$4,785.00 by 5:00 PM on June 13, 2005 **or** serve a 29-day suspension beginning at 7:00 AM on June 18, 2005 and ending at 7:00 AM on July 17, 2005.
5. Licensee withdraws the request for a hearing.
6. If Licensee's interest in the license expires before the Commission issues a final order on this allegation, Licensee agrees to accept a Letter of Reprimand for this violation. This reprimand will become a permanent part of the Licensee's Commission file and may be considered in any future application for a liquor license by the Licensee.

CABARET continued

7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 2-3, 2005 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission, it is deemed null and void.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

13. Liquid Enterprises, LLC
Mike T. Quinn, Managing Member
John J. Plummer, Member
Brandon T. Brown, Member
Michael P. Prescott, Member
EAST (FCOM)
322 NW Everett
Portland OR 97209
(26-36705-FCOM)

ORS 471.405 (1) - Employees Heather Shipley, Nathan Bryant and Dylan Saito sold or offered for sale alcoholic beverages in a manner other than the license permits by not using measured pours when dispensing alcohol. Licensee's liquor license contains a restriction which states, "Servers shall use measured pours when dispensing alcohol" (September 10, 2004 and September 11, 2004).

(First, Category I)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated October 29, 2004. The proposed sanction, with aggravation, was License Cancellation. Licensee originally requested a hearing and now withdraws that request to enter into this Settlement Agreement.

AGGRAVATION

1. The violation occurred on two different days.
2. The violation involved three employees.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed Cancellation dated October 29, 2004. This was Licensee's first Category I violation within two years.
2. Regulatory staff originally proposed to cancel the license.
3. The Commission will reduce the sanction from cancellation to a 7-day suspension or a \$4,950.00 civil penalty.
4. Licensee will pay a civil penalty of \$4,950.00 by 5:00 PM on June 13, 2005 or serve a 7-day suspension beginning at 7:00 AM on June 18, 2005 and ending at 7:00 AM on June 25, 2005.
5. Licensee withdraws the request for hearing in this matter.
6. If Licensee's interest in the license expires before the Commission issues a final order on this allegation, Licensee agrees to accept a Letter of Reprimand for this violation. This Letter of Reprimand will become a permanent part of the Licensee's Commission file and may be considered in any future application for a liquor license by the Licensee.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by them at their June 2-3, 2005 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

14. Lushious LLC
Andrew L. Sugar, Member
LUSH RESTAURANT LOUNGE (FCOM)
610 NW Couch
Portland OR 97209
(26-35953-FCOM)

ORS 471.315 (1)(c) - Licensee has a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons in the immediate vicinity of the premises (32 separate incidents from November 28, 2003 to March 20, 2004).

(First, Category I)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated August 5, 2004 and an Amended Notice dated December 17, 2004. The proposed sanction was License Cancellation. Licensee originally requested a hearing and now withdraws that request to enter into this Settlement Agreement.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the incidents set forth in the Amended Notice of Proposed License Cancellation. This is Licensee's first Category I violation.
2. Regulatory staff originally proposed cancellation of the license for this violation.
3. The Commission recognizes that the Licensee has taken or agreed to take significant steps to reduce the likelihood of serious problems involving noise and disorder at the premises. These steps include:
 - Licensee has implemented recommendations of acoustical engineers to reduce the level of noise from inside the premises.
 - Licensee agrees that all staff will receive refresher training from the OLCC on alcohol service requirements within the next 30 days.
 - Licensee agrees to discontinue announcing last call.
 - Licensee's staff will make a good faith effort to physically identify patrons who are cut off and will notify bartenders so that these patrons do not obtain alcoholic beverages.
4. Licensee will accept the following restrictions on its license:
 - a. Licensee will monitor the noise level inside the premises to ensure that the noise level will not violate the Portland noise ordinance.
 - b. Employees will call police whenever there is physical contact involving patrons that is likely to result in harm or injury.
 - c. Licensee will have at least one DPSST-certified security person on duty Thursday through Saturday nights.

LUSH RESTAURANT LOUNGE continued

- d. Licensee will have an alcohol monitor on duty Fridays and Saturdays from 11:00 PM to 2:30 AM. The alcohol monitor shall monitor patrons throughout the premises to help prevent overservice or disorder incidents.
5. Licensee will pay a \$4,950.00 civil penalty before 5:00 PM on June 13, 2005 **and** serve a 5-day suspension beginning at 7:00 AM on June 12, 2005 and ending at 7:00 AM on June 17, 2005.
6. Licensee withdraws the request for a hearing.
7. If Licensee's interest in the license expires before the Commission issues a final order on this allegation, Licensee agrees to accept a Letter of Reprimand for this violation. This reprimand will become a permanent part of the Licensee's Commission file and may be considered in any future application for a liquor license by the Licensee.
8. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 2-3, 2005 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and the Licensee's hearing rights will be restored.