

ADMINISTRATIVE POLICY & PROCESS DIVISION

VIOLATION CASES TO BE RATIFIED BY COMMISSION

August 17-18, 2006

<u>LICENSEE/PERMITTEE</u>	<u>VIOLATION</u>	<u>SANCTION & COMMENTS</u>
1. RPA, Inc. Rodney Autio, President RODNEY'S STEAK & BBQ (FCOM) 13066 SW Pacific Highway Tigard OR 97223 (34-15008-FCOM)	ORS 471.360 (1)(b) - Licensee permitted an employee to sell, mix, or serve alcohol, or manage those who do, without a valid service permit (between October 2005 and April 25, 2006). (First, Category III)	\$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION <u>AGGRAVATION</u> Licensee's employee sold, mixed, or served alcohol without a valid service permit for at least six months
2. Ho Ho, Inc. Jun (David) Chen, President/Stockholder HO HO RESTAURANT (FCOM) 1911 West Cascade Hood River OR 97031 (14-05528-FCOM)	OAR 845-006-0335 (1)(a)(b)(c) - Corporate Principal Jun (David) Chen failed to verify the age of a Hood River PD minor decoy before allowing the decoy to purchase alcohol when she reasonably appeared to be under 26 years of age (May 5, 2006). (First, Category III)	LETTER OF REPRIMAND <u>AGGRAVATION</u> Corporate Principal Jun (David) Chen personally committed this violation. <u>MITIGATION</u> <ol style="list-style-type: none">1. Licensee has a lengthy record of good compliance.2. Licensee purchased and will use age verification equipment in accordance with OAR 845-009-0140.
3. Rita Aviles Francisco Melendez Sylvia Aviles SALVADOR'S BAKERY III / EL CORRALEJO (FCOM) 320 N Pacific Highway Woodburn OR 97071 (24-38653-FCOM)	OAR 845-006-0335 (3)(a) - Licensee Francisco Melendez permitted a minor to buy, be served, or drink an alcoholic beverage on the licensed premises (March 24, 2006). (First, Category III)	\$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION <u>AGGRAVATION</u> Licensee Francisco Melendez was personally involved in the violation.

4. Fisherman's Grotto, Inc.
Davine K. Evanow, Pres/Stkhdr
Earl D. Silva, VP/Stkhdr
FISHERMAN'S GROTTTO (L)
91151 Cape Arago Highway
Coos Bay OR 97420
(06-36709-L)

OAR 845-006-0335 (1)(a)(b)(c) -
Corporate Principal Davine Evanow failed
to verify the age of an OLCC minor decoy
before allowing the decoy to purchase
alcohol when she reasonably appeared to
be under 26 years of age (March 31,
2006).

(First, Category III)

5. Nestucca Lodge, LLC
Christopher Johnson, Member
NESTUCCA LODGE (FCOM)
34455 Brooten Road
Pacific City OR 97135
(29-14440-FCOM)

Violation Number One
OAR 845-006-0460 (2) - Licensee failed
to make available to patrons an offering of
five distinctly different regular meals (from
about March 10, 2006 to about March 22,
2006).

(First, Category III)

Violation Number Two
OAR 845-006-0335 (3)(b) - Licensee
permitted a minor to be on the licensed
premises or in an area of the licensed
premises prohibited to minors (April 7,
2006).

(First, Category IV)

6. Broadway Food Mart, LLC
Michael N. Ho, Managing Member
Kim Thu (Chris) Nguyen, Member
BROADWAY FOOD MART (O)
2431 NE Broadway
Portland OR 97232
(26-12222-O)

OAR 845-006-0335 (1)(a)(b)(c) - Member
Kim Thu (Chris) Nguyen failed to verify
the age of a Portland PD minor decoy
before allowing the decoy to purchase
alcohol when she reasonably appeared to
be under 26 years of age (March 28,
2006).

(First, Category III)

LETTER OF REPRIMAND

AGGRAVATION

Corporate Principal Davine Evanow personally committed
this violation.

MITIGATION

1. Licensee has a lengthy record of good compliance.
2. Licensee has purchased and will use age verification
equipment in accordance with OAR 845-009-0140.

