

ADMINISTRATIVE POLICY & PROCESS DIVISION

VIOLATION CASES TO BE RATIFIED BY COMMISSION

August 16-17, 2007

<u>LICENSEE/PERMITTEE</u>	<u>VIOLATION</u>	<u>SANCTION & COMMENTS</u>
<p>1. Oregon Theater Management, Inc. David T. Leiken, President/Director Sidney Leiken, Secretary/Director ROSELAND THEATER/ROSELAND GRILL (FPL) 8 NW 6th Avenue Portland OR 97209 (26-12261-FPL)</p>	<p>OAR 845-006-0335 (1)(a)(b)(c) - Licensee's employees Randi Ippolito and Jasin Shields failed to verify the age of an OLCC minor decoy before allowing the decoy to buy or be served alcohol when she reasonably appeared to be under 26 years of age (March 28, 2007).</p> <p>(First, Category III)</p>	<p>\$330 CIVIL PENALTY - OR - 2-DAY SUSPENSION</p> <p><u>AGGRAVATION</u> Two employees were involved in the violation.</p> <p><u>MITIGATION</u> Licensee has purchased and will use Age Verification Equipment pursuant to OAR 845-009-0140, and will use the equipment at every point of sale used to sell alcoholic beverages.</p>
<p>2. Worldcellar.net, Inc. Marvyn R.C. Mills, Pres/Sec/Treas WORLDCELLAR.NET (O) 1722 NW Raleigh Street Box 316 Portland OR 97209 (26-40080-O)</p>	<p>OAR 845-006-0365 (1) - Licensee issued checks to a wholesale licensee to pay for wine products. The checks were returned for non-sufficient funds. (On or about March 16, March 26, April 3, and April 10, 2007.)</p> <p>(Second, Category V)</p>	<p>\$1,485 CIVIL PENALTY - OR - 9-DAY SUSPENSION</p> <p><u>AGGRAVATION</u> Licensee has issued multiple checks that were returned for non-sufficient funds.</p>
<p>3. Alba Osteria LLC Kurt Spak, Managing Member ALBA OSTERIA (FCOM) 6440 SW Capitol Highway Portland OR 97239 (26-36045-FCOM)</p>	<p>ORS 471.360 (1)(b) - Licensee permitted persons Kurt Spak and Shawn Kearney to sell, mix, or serve alcoholic beverages, or supervise those who do, without valid service permits (varying lengths of time from about February 24, 2003 to about March 28, 2007).</p>	<p>\$2,640 CIVIL PENALTY - OR - 16-DAY SUSPENSION</p> <p><u>AGGRAVATION</u></p> <ol style="list-style-type: none">1. Kurt Spak and Shawn Kearney did not have valid service permits for about four years and three years respectively.2. Two persons were involved in the violation.

(Second, Category III)

3. Managing Member Kurt Spak was personally involved in the violation.

MITIGATION

1. The violation was charged at the first level because it was discovered concurrently with a violation for failure to verify the age of a minor that also occurred on March 28, 2007.
2. Licensee has a good record of compliance with the Commission.

\$1,485 CIVIL PENALTY - OR - 9-DAY SUSPENSION

AGGRAVATION

Employee Patricia Root failed to evict more than one patron.

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

AGGRAVATION

1. Permittee Root failed to evict more than one patron.
2. Permittee Root made efforts to conceal the violation.

REMOVAL FROM THE RESPONSIBLE VENDOR PROGRAM AND \$1,320 CIVIL PENALTY - OR - 8-DAY SUSPENSION

MITIGATION

Licensee has a good record of compliance with the Commission.

4. BTT, LLC
Thomas Flood Sr., Member
Barry Boring, Member
THE SCHOONER (FCOM)
2065 Netarts Bay Road
Netarts OR 97143
(29-39553-FCOM)

OAR 845-006-0347 (4)(a) - Licensee's employee Patricia Root failed to evict two patrons from the premises when she knew those patrons had engaged in noisy, disorderly or unlawful activities (January 5, 2007).

