

ADMINISTRATIVE HEARINGS DIVISION

October 21, 2021

STIPULATED SETTLEMENT AGREEMENT FOR A LIQUOR VIOLATION CASE

1. Rolo, LLC
Peter Lowes, Managing Member
920 NW Bond St.
Bend, OR 97703
dba **HOLA!6 (F-COM)**

OAR 845-006-0345(12) – On or about August 1, 2020, Licensee and/or Licensee’s employees, agents or representatives permitted a patron to mix, dispense or serve an alcoholic beverage for or to themselves for on-premises or off-premises consumption, when multiple employees of the premises walked behind the bar and served themselves alcoholic beverages.

(1st Level Category III)

OAR 845-006-0345(1) - On or about August 1, 2020, Licensee’s employee, agent or representative John Shields II was under the influence of intoxicants while on duty when he consumed alcohol and/or marijuana while on duty.

(1st Level Category II)

OAR 845-006-0345(13) - On or about August 1, 2020, Licensee and/or Licensee’s employees, agents, or representatives permitted the use, consumption, ingestion, or inhalation of marijuana items as defined in ORS 475B.015 and OAR 845-025-1015 on a premises licensed to sell or serve alcoholic beverages, when marijuana was smoked by employees on the front patio seating area.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated March 9, 2021. The standard sanction for Violation Number Two is a 30-day suspension. The standard sanction for Violations Number One and Number Three is a 10-day suspension or a \$1,650.00 civil penalty each. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation to Violation Number One and two days to Violation Number Three because each of these violations involved more than one employee or patron.

(continue HOLA!6)

SYNOPSIS: Inspectors conducted a site visit at the premises, and discovered the manager of the premises throwing himself a party with other employees. The managers and employees were pouring alcoholic beverages for themselves and consuming them, and some were also smoking marijuana. The manager, who was visibly intoxicated, thought the OLCC inspector was a patron, and approached the inspector with the intention of serving him. The manager had asked if the inspector wanted anything, intending to serve him on-premises, but the inspector asked if he could get a six-pack of beer to go instead. After they went inside to get the beer, the inspector identified himself as an OLCC employee.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first Category II, and first and second Category III violations within two years (charged at the first level). Any subsequent Category II or 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 Violation Number Two is a 30-day suspension. The standard sanction for Violations Number One and Number Three is a 10-day suspension or a \$1,650.00 civil penalty each. Staff added two days of aggravation to Violation Number One and two days to Violation Number Three because each of these violations involved more than one employee or patron.
3. The Commission will reduce the sanction and impose a 21-day suspension for Violation Number Two, and a nine-day suspension each for Violations Number One and Number Three. Licensee may pay a \$2,970.00 civil penalty in lieu of 18 days, with the remaining 21 days mandatory.
4. Licensee will either pay a \$2,970.00 civil penalty before 5:00 PM on November 15, 2021, and serve a 21-day license suspension beginning at 7:00 AM on November 22, 2021 and ending at 7:00 AM on December 13, 2021 **OR** serve a 39-day license suspension beginning at 7:00 AM on November 22, 2021 and ending at 7:00 AM on December 31, 2021.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on the allegations, the licensee agrees to accept a Letter of Reprimand for the 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.
6. This agreement is conditioned upon final approval of the Oregon Liquor and Cannabis Commission and will be reviewed by the Commissioners at their October 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.