

ADMINISTRATIVE HEARINGS DIVISION

September 21, 2023

STIPULATED SETTLEMENT AGREEMENTS - LIQUOR VIOLATION CASES

1. Matthew Lowe
dba **BIGFOOT TAVERN (F-Com)**
136851 Hwy 97 N
Crescent, OR 97739

ORS 471.410(1) – On or about December 10, 2022, Licensee’s employees, agents, or representatives sold, gave, or otherwise made available an alcoholic beverage to visibly intoxicated person, A. Byrd, when bartenders Amy Hamlin or Shilo Hamlin served Byrd at least one Jack Daniels whiskey drink after observing that Byrd was visibly intoxicated, and shortly before he lapsed into unconsciousness and was later tested and found to have a BAC of .363%.

(1st Level Category III)

OAR 845-006-0347(1)(c), (2)(a) - On or about December 10, 2022, 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 bartenders Amy Hamlin and Shilo Hamlin observed that unconscious patron A. Byrd was dragged from a vehicle in the premises parking lot and left in a snow bank, and they failed to take reasonable steps to prevent or mitigate the disorder.

(2nd Level Category III)

Note: Licensee was charged with these violations by Notice dated August 8, 2023. The total proposed penalty was a 24-day license suspension or a civil penalty of \$3,960.00. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: A patron was overserved and lost consciousness at this rural premises during the winter. The bartenders could not find anyone to take him home so they put him into their car intending to take him to their home. The patron’s church advocate / roommate then showed up. There is conflicting evidence as to what happened next, but the result is that the unconscious patron ended up in a snowbank and the bartenders were aware of this but failed to take reasonable steps to protect him from further harm. The church advocate called 911, an ambulance arrived after significant delay, and the patron was revived and taken from the area for care.. Charges were also filed against the permittees/ bartenders.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee’s first and second Category III violations

(continue **BIGFOOT TAVERN**)

within two years, charged at the first level. Any subsequent Category III violation within the same two years will be charged starting 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 the licensee.

2. The standard sanction for each of these violations is a 10-day suspension or a civil penalty of \$1,650.00. Commission staff added four days aggravation because Violation Number Two involved more than one employee and resulted in injury. The total proposed penalty was a 24-day license suspension or a civil penalty of \$3,960.00.
3. The Commission will reduce the penalty by six days.
4. Licensee will either pay a \$2,970.00 civil penalty by 5:00 PM on October 16, 2023, **OR** serve an 18-day license suspension beginning at 7:00 AM on October 23, 2023, and ending at 7:00 AM on November 10, 2023.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these incidents, the licensee agrees to accept a Letter of Reprimand for these violations. This reprimand 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.
6. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 2023 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. McKenzie Station Espresso, LLC
Cyndy Parazoo, Managing Member
dba **MCKENZIE STATION
ESPRESSO (F-COM)**
56393 McKenzie Hwy
McKenzie Bridge, OR 97413

OAR 845-005-0400(1) – From about April 9, 2016, to about February 9, 2023, Licensee failed to maintain liquor liability insurance or a bond with a corporate surety authorized to transact business in this state in the amount of not less than \$300,000.00 for McKenzie Station Espresso.

Note: Licensee was charged with these violations by Notice dated July 12, 2023. The total proposed sanction was a 54-day suspension or a \$8,910.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

(1st Level Category I)

OAR 845-006-0345(1) - On or about January 13, 2023, and January 27, 2023, Licensee Cyndy Parazoo drank alcoholic beverages while on duty.

AGGRAVATION
Staff added four days of aggravation because Violation Number Two and Violation Number Three were personally committed by Licensee Cyndy Parazoo.

(1st Level Category III)

OAR 845-006-0345(12) - On or about January 27, 2023, Licensee Cyndy Parazoo mixed, dispensed, or served an alcohol beverage for or to herself for on-premises consumption, when she was observed to mix vodka with a mixer from the soda taps in a white cup from which she was drinking.

(1st Level Category III)