(First, Category IV)

5. **PATRICIA K. ROOT**
Service Permit #266164

Employed at: **THE SCHOONER** (FCOM)
2065 Netarts Bay Road
Netarts OR 97143
(29-39553-FCOM)

OAR 845-006-0347 (4)(a) - Service Permittee Patricia Root failed to evict two patrons from the Schooner when she knew those patrons had engaged in noisy, disorderly or unlawful activities (January 5, 2007).

(First, Category IV)

6. Kimberly A. Kell
Ronald L. Kell, Jr.
MOUNTAIN VIEW MINI-MART (O)
211 W Front Street
Prairie City OR 97869
(12-11577-O)

OAR 845-006-0335 (1)(a)(b)(c) - Licensee's employee Doreen Doty failed to verify the age of an OLCC minor decoy before allowing the decoy to buy or be served alcohol when she reasonably appeared to be under 26 years of age (April 28, 2007).

(First, Category III)

Note: Licensees were members of the Responsible Vendor Program at the time of the violation. Because Licensees did not have all of the Responsible Vendor Program standards in place at the time of the violation, Licensees are required to be removed from the Program and are therefore no longer eligible for reduced sanctions based on Category III(a).

7. BAS Billiards, Inc.
Barbara Perger, Pres/Sec/Treas/Stkhldr
MOE'S BILLIARDS (L)
2036 Pacific Avenue
Forest Grove OR 97116
(34-41029-L)

OAR 845-006-0335 (3)(b) - Licensee's employee, agent or representative Gary French permitted three minors to be on the licensed premises or in an area of the licensed premises prohibited to minors (April 13, 2007).

\$2,805 CIVIL PENALTY - OR - 17-DAY SUSPENSION

AGGRAVATION

The violation involved three minors, all of whom were juveniles.

(First, Category IV)

8. Touch of Athens, Inc.
Anthony Gianopoulos, President
Dionysious Tzakis, Vice President
SANTORINI WEST (FCOM)
11525 SW Barnes Road
Portland OR 97225
(34-02328-FCOM)

ORS 471.360 (1)(b) - Licensee permitted employee Dezra Reszel to sell, mix, or serve alcoholic beverages, or supervise those who do, without a valid service permit (from about January 19, 2007 to about April 21, 2007).

**32-DAY SUSPENSION - OR - \$4,950 CIVIL PENALTY
AND A 2-DAY MANDATORY SUSPENSION**

AGGRAVATION

Licensee received a Notice of Warning on March 7, 2007 for Dezra Reszel working without a valid service permit.

(Second, Category III)

9. Capital Asset Holdings, Inc.
Aleksander Lupekha,
President/ Stockholder
H2O MARTINI BAR & RESTAURANT
(FCOM)
204 SW Yamhill Street
Portland OR 97204
(26-38259-FCOM)

Violation Number One
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 about April 6, 2006 until about May 18, 2006).

LETTER OF REPRIMAND

Note: Licensee was charged with these violations by Amended Notice of Proposed License Cancellation and Proposed Refusal to Renew License dated September 13, 2006. Licensee requested a hearing and the matter was referred to the Office of Administrative Hearings on

(First, Category I)

Violation Number Two

OAR 845-006-0468 (1) - Licensee failed to make available to patrons an offering of five distinctly different regular meals during its normal dinner meal period of 6:00 pm to 9:00 pm (from about February 2006 to about June 22, 2006).

(Fourth, Category III)

Violation Number Three

OAR 845-006-0480 (3)(b) - Licensee eliminated a meal period and/or substantially reduced meal service hours without prior written notification (from about April 2006 to about June 22, 2006).

(Third, Category V)

Violation Number Four

OAR 845-006-0480 (3)(c) - Licensee substantially reduced the food service last approved by the Commission without prior written notification (from about February 2006 to about June 22, 2006).

