

ADMINISTRATIVE POLICY & PROCESS DIVISION VIOLATION CASES TO BE RATIFIED BY COMMISSION

March 19, 2007

LICENSEE/PERMITTEE

VIOLATION

SANCTION & COMMENTS

- | | | |
|--|--|---|
| <p>1. Cynthia Nguyen
Jonathan Nguyen
CAFÉ BE VAN & DELICATESSEN (L)
6846 NE Sandy Blvd.
Portland OR 97213
(26-38935-L)</p> | <p>OAR 845-006-0335 (1)(a)(b)(c) -
Licensee Cynthia Nguyen failed to verify
the age of a Multnomah County Multi-
Agency Task Force minor decoy before
allowing the decoy to purchase alcohol
when she reasonably appeared to be
under 26 years of age (November 8,
2006).</p> <p>(First, Category III)</p> | <p>\$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION</p> <p><u>AGGRAVATION</u>
Licensee Cynthia Nguyen participated in the violation.</p> |
| <p>2. McCormick & Schmick Restaurant Corp.
Douglas Schmick, President
Saed Mohseni, Chief Executive Officer
Emanuel Hilario, Secretary/Treasurer
McCormick & Schmick Acquisition
Corporation, Stockholder
MCCORMICK & SCHMICK'S SEAFOOD
RESTAURANT (FCOM)
235 SW First Avenue
Portland OR 97204
(26-07807-FCOM)</p> | <p>ORS 471.360 (1)(b) - Licensee permitted
employees Naomi Sprague and Adriane
Bovero to sell, mix, or serve alcohol, or
supervise those who do, without having
valid service permits (varying lengths of
time from about February 26, 2006 to
about December 16, 2006).</p> <p>(First, Category III)</p> | <p>\$1,980 CIVIL PENALTY - OR - 12-DAY SUSPENSION</p> <p>(Licensee paid the \$1,980 civil penalty on February 16,
2007.)</p> <p><u>MITIGATION</u>
Licensee has a lengthy record of good compliance with
the Commission.</p> <p><u>AGGRAVATION</u></p> <ol style="list-style-type: none">1. Two employees were working without valid service permits.2. Naomi Sprague worked without a service permit for over six months. |

3. Cedar Side Inn, Inc.
Ray Foster, President/Treasurer
Rosetta Foster, Vice President/Secretary
CEDAR SIDE INN (FCOM)
756 Bridge Street
Vernonia OR 97064
(05-02852-FCOM)

ORS 471.360 (1)(b) - Licensee permitted employees Ronnie Nutting and Justin Nutting to sell, mix, or serve alcohol, or supervise those who do, without having valid service permits (varying lengths of time from about July 10, 2006 to about December 13, 2006).

\$1,650 CIVIL PENALTY - OR - 10-DAY SUSPENSION

(Licensee paid the \$1,650 civil penalty on March 8, 2007.)

MITIGATION

Licensee has a lengthy record of good compliance.

AGGRAVATION

Two employees were working without valid service permits.

4. **DANIEL B HARDT**
Service Permit No. 248808

OAR 845-006-0335 (3)(b) - Service Permittee Daniel Hardt permitted three minors to be on the licensed premises or an area of the licensed premises prohibited to minors (November 25, 2006).

\$275 CIVIL PENALTY - OR - 11-DAY SUSPENSION

AGGRAVATION

Three minors were involved in the violation.

Employed at: EASTERN PEARL (FCOM)
8651 SW Canyon Drive
Portland OR 97225
(34-07399-FCOM)

(First, Category IV)

Note: The Licensee of Eastern Pearl and Service Permittee Jenny Saling were also charged with this violation. Both Licensee and Permittee asked to enter into settlement agreements (February ratification list). Licensee paid a \$1,815 civil penalty. Permittee Saling paid a \$225 civil penalty.

5. **MICHELE L DERRYBERRY (BOHANAN)**
Service Permit No. 179701

OAR 845-006-0347 (2)(a) - Permittee Michele Derryberry permitted disorderly activity on the licensed premises and in areas the licensee controls that are adjacent to or outside the premises when a patron locked other patrons inside the premises and then fired a gun outside the licensed premises (October 5, 2006).

\$300 CIVIL PENALTY - OR - 12-DAY SUSPENSION

AGGRAVATION

Permittee Derryberry made efforts to conceal the violation from police.

