

ADMINISTRATIVE HEARINGS DIVISION

March 21, 2024

STIPULATED SETTLEMENT AGREEMENTS - LIQUOR VIOLATION CASES

1. Yachats Underground, LLC
David Lothrop, Managing Member
dba **YACHATS UNDERGROUND PUB & GRUB AND TWO SHREW BREWERY (F-COM)**
125 Oceanview Dr.
Yachats, OR 97498

ORS 471.360(1)(a)(b) – From about June 12, 2021 to about January 21, 2023, Licensee permitted its employee, agent, or representative Alissa Clark to mix, sell, or serve alcoholic beverages, or supervise those who do, without a valid service permit issued by the Commission.

Note: Licensee was charged with these violations by an Amended Notice dated December 12, 2023. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff proposed aggravating the penalty when the individual works without a permit for more than six months. *Rick’s White Horse Restaurant & Lounge*, OLCC-04-V-036, April 2005. The employee worked without a valid service permit for more than six months.

(Category III)

OAR 845-006-0335(1)(a)(b)(c) - On or about January 21, 2023, Licensee’s employee, agent, or representative Alissa Clark failed to verify the age of a minor, before allowing them to buy or be served an alcoholic beverage, when they reasonably appeared to be under 26 years of age.

(1st Level Category II(b))

OAR 845-006-0335(1)(a)(b)(c) – On or about October 8, 2023, Licensee’s employee, agent, or representative Robin Gallagher failed to verify the age of a minor before allowing them to buy or be served an alcoholic beverage, when they reasonably appeared to be under 26 years of age.

(2nd Level Category II(b))

SYNOPSIS: On January 21, 2023, a minor decoy operation was performed by OLCC inspectors at this premises and an. employee Clark sold one 12-ounce bottle of Bud Light, an alcoholic beverage, to the minor decoy. Ms. Clark worked on the premises for three years and a large portion of her job was to serve alcohol to patrons. The Service Permit System showed Ms. Clark’s initial service permit application was denied on June 11, 2021, for failing to take the required test and it was discovered she continued to work without a permit for about a year and a half. Subsequently, Ms. Clark was issued a service permit in February 2023. On October 8, 2023, a minor decoy operation recheck was performed at the same premises and a different employee sold a bottle of Coors Light, an alcohol beverage to a minor decoy.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violation Number One was Licensee's first Category III violation within two years. Violation Number Two and Violation Number Three were Licensee's first and second Category II(b) violations within two years. Any subsequent Category III violation within the same two years will be charged starting at the second level. Any subsequent Category II(b) violation within the same two years will be charged starting at the third level. These violations will become a permanent part of each licensee's Commission file and may be considered in any future application for any license or permit by the licensee.
2. The standard sanction for Violation Number One is a 10-day suspension or a civil penalty of \$1,650.00. The standard sanction for Violation Number Two is a 10-day suspension or a civil penalty of \$2,500.00. The standard sanction for Violation Number Three is a 30-day suspension or a civil penalty of \$4,950.00. Commission staff added two days aggravation to Violation Number One because the employee worked without a valid service permit for more than six months. The total proposed penalty was a 52-day license suspension or a \$9,430.00 civil penalty.
3. The Commission will reduce the penalty for Violation Number One by three days, for Violation Number Two by three days, and for Violation Number Three by nine days.
4. Licensee will either pay a \$6,700.00 civil penalty before 5:00 PM on April 15, 2024, **OR** serve a 37-day license suspension beginning at 7:00 AM on April 22, 2024 and ending at 7:00 AM on May 29, 2024.
5. Licensee withdraws the request for hearing.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on this incident, the licensee agrees to accept a Letter of Reprimand for the violation. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for any license or permit by the licensee.
7. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their March 2024 meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensee's hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Licensee waives any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183) and to judicial review, or to otherwise challenge this agreement and the final order.