(Fourth, Category V)

Violation Number Five

ORS 471.360 (1)(b) - Licensee permitted Jeffrey M. Giroux to mix, sell, or serve alcoholic beverages, or supervise those who do, without a valid service permit (from about July 1, 2006 to about August 4, 2006).

(Fifth, Category III)

September 21, 2006. A hearing was held on March 14, 2007 and continued on May 7, 2007. A Proposed Order was pending. On May 23, 2007, the Court of Appeals affirmed the Commission's December 16, 2005 cancellation of Licensee's license and a Judgment was issued on July 31, 2007. On August 2, 2007, Licensee withdrew the request for hearing in this matter. Because Licensee no longer holds an interest in the liquor license, and has withdrawn the request for hearing, staff recommends the Commission issue Licensee a Letter of Reprimand.

AGGRAVATION

1. Violation Number One was intentional because Licensee was given repeated, prior notice as early as January 25, 2006 that the insurance would be canceled on April 6, 2006 and was given the name of another company that would provide liquor liability insurance.
2. Licensee has repeatedly failed to comply with liquor laws as evidenced by a prior category II violation, three prior category III violations, two prior Category IV violations, and two prior Category V violations.

MITIGATION

1. Licensee obtained the insurance required by law.
2. Licensee's previous two Category V violations were each charged at the first level. Because Violations Number Three and Four were discovered concurrently, they were each charged at the second level.

Aleksander Lupekha,
President/Stockholder
H2O MARTINI BAR & RESTAURANT
(FCOM)
204 SW Yamhill Street
Portland OR 97204
(26-38259-FCOM)

OAR 845-006-0347 (3) - Licensee permitted unlawful activity when employees Reginald Davis and Shpetim Jusufi provided private security services as private security professionals at the licensed premises without being certified to do so under ORS 181.878 in violation of ORS 181.991(1)(b) (February 2, 2007).

Licensee permitted unlawful activity when employee Shpetim Jusufi provided private security as a private security professional at the licensed premises without being certified to do so under ORS 181.878 in violation of ORS 181.991 (1)(b) (February 10, 2007).

(Fifth, Category III)

Violation Number Two

OAR 845-006-0347 (3) - Licensee permitted unlawful activity when employees Trent Jackson, Bryan MacDougall, Kenneth Chamberlain and Jeremiah Frerichs provided private security services as private security professionals at the licensed premises without being certified to do so under ORS 181.878 in violation of ORS 181.991 (1)(b) (April 28, 2007).

(Fifth, Category III)

Note: Licensee was charged with these violations by Amended Notice of Proposed License Cancellation dated July 2, 2007. Because Licensee no longer holds an interest in the liquor license, and the stay of the prior license cancellation is no longer in effect, staff recommends the Commission issue Licensee a Letter of Reprimand.

AGGRAVATION

1. Violation Number One involved two employees.
2. Violation Number One involved permitting unlawful activity on more than one occasion.
3. Violation Number Two involved four employees.
4. Licensee received a warning regarding security certification on August 19, 2006.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

11. Key Largo Associates, Inc.
David Elliott, President/Secretary/Director
Key Largo Acquisition Group, LLC,
Stockholder
OHM (FCOM)
31 NW 1st Avenue
Portland OR 97209
(26-00069-FCOM)

OAR 845-006-0460 (2) - Licensee failed to make available to patrons an offering of five distinctly different regular meals during the dinner meal period (July 15, 2006).

(Fifth, Category III)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated September 13, 2006. The proposed sanction, considering mitigation, was a 30-day license suspension. Licensee requested a hearing and now wishes to withdraw that request to enter into this Settlement Agreement.