Employed at: BLUE PARROT SALOON
(FCOM)
3416 N Lombard
Portland OR 97203
(26-00633-FCOM)

(First, Category III)

Note: The Licensee of the Blue Parrot Saloon was also charged with this violation and has requested a hearing.

6. L & M Restaurants, LLC
The Revocable Living Trust of Dean A. Liuzzi and Cathy Liuzzi, Member
Dean Liuzzi, Manager
Timothy McMullen, Member
Rick Leverenz, Member
Jon Liuzzi, Member
MAIN STREET RESTAURANT & LOUNGE (FCOM)
3314 Lancaster Drive NE
Salem OR 97303
(24-10253-FCOM)

ORS 471.360 (1)(b) - Licensee permitted employee Brandi Newbeck to sell, mix, or serve alcohol, or supervise those who do, without having a valid service permit (from about October 30, 2002 to about November 19, 2006).

(First, Category III)

\$1,650 CIVIL PENALTY - OR - 10-DAY SUSPENSION

MITIGATION

Licensee has a lengthy record of good compliance.

AGGRAVATION

Brandi Newbeck worked for over four years without a valid service permit.

7. Eastside Entertainment LLC
Brandon Bond, Member
VINTAGE 318 (FCOM)
318 SW 3rd
Portland OR 97204
(26-15954-FCOM)

Violation Number One
OAR 845-006-0466 (4) - Licensee's employee Jennifer Cameron discouraged food service when she told inspectors the premises did not have a lot of food and suggested they eat elsewhere (November 2, 2006).

(First, Category III)

\$6,600 CIVIL PENALTY - OR - 40-DAY SUSPENSION

MITIGATION

Violations Number One, Two, Three and Four were all charged at the first level because they were discovered and charged concurrently.

Violation Number Two
OAR 845-006-0466 (3) - Licensee's employee Gannon Bond failed to make menus available to inspectors upon request (November 2, 2006).

(Second, Category III)

Violation Number Three
OAR 845-006-0468 (1) - Licensee failed to make available to patrons an offering of five distinctly different regular meals when food was available to prepare only three distinctly different regular meals (November 2, 2006).

(Third, Category III)

Violation Number Four

OAR 845-006-0460 (4) - Licensee failed to meet minimum seating requirements during the regular meal period when there were only 25 dining seats available for patrons (November 2, 2006).

(Fourth, Category III)

8. Montage Entertainment Group, Inc.
Paul R. Scanlan, President
THE TIN ROOF (FCOM)
314 N Kutch Street
Carlton OR 97111
(36-15325-FCOM)

Violation Number One

OAR 845-006-0460 (2) - Licensee failed to make available to patrons an offering of five distinctly different regular meals (October 13, 2006).

(First, Category III)

Violation Number Two

OAR 845-006-0460 (5) - Licensee failed to have two employees on duty during Licensee's regular meal period, one of which was primarily a cook (October 13, 2006).

(Second, Category III)

Violation Number Three

OAR 845-006-0335 (1)(a)(b)(c) - Corporate Principal Paul Scanlan failed to verify the age of an OLCC minor decoy before allowing the decoy to buy or be served alcohol when he reasonably appeared to be under 26 years of age (October 13, 2006).

(First, Category IIIa)

\$4,785 CIVIL PENALTY - OR - 29-DAY SUSPENSION

MITIGATION

Violations Number One and Two were both charged at the first level because they were discovered and charged concurrently.

AGGRAVATION

Corporate Principal Paul Scanlan personally committed Violation Number Three.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

9. McFadden Lane, Inc.
Arthur McFadden, President
THE RIALTO (FCOM)
529 SW 4th Avenue
Portland OR 97204
(26-20413-FCOM)

OAR 845-006-0335 (1)(a)(b)(c) -
Licensee's employee Elizabeth
Hendershott failed to properly verify the
age of a Portland Police Bureau minor
decoy before allowing him to buy or be
served an alcoholic beverage when he
reasonably appeared to be under 26
years of age (July 12, 2006).