\$3,795 CIVIL PENALTY - OR - 23-DAY SUSPENSION

AGGRAVATION

1. Licensee received prior warnings regarding food
service and permitting minors in an area prohibited to
minors.
2. The minor who Licensee permitted to be on the
licensed premises or in an area of the licensed
premises prohibited to minors was a juvenile.

\$330 CIVIL PENALTY - OR - 2-DAY SUSPENSION

AGGRAVATION

Member Kim Thu (Chris) Nguyen personally committed
the violation.

MITIGATION

Licensee has purchased and will use age verification
equipment in accordance with OAR 845-009-0140.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

7. Tobacco Outlet, LLC
Michael G. Miller, Managing Member
Linda M. Miller, Managing Member
TOBACCO OUTLET (O)
1173 NE Division Street
Gresham OR 97030
(26-26257-O)

Violation Number One

ORS 471.315 (1)(a)(I) - On March 1, 2005, Marion County Circuit Court convicted Managing Member Michael Miller of one count of Unlawful Distribution of Tobacco Products. Unlawful Distribution of Tobacco Products is a Class C Felony. Managing Member Michael Miller committed this felony on the licensed premises or in areas the licensee controls that are adjacent to or outside the premises (on or between January 1, 2002 and June 30, 2004).

(First, Category I)

Violation Number Two

ORS 471.315 (1)(a)(I) - On May 2, 2005, Marion County Circuit Court convicted Willamette Valley Distributing, LLC ("WVD") of one count of Racketeering. Michael Miller was a Managing Member of WVD. Racketeering is a Class A Felony. WVD through its Managing Member Michael Miller committed this felony on the licensed premises or in areas the licensee controls that are adjacent to or outside the premises (on or between January 1, 2002 and June 30, 2004).

(Second, Category I)

SETTLEMENT AGREEMENT

Note: Licensee was charged with these violations by Amended Notice of Proposed License Cancellation and Proposed Refusal to Renewal License dated April 7, 2006. Licensee requested a hearing and now wishes to withdraw that request to enter into this Settlement Agreement.

TOBACCO OUTLET continued

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Amended Notice of Proposed License Cancellation and Proposed Refusal to Renew License dated April 7, 2006. These were Licensee's first and second Category I violations within two years. Any subsequent violation of this type within the same two-year period will result in license cancellation.
2. Staff originally proposed to cancel the license and refuse to grant the pending renewal application.
3. The Commission will impose a 30-day suspension or \$4,950.00 civil penalty in lieu of license cancellation.
4. Michael G. Miller has divested his interest in Tobacco Outlet, LLC. The Commission will renew the license for Tobacco Outlet, LLC with the following restriction:

Michael G. Miller may not personally sell or in any other way provide alcoholic beverages at the licensed premises.
5. Licensee withdraws the request for a hearing in this matter.
6. Licensee will pay a civil penalty of \$4,950.00 by August 28, 2006 **or** serve a 30-day suspension beginning at 7:00 AM on September 2, 2006 and ending at 7:00 AM on October 2, 2006.
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 these violations. 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 August 2006 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.
9. Provided that Michael Miller and Licensee comply with this Stipulated Settlement Agreement and otherwise comply with ORS Chapter 471 and the Administrative Rules promulgated by the Commission, Licensee may apply under the rules set out by the Commission for removal of the restriction stated in Paragraph 4 of this Agreement.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

8. Choon-Ok Yom
PYUNG YANG MYUNOAK (FCOM)
12055 SW First Street
Beaverton OR 97005
(34-28338-FCOM)

OAR 845-006-0335 (3)(b) - Licensee
permitted two minors to be on the
licensed premises or in an area of the
licensed premises prohibited to minors
(April 10, 2006).

(First, Category IV)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by
Notice dated June 21, 2006. The proposed
sanction, considering aggravation and mitigation,
was a \$1,485 civil penalty or a 9-day suspension.
Licensee requests to enter into this Settlement
Agreement.

AGGRAVATION

1. Two minors were permitted on the licensed premises
or in an area of the licensed premises prohibited to
minors.
2. Licensee personally committed this violation.

