

ADMINISTRATIVE HEARINGS DIVISION

November 18, 2021

STIPULATED SETTLEMENT AGREEMENTS FOR LIQUOR VIOLATION CASES

1. D & B Hospitality Enterprises, LLC
Deborah Greiner, Managing Member
dba **TANGENT INN (F-COM)**
32994 Hwy 99 E
Tangent, OR 97389

OAR 845-006-0347(2)(a) – On or about July 12, 2020, and/or Licensee’s employees, agents, or representatives permitted disorderly activities on the licensed premises or in areas the Licensee controls that are adjacent to or outside the premises when multiple patrons began yelling and aggressively posturing at an OLCC inspector while the inspector was discussing face covering and patron and staff distancing requirements under Executive Order 20-27, issued on June 5, 2020, with Licensee’s employee Elizabeth Rios, and Rios failed to implement any reasonable measures to control the disorder or to call the police.

Note Licensee was charged with this violation by Notice dated September 22, 2021. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty.

AGGRAVATION

Staff added two days of aggravation the violation involved more than one patron.

(1st Level Category III)

SYNOPSIS: During an inspection to check compliance with the COVID-related Executive Orders, an OLCC inspector was discussing potential violations with the server on duty when three patrons, in full view of the server, moved closer to the inspector and began yelling, swearing, and acting aggressively toward the inspector. The inspector felt threatened to the extent that he had to conduct a tactical exit from the premises and had a belief that one or more of the patrons would try to follow him out. He had to exit the premises before he could complete his investigation due to the patrons’ threatening and aggressive behavior. At no time did the server attempt to stop the disorder by intervening, verbally instructing the patrons to stop their behavior, or calling the police.

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 civil penalty of \$1,650.00. Staff added two days of aggravation the violation involved more than one patron. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty.
3. The Commission will reduce the sanction by three days. Licensees will pay a \$1,485.00 civil penalty before 5:00 PM on December 15, 2021, **OR** serve a nine-day suspension beginning at 7:00 AM on December 22, 2021 and ending at 7:00 AM on December 31, 2021.

(continue **TANGENT INN**)

4. 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.
5. This agreement is conditional upon final approval of the Commission and will be reviewed by the Commissioners at their November 2021 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. Bethany's Table, LLC
David Bowles, Member
Janet O'Connor, Member
dba **BETHANY'S TABLE (F-COM & O)**
15325 NW Central Drive, #J1
Portland, OR 97229

OAR 845-006-0347(3)(a) – On or before about February 21, 2021, Licensee and/or Licensee's employees, agents, or representatives permitted unlawful activity at the licensed premises when they were producing marijuana in an attic space on the licensed premises, which is a location other than a household as that term is defined in ORS 475B.015(11), in violation of ORS 475B.301(1) and/or ORS 475B.337(1)(a).

Note Licensee was charged with this violation by Notice dated September 8, 2021. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because Licensee David Bowles was personally involved with this violation.

(1st Level Category III)

SYNOPSIS: Police officers were called to the licensed premises when someone noticed that the door was open after hours. Upon checking the attic space of the licensed premises, the officers discovered over 20 marijuana plants being grown and cultivated. When Licensee was informed that he would have to remove the marijuana plants from the premises, he indicated that he would.

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 civil penalty of \$1,650.00. Staff added two days of aggravation because Licensee David Bowles was personally involved with this violation. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty.
3. The Commission will reduce the sanction by three days. Licensees will pay a \$1,485.00 civil penalty before 5:00 PM on December 15, 2021, **OR** serve a nine-day suspension beginning at 7:00 AM on December 22, 2021 and ending at 7:00 AM on December 31, 2021.
4. Licensee withdraws the request for a hearing.
5. 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.
6. This agreement is conditional upon final approval of the Commission and will be reviewed by the Commissioners at their November 2021 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. Happy Dragon, Inc.
Janson Chen, Pres/Dir/Stockholder
Zhu Lan Li, VP/Director/Stkhldr
dba **HAPPY DRAGON RESTAURANT
AND LOUNGE (F-COM)**
951 N 1st Avenue
Stayton, OR 97383

ORS 471.360(1)(a) and (b) – On the dates indicated below, Licensee permitted employees, agents, or representatives: Michelle Torrez from about February 1, 2020 to August 11, 2020. Janson Chen From about July 8, 2017 to August 14, 2020 to mix, sell, or serve alcoholic beverages, or supervise those who do, without a valid service permit issued by the Commission.