MITIGATION

Because Licensee's previous two Category III violations were charged at the second level, this violation was charged at the third level.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed License Suspension. This violation was Licensee's fifth Category III violation within two years. Because Licensee's most recent previous two Category III violations were charged at the second level and this violation was charged at the third level, any subsequent violation of this type within the same two-year period will be charged at the fourth level.
2. The Public Safety Program originally proposed the standard sanction of a 30-day suspension. The Commission will reduce the sanction by nine days. This is equivalent to a 30% reduction of the standard sanction.
3. Licensee will serve a 21-day suspension beginning at 7:00 AM on September 1, 2007 and ending at 7:00 AM on September 22, 2007.
4. License withdraws the request for a hearing.
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.
6. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 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

12. GMRI, Inc.
Laurie B. Burns, President
William R. White III, VP/Treasurer
George T. Williams, Secretary
Darden Restaurants, Inc., Stockholder
THE OLIVE GARDEN #1311 (FCOM)
1302 Lancaster Dr. NE
Salem OR 97301
(24-20810-FCOM)
- ORS 471.360 (1)(b) - Licensee permitted employees Nicole Brannan and Roxanne Nicolls to sell, mix, or serve alcoholic beverages, or supervise those who do, without valid service permits (from about December 7, 2006 to about February 14, 2007).
- (Second, Category III)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated May 22, 2007. The proposed sanction, considering aggravation, was a 32-day license suspension or a \$4,950 civil penalty and a 2-day mandatory suspension. Licensee requested a hearing and now wishes to withdraw that request to enter into this Settlement Agreement.

AGGRAVATION

Two employees were involved in the violation.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed License Suspension/Civil Penalty dated May 22, 2007. This was the Licensee's second Category III violation within two years. Any subsequent violation of this type within the same two-year period will be charged at the third level.
2. The Commission's Public Safety Program originally proposed the standard sanction of a 30-day suspension or \$4,950.00 civil penalty and added two days of aggravation because two employees were working without service permits, for a total sanction of a 32-day suspension or a civil penalty of \$4,950.00 in lieu of 30 days with the remaining two days of the suspension mandatory.
3. The Commission's Public Safety Program will reduce the sanction by nine days. This is equivalent to a 30% reduction of the standard sanction.
4. Licensee will pay a civil penalty of \$3,795.00 by 5:00 PM on August 27, 2007 or serve a 23-day suspension beginning at 7:00 AM on September 1, 2007 and ending at 7:00 AM on September 24, 2007.
5. Licensee withdraws its request for 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 August 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

13. Paragon Restaurant Ventures LP
Jon F. Swanson, President/Stockholder
Timothy J. Harmon, CEO/Stockholder
Keith Belling, Chairman/Stockholder
Peter H. Royce, Vice President/Stockholder
PARAGON RESTAURANT (FCOM)
1309 NW Hoyt
Portland OR 97209
(26-23694-FCOM)

Violation Number One
ORS 471.404 (1) - Licensee imported wine into the state of Oregon for resale at the licensed premises. Licensee does not hold a license that allows importation. (From about January 3, 2006 until about March 7, 2007.)

(First, Category IV)

Violation Number Two
ORS 471.175 (5) - Licensee purchased distilled spirits from an out-of-state distributor and not from a retail sales agent of the Commission, for resale at the licensed premises (on about February 14, 2006, April 22, 2006 and November 16, 2006).

(Second, Category IV)

SETTLEMENT AGREEMENT

Note: Licensee was charged with these violations by Notice dated June 19, 2007. The proposed sanction, considering aggravation and mitigation, was a \$2,640 civil penalty or a 16-day suspension. Licensee requests to enter into this Settlement Agreement.

AGGRAVATION

Violations Number One and Two each involved multiple purchases.