MITIGATION

Licensee has a lengthy record of good compliance.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed License Suspension/Civil Penalty. This was Licensee's first Category IV violation within two years. Any subsequent violation of this type within the same two-year period will be charged at the second level.
2. The Public Safety Program originally proposed the standard sanction of a seven-day suspension or a \$1,155.00 civil penalty and added four days for aggravation because two minors were permitted on the licensed premises or in an area of the licensed premises prohibited to minors and because Licensee personally committed this violation, and reduced the sanction by two days because of Licensee's lengthy record of good compliance, for a total of a nine-day suspension or a \$1,485.00 civil penalty.
3. The Commission will reduce the sanction by two days. This is equivalent to a 30% reduction of the standard sanction.
4. Licensee will pay a \$1,155.00 civil penalty before 5:00 PM on August 28, 2006 **or** serve a seven-day suspension beginning at 7:00 AM on September 6, 2006 and ending at 7:00 AM on September 13, 2006.
5. 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.

PYUNG YANG MYUNOAK continued

6. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners during their August 2006 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

9. IJ, Inc.
Ian P. Sieren, Pres/Sec/Stkhldr
John R. Sieren, VP/Treas/Stkhldr
BIDDY MCGRAW'S (FCOM)
6000 NE Glisan Avenue
Portland OR 97213
(26-00530-FCOM)

Violation Number One
OAR 845-006-0335 (1)(a)(b)(c) -
Corporate Principal Ian Sieren failed to
verify the age of a Portland PD minor
decoy before allowing the decoy to
purchase alcohol when he reasonably
appeared to be under 26 years of age
(March 28, 2006).

(First, Category III)

Violation Number Two
ORS 471.360 (1)(b) - Licensee permitted
Corporate Principal Ian Sieren to sell,
mix, or serve alcohol, or manage those
who do, without a valid service permit
(from about October 6, 2003 to about
March 28, 2006).

(Second, Category III)

SETTLEMENT AGREEMENT

Note: Licensee was charged with these violations by
Notice dated May 10, 2006. The proposed
sanction, considering aggravation and mitigation,
was a \$3,960 civil penalty or a 24-day
suspension. Licensee requests to enter into this
Settlement Agreement.

AGGRAVATION

1. Corporate Principal Ian Sieren personally committed both violations.
2. Ian Sieren worked without a valid service permit for about two and one-half years.

MITIGATION

1. Violations Number One and Two will be charged at the first level because they were discovered concurrently.
2. Licensee has a lengthy record of good compliance.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice of Proposed License Suspension/Civil Penalty. Violations Number One and Two were Licensee's first and second Category III violations within two years. Any subsequent violations of this type within the same two-year period will be charged at the second level.
2. Enforcement staff originally proposed for Violation Number One the standard sanction of a 10-day suspension or a \$1,650.00 civil penalty and added two days of aggravation because Corporate Principal Ian P. Sieren personally committed this violation, for a total sanction of a 12-day suspension or a \$1,980.00 civil penalty.
3. Enforcement staff originally proposed for Violation Number Two the standard sanction of a 10-day suspension or a \$1,650.00 civil penalty and added four days of aggravation because Corporate Principal Ian P. Sieren personally committed this violation and because he worked without a valid service permit for about two and one-half years, for a total sanction of a 14-day suspension or a \$2,310.00 civil penalty.
4. Enforcement staff subtracted two days for mitigation because of Licensee's lengthy record of good compliance.

BIDDY MCGRAW'S continued

5. Licensee has installed age verification equipment, as defined in OAR 845-009-0140 (1)(c), and will utilize the equipment to verify the age of every patron who reasonably appears to be under 26 years of age in lieu of 10 days of suspension or \$1,650.00 of civil penalty. Licensee will run all alcohol sales through registers at which age verification equipment is installed.
6. The Commission will reduce the remaining sanction by three days. This is equivalent to a 30% reduction of the standard sanction.
7. Licensee will pay a \$1,815.00 civil penalty before 5:00 PM on August 28, 2006 **or** serve an 11-day suspension beginning at 7:00 AM on September 2, 2006 and ending at 7:00 AM on September 13, 2006.
8. If Licensee's interest in the license expires before the Commission issues a final order on these allegations, Licensee agrees to accept a Letter of Reprimand for these violations. 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.
9. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2006 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void.