(1st Level Category III)

Note Licensee was charged with this violation by Notice dated September 22, 2021. The total proposed sanction was an 18-day suspension or a \$2,970.00 civil penalty. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added eight days of aggravation because both employees worked without a service permit for more than six months, the violation involved more than one employee, and a licensee or corporate principal was involved in the violation.

SYNOPSIS: A routine site inspection uncovered that two individuals were working at the premises without valid service permits, one of whom was a licensee.

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 civil penalty of \$1,650.00. Staff added eight days of aggravation because both employees worked without a service permit for more than six months, the violation involved more than one employee, and a licensee or corporate principal was involved in the violation. The total proposed sanction was an 18-day suspension or a \$2,970.00 civil penalty.
3. The Commission will reduce the sanction by three days. Licensees will pay a \$2,475.00 civil penalty before 5:00 PM on December 15, 2021, **OR** serve a 15-day suspension beginning at 7:00 AM on December 22, 2021 and ending at 7:00 AM on January 6, 2022.
4. 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.
5. This agreement is conditional upon final approval of the Commission and will be reviewed by the Commissioners at their November 2021 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.

4. El Palacio Mexican Restaurant & Cantina, LLC
Carlos Faiers, Managing Member
dba **EL PALACIO (F-COM)**
601 Main Street
Klamath Falls, OR 97601

OAR 845-005-0355(5) – On January 25, 2018, restrictions were put on your license. On September 25, 2019, the Commission modified the restrictions on your license. Both the restrictions and the modified restrictions contained the following Restriction #4:
“Licensee will not allow Antonio Cisneros ... to be on the licensed premises at any time.” On or about November 20, 2020, Licensee failed to exercise license privileges in compliance with this restriction when Antonio Cisneros was found on the licensed premises.

(Category I)

ORS 471.425(1) - On or about November 20, 2020, Licensee Carlos Faiers made a material false statement or representation to the Commission in order to induce or prevent action by the Commission, specifically enforcement of License Restriction #4 on this license, when he was asked by OLCC Inspector D. Luster to identify the person later identified as Antonio Cisneros and Licensee Faiers falsely replied that he did not know who the person was, despite the fact that Antonio Cisneros is Licensee Faiers’ father.

(1st Level Category II)

Note Licensee was charged with these violations by Amended Notice dated August 10, 2021. The standard sanction for Violation Number One is license cancellation, and for Violation Number Two is a 30-day license suspension. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff charged aggravation to Violation Number One because of a prior warning, and to Violation Number Two because it was personally committed by a licensee.

SYNOPSIS: Due to a prior history of serious and persistent problems, this license was granted to Carlos Faiers and his company in January 2018 with a restriction stating that they would not allow Antonio Cisneros, the prior licensee, to be on the premises. Cisneros is the father of Faiers. Cisneros was found on the premises April 24, 2019, and a written warning was issued. An inspector visiting the premises on November 20, 2020 observed Cisneros at the premises in violation of the restriction, and this charge resulted. When the inspector asked Faiers about Cisneros being on the premises, Faiers initially denied knowing who Cisneros was.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee’s first Category I and first Category II violations within two years. Any subsequent Category II 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.

(continue **EL PALACIO**)

2. The standard sanction for Violation Number One is license cancellation, and for Violation Number Two is a 30-day license suspension. Staff charged aggravation to Violation Number One because of a prior warning, and to Violation Number Two because it was personally committed by a licensee.
3. Commission staff recommended license cancellation.
4. The Commission will reduce the sanction for Violation Number One to a 32-day license suspension, with the option to pay \$4,950.00 in lieu of 30 days, and the remaining two days mandatory. The Commission will reduce the sanction for Violation Number Two to a 23-day license suspension.
5. Licensee will either pay a \$4,950.00 civil penalty before 5:00 PM on December 15, 2021 **and** serve a 25-day suspension beginning at 7:00 AM on December 22, 2021 and ending at 7:00 AM on January 16, 2022 **OR** serve a 55-day suspension beginning at 7:00 AM on December 22, 2021 and ending at 7:00 AM on February 15, 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 November 2021 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.