MITIGATION

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

TERMS OF AGREEMENT

1. Licensee accepts responsibility for Violations One and Two as set out in the Notice of Proposed License Suspension/Civil Penalty. These violations were each charged at the first level of Category IV. Any subsequent violation of this type within the same two-year period will be charged at the second level.
2. Public Safety Program staff originally proposed a standard sanction of a 7-day suspension or a \$1,155.00 civil penalty for each of Violation Numbers One and Two, added four days for aggravation because both violations involved multiple purchases, and subtracted two days for mitigation because Licensee has a lengthy record of good compliance, for a total proposed sanction of a 16-day suspension or a \$2,640.00 civil penalty.
3. The Commission will reduce the sanction by 4 days. This is equivalent to a 30% reduction of the standard sanction.
4. Licensee will pay a civil penalty of \$1,980.00 before 5:00 PM on August 27, 2007 **or** serve a 12-day suspension beginning at 7:00 AM on September 1, 2007 and ending at 7:00 AM on September 13, 2007.
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.

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

14. Barbara M. Davis
Marty Davis
Jessica R. Schantz
Matthew D. Schantz
First Management LLC
Gregory Schillinger, Managing Member
JAX (FCOM)
826 SW 2nd Avenue
Portland OR 97204
(26-22551-FCOM)

ORS 471.360 (1)(b) - Licensee permitted Martin Davis to sell, mix, or serve alcoholic beverages, or supervise those who do, without a valid service permit (from about July 4, 2006 to January 30, 2007).

(First, Category III)

SETTLEMENT AGREEMENT

Note: Licensees were charged with this violation by Notice dated February 21, 2007. The proposed sanction, considering aggravation and mitigation, was a \$1,650 civil penalty or a 10-day suspension. Licensees requested a hearing and now wish to withdraw that request to enter into this Settlement Agreement.

AGGRAVATION

Martin Davis worked for over six months without a valid service permit.

MITIGATION

Licensees have a lengthy record of good compliance with the Commission.

TERMS OF AGREEMENT

1. Licensees accept responsibility for the violation as set out in the Notice of Proposed License Suspension/Civil Penalty dated February 21, 2007. This was the 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. The Commission's Public Safety Program originally proposed the standard sanction of a 10-day suspension or \$1,650.00 civil penalty and added two days of aggravation because the employee worked for over six months without a service permit and mitigated the sanction two days for a lengthy record of good compliance, for a total sanction of a 10-day suspension or civil penalty of \$1,650.00.
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. Licensees will pay a civil penalty of \$1,155.00 by 5:00 PM on August 27, 2007 **or** serve a seven-day suspension beginning at 7:00 AM on September 1, 2007 and ending at 7:00 AM on September 8, 2007.
5. Licensees withdraw their request for 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 August 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 Licensees' hearing rights will be restored.

STIPULATED SETTLEMENT AGREEMENT FOR ENTRY INTO FINAL ORDER

15. Javier Garcia
STUDIO 503 (FCOM)
6750 SW Beaverton-Hillsdale Highway
Portland OR 97225
(34-02321-FCOM)

OAR 845-006-0347 (2)(a) - Between September 9, 2006 and January 7, 2007, Licensee permitted noisy activity on the licensed premises or in areas Licensee controls that are adjacent to or outside the licensed premises. On January 7, 2007, Licensee was issued a citation for a violation of Washington County Ordinance 8.24.030.

(First, Category III)

SETTLEMENT AGREEMENT

Note: Licensee was charged with this violation by Notice dated April 3, 2007. The proposed sanction, considering aggravation, was a \$1,980 civil penalty or a 12-day suspension. Licensee requested a hearing and now wishes to withdraw that request to enter into this Settlement Agreement.

AGGRAVATION

Licensee received three verbal instructions regarding excessive noise within the last two years.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice of Proposed License Suspension/Civil Penalty dated April 3, 2007. 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 two days of aggravation because Licensee received three verbal instructions for noise in the past two years, for a total sanction of a 12-day suspension or civil penalty of \$1,980.00.
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 \$1,485.00 by 5:00 PM on August 27, 2007 **or** serve a nine-day suspension beginning at 7:00 AM on September 1, 2007 and ending at 7:00 AM on September 10, 2007.
5. Licensee withdraws his 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 August 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.

