

ADMINISTRATIVE HEARINGS DIVISION

July 21, 2022

STIPULATED SETTLEMENT AGREEMENT - LIQUOR VIOLATION CASE

1. Whoa Tavern, LLC
Carrie Welch, Managing Member
David Welch, Member
dba **WHOA TAVERN (F-COM)**
15468 Hwy 66
Keno, OR 97627

OAR 845-006-0466(1) – From about December 9, 2018 to about December 9, 2020, Licensee and/or Licensee’s employees, agents or representatives failed to provide required food preparation facilities, when licensee used an off-premises catering trailer instead of the on-premises kitchen for food preparation and storage.

Note: Licensee was charged with this violation by Notice dated November 9, 2021. The standard sanction was a 10-day suspension or a \$1,650.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

(Category III)

SYNOPSIS: Licensee failed to provide required food preparation facilities, when Licensee used an off-premises catering trailer instead of the on-premises kitchen for food preparation and storage. This is Licensee’s first violation and Licensee has since remedied the situation by providing food on the premises.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee’s first Category III violation within two years. Any subsequent Category III violation within the same two years will be charged at the second level. This violation 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 that licensee.
2. The standard sanction for this violation is a 10-day suspension or a \$1,650.00 civil penalty.
3. The Commission will reduce the sanction for this violation by three days.
4. Licensee will either pay a \$1,155.00 civil penalty before 5:00 PM on August 15, 2022, **OR** serve a 7-day suspension beginning at 7:00 AM on August 22, 2022 and ending at 7:00 AM on August 29, 2022.
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 by the licensee.
7. This agreement is conditional upon final approval of the Commission and will be reviewed by the Commissioners at their July 2022 Commission 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.

2. O'Malley Operating, LLC
David O'Malley, Managing Member
dba **WONDER BUR (F-COM)**
116 SW H Street
Grants Pass, OR 97526

OAR 845-005-0355(5) – On or about October 1, 2021, Licensee and/or Licensee's employees, agents, or representatives failed to exercise license privileges in compliance with Restriction #3 [as stated in the Notice], when multiple patrons possessed more than one container of alcohol at one time.

(Category I)

OAR 845-005-0355(5) - On or about October 1, 2021, Licensee and/or Licensee's employees, agents, or representatives failed to exercise license in compliance with Restriction #5 [as stated in the Notice], when the premises bartender poured multiple drinks containing distilled spirits for patron possession and consumption without the use of a measuring device.

(Category I)

OAR 845-006-0460(2) - On about October 1, 2021, Licensee and/or Licensee's employees, agents, or representatives failed to meet the food service requirements for a Full On-Premises Sales license and failed to make available to its patrons an offering of at least five different meals during the regular meal period for Friday and Saturdays, which was from 7 am to midnight or 1 am, and failed to offer at least three meals with a main course or entrée which has been prepared or cooked on the premises in some manner beyond the simple reheating of pre-cooked frozen food, when a food order was refused between approximately 10:15 pm and 11:30 pm and a premises employee stated that the kitchen closed about 9 or 9:30 pm.

(Category III)

Note: Licensee was charged with these violations by Notice dated January 26, 2022. Staff recommended the standard sanction of license cancellation Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff aggravated Violations Number One and Two because they were repeated.

(continued **WONDER BUR**)

SYNOPSIS: Restrictions were placed on the license due to a History of Serious and Persistent Problems charge issued to the previous owner of the business. OLCI inspectors conducted a site inspection in an undercover capacity, and personally witnessed two of the restrictions being violated – one being the requirement that a jigger or a measuring device be used to pour distilled spirits, and the other being a limit on the number of drinks a patron may possess at one time. At approximately 9pm, one of the witnesses asked for a food menu and was told by the bartender that the kitchen was closed, despite it still being within the premises' regular meal period. Despite the two restriction violations, Licensees have stated that have been diligently working to improve the premises and turn it around from how it was run under the previous owners. Licensees provided the Commission with a list of service calls to the police for the premises from May 2020 until February 2022, which confirmed that there were relatively few calls to that address.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violations Number One and Number Two were Licensee's first and second Category I violations. Violation Number Three was Licensee's first Category III violation within two years. Any subsequent Category III violation within the same two years will be charged at the second 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 that licensee.
2. The standard sanction for Violations Number One and Number Two is license cancellation. The standard violation for Violation Number Three is a 10-day license suspension or a \$1,650.00 civil penalty. Staff aggravated Violations Number One and Two because they were repeated.
3. Commission staff recommended the standard sanction of license cancellation.
4. The Commission will reduce the sanction for Violations Number One and Number Two to a 32-day license suspension each, and reduce the sanction for Violation Number Three to a seven-day license suspension. License may pay \$11,385.00 in lieu of 69 days of the suspension, with the remaining two days mandatory.
5. Licensee will either pay an \$11,385.00 civil penalty before 5:00 PM on August 15, 2022 **and** serve a two-day suspension beginning at 7:00 AM on August 22, 2022 and ending at 7:00 AM on August 24, 2022 **OR** serve a 71-day suspension beginning at 7:00 AM on August 22, 2022 and ending at 7:00 AM on November 1, 2022.
6. Licensee withdraws the request for a hearing.
7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these allegations, the 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 any license or permit by the licensee.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their July 2022 Commission 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.

3. Reverend Nat's Hard Cider, LLC
Hawthorne Capital Reverend
Nat's, LLC, Mbr
Brewster Crosby, Member
Loring St, LLC, Member
Shobi Dahl, Member
dba **REVEREND NAT'S
HARD CIDER (WYNC)**
1211 N Loring Street
Portland, OR 97227

ORS 471.405(1) – On or about October 15, 2021, Licensee and/or Licensee's employees, agents, or representatives sold or offered for sale alcoholic beverages in a manner other than the license permitted when they sold or offered to sell hard cider, an alcoholic beverage, to multiple customers for on-premises consumption when Licensee's Winery, No Consumption license did not allow for the sale of alcoholic beverages for on-premises consumption.

Note: Licensee was charged with this violation by Notice dated May 11, 2022. The standard sanction for this violation is license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

(Category I)

SYNOPSIS: Licensee hosted a cider-tasting event at their premises, despite having a license that did not allow on-premises consumption. Licensee had previously held a license that did allow for on-site consumption and was negligent in understanding the difference between the two different license types. There was a valid liquor liability insurance policy in effect for the premises, and Licensee was cooperative and forthcoming with the Commission regarding the mistake.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category I violation. This violation 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 that licensee.
2. Commission staff recommended the standard sanction of license cancellation for this violation.
3. The Commission will reduce the sanction for this violation to a 30-day license suspension or a \$4,950.00 civil penalty.
4. Licensee will either pay a \$4,950.00 civil penalty before 5:00 PM on August 15, 2022 **OR** serve a 30-day suspension beginning at 7:00 AM on August 22, 2022 and ending at 7:00 AM on September 21, 2022.
5. Licensee withdraws the request for a hearing.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these allegations, the 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 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 July 2022 Commission 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.