(First, Category III)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by OLCC
Violation Notice No. 09787 dated July 21, 2006.
The proposed sanction, after the fast track
deadline, was a \$1,650 civil penalty or a 10-day
suspension. Licensee requested a hearing and
now wishes to withdraw that request to enter into
this Settlement Agreement.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the OLCC Violation Notice No. 09787. This was Licensee's 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. The Public Safety Program proposed, after the deadline to accept the reduced penalty, the standard sanction of a 10-day suspension or a \$1,650.00 civil penalty.
3. The Commission will reduce the sanction by three 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 March 29, 2007 **or** will serve a seven-day suspension beginning at 7:00 AM on April 3, 2007 and ending at 7:00 AM on April 10, 2007.
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.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their March 2007 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

10. Touch of Athens, Inc.
Anthony Gianopoulos, President
Dionysious Tzakis, Vice President
SANTORINI WEST (FCOM)
11525 SW Barnes Road
Portland OR 97225
(26-00659-FCOM)

ORS 471.360 (1)(b) - Licensee permitted employees Larbi Benmoussa and Dionysious Tzakis to sell, mix, or serve alcohol, or supervise those who do, without having valid service permits (varying lengths of time from about September 9, 2003 to about March 2, 2006).

(First, Category III)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated April 12, 2006. The proposed sanction, considering aggravation, was a \$2,970 civil penalty or an 18-day license suspension. Licensee requested a hearing and now wishes to withdraw that request to enter into this Settlement Agreement.

AGGRAVATION

1. Two employees were working without valid service permits.
2. Both employees were working without valid service permits for over two years.
3. Corporate Principal Dionysious Tzakis was personally involved in the violation.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed License Suspension or Civil Penalty dated April 12, 2006. This was the Licensee's 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. The Commission's Public Safety Program originally proposed the standard sanction of a 10-day suspension or \$1,650.00 civil penalty and added eight days for aggravation because two employees were involved in the violation, both employees worked for over six months without a valid service permit, and a corporate principal was personally involved in the violation, for a total of an 18-day suspension or \$2,970.00 civil penalty.
3. The Commission's Public Safety Program will reduce the sanction by three days. This is equivalent to a 30% reduction of the standard sanction.
4. Licensee will pay a civil penalty of \$2,475.00 by 5:00 PM on March 29, 2007 **or** serve a 15-day suspension beginning at 7:00 AM on April 3, 2007 and ending at 7:00 AM on April 18, 2007.
5. Licensee withdraws the request for a 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 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 the Commissioners at their March 2007 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.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

11. Phyllis Whited Gibbs
FRONTIER (FCOM)
920 Front St.
Haines OR 97833
(01-21759-FCOM)

Violation Number One

ORS 471.425 (1) - Licensee Phyllis Whited Gibbs made false statements to OLCC Staff in order to prevent enforcement action by the Commission (November 17, 2006).

(First, Category II)

Violation Number Two

OAR 845-006-0335 (1)(a)(b)(c) - Licensee Phyllis Whited Gibbs failed to verify the age of a minor before allowing her to be in an area of the licensed premises that is prohibited to minors (November 17, 2006).

(First, Category IV)

SETTLEMENT AGREEMENT

Note: Licensee was charged with these violations by Notice dated January 17, 2007. The proposed sanction, considering aggravation, was License Cancellation. Licensee requested a hearing and now wishes to withdraw her request to enter into this Settlement Agreement.

AGGRAVATION

1. Licensee Phyllis Whited Gibbs participated in both violations.
2. Licensee Gibbs made several false statements to Commission staff.
3. Violation Number One was intentional.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice of Proposed License Cancellation dated January 17, 2007. These were Licensee's first Category II and Category IV violations within two years. Any subsequent violations of these types within the same two-year period will be charged at the second level.
2. For Violation Number One, the Commission's Public Safety Program originally proposed a sanction of a 30-day suspension and aggravated the sanction to license cancellation because Licensee made several intentional false statements to Commission staff. For Violation Number Two, the Commission's Public Safety Program originally proposed a sanction of a 7-day suspension or \$1,155.00 civil penalty and added two days for aggravation because Licensee was personally involved in the violation.
3. Commission staff will reduce the penalty to a 34-day suspension. Licensee may pay a \$1,155.00 civil penalty in lieu of seven days with the remaining 27 days of the suspension mandatory. This is equivalent to a 30% reduction of the standard sanction.
4. Licensee will pay a civil penalty of \$1,155.00 by 5:00 PM on March 29, 2007 and serve a 27-day suspension beginning at 7:00 AM on April 1, 2007 and ending at 7:00 AM on April 28, 2007 **or** Licensee will serve a 34-day suspension beginning at 7:00 AM on April 1, 2007 and ending at 7:00 AM on May 5, 2007.
5. Licensee withdraws the request for a 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 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 the Commissioners at their March 2007 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.