SYNOPSIS: During an investigation related to an anonymous complaint involving allegations Licensee was drinking on duty, OLCC inspectors discovered evidence of violations of drinking on duty, self-service of alcohol by licensee, and violation of the liquor liability insurance requirement. On January 27, 2023 Inspectors observed Licensee fill a cup with vodka and liquid from the soda taps from behind the bar of the licensed premises. After serving herself the alcoholic beverage, Inspectors observed Licensee bussing tables and engaging with patrons of the premises throughout the evening. Licensee also confirmed to the Inspector that she was drinking an alcoholic beverage on January 13, 2023 when she placed herself on duty to help the bartenders at the premises. The OLCC inspector received information from Licensee’s insurance provider which confirmed that the premises was covered by Host Liquor Liability Insurance, which only covers the insured’s legal liability resulting from the serving of alcoholic beverages at functions incidental to the insured’s business, and did not have Liquor Liability Insurance in place for the premises as required. The Inspector was advised by Licensee’s insurance agent that the Licensee held only Host Liquor Liability Insurance from April 9, 2016 to about February 9, 2023; and that the coverage was not updated to the required Liquor Liability Insurance when Licensee’s business operation changed from an espresso shop/deli to a restaurant/bar.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violation Number One was Licensee’s first Category I violation. Violation Number Two and Violation Number Three were Licensee’s first and second Category III violations, charged at the first level. Any subsequent Category III violation within the same two years will be charged starting at the second level.
2. Commission staff originally proposed mitigation downward from the standard sanction of license cancellation for Violation Number One to a 30-day license suspension or a civil penalty of \$4,950.00 based on Commission staff’s determination that the cause for the failure to maintain liquor liability insurance or bond was beyond the reasonable control of the licensee. OAR 845-005-0400(9). The standard sanction

(continue **MCKENZIE STATION ESPRESSO**)

for Violations Number Two and Number Three is a 10-day suspension or a civil penalty of \$1,650.00, each. Commission staff added four days of aggravation because Violation Number Two and Violation Number Three were personally committed by Licensee Cyndy Parazoo. The total proposed sanction was a 54-day suspension or a \$8,910.00 civil penalty.

4. The Commission will reduce the sanction for Violation Number Two and Violation Number Three by three days each.
5. Licensee will either pay a \$7,920.00 civil penalty before 5:00 PM on October 16, 2023, **OR** serve a 48-day suspension beginning at 7:00 AM on October 23, 2023, and ending at 7:00 AM on December 10, 2023.
6. Licensee withdraws the request for hearing.
7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these allegations, that 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 that licensee.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 2023 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. Sherri Thieben
dba **PARK ST CAFÉ (L)**
776 W Park St
Eugene, OR 97401

OAR 845-006-0335(1)(a)(b)(c) – On or about December 20, 2022, Licensee Sherri Thieben 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 July 13, 2023, Licensee’s employee, agent, or representative Lilith Karrick 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))

ORS 471.360(1)(a) and (b) - From about July 31, 2022, to about July 13, 2023, Licensee permitted its employee, agent, or representative Lilith Karrick 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 these violations by Notice dated August 8, 2023. The total proposed sanction was a 54-day suspension or a civil penalty of \$9,930.00. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff aggravation the penalty for Violation Number One because it was committed by Licensee Sherri Thieben, and for Violation Number Three because the employee worked without a service permit for more than six months.

SYNOPSIS: On December 20, 2022, a minor decoy operation was performed at Park St. Cafe. Licensee Sherri Thieben sold one 12 ounce can of Boatswain Double IPA beer, an alcoholic beverage, to a minor decoy.. On July 13, 2023, another minor decoy operation was performed at the same premises. Server Lilith Karrick sold a bottle of Ninkasi Whit Rapids IPA, an alcoholic beverage to a different minor decoy.. Additionally, Server Lilith Karrick was found to be selling/serving alcohol and supervising others doing the same without a valid service permit. Ms. Karrick had worked on the premises for approximately a year without a valid service permit. Ms. Karrick submitted a service permit application on August 2, 2023.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violation Number One and Violation Number Two were Licensee’s first and second Category II(b) violations within two years. Any subsequent Category II(b) violation within the same two years will be charged starting at the third level. 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 starting 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 a Category II(b) violation is a 10-day license suspension or a \$2,500.00 civil penalty for the first violation within

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two years, and a 30-day license suspension or a \$4,950.00 civil penalty for the second violation within two years. The standard sanction for a first-level Category III violation is 10-day license suspension or \$1,650.00 civil penalty within two years. Commission staff proposed aggravating the penalty for Violation Number One because it was committed by Licensee Sherri Thieben, and for Violation Number Three because the employee worked without a service permit for more than six months. The total proposed sanction was a 54-day suspension or a civil penalty of \$9,930.00.

3. The Commission will reduce the penalty for Violation Number One by three days, for Violation Number Two by nine days, and for Violation Number Three by three days.
4. Licensee will either pay a \$7,200.00 civil penalty before 5:00 PM on October 16, 2023, **OR** serve a 39-day suspension beginning at 7:00 AM on October 23, 2023, and ending at 7:00 AM on December 1, 2023.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these allegations, that 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 that licensee.
6. Licensee withdraws the request for hearing.
7. This agreement is conditional upon final approval of the Commission and will be reviewed by the Commissioners at their September 2023 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. Fire Dragon, Inc.
Joe Zhou, Pres/Dir/Stkhldr
dba **RODDER'S GRUB & PUB (F-COM)**
19195 S. Molalla Ave.
Oregon City, OR 97045

OAR 845-006-0347(1)(c), (2)(a) - On or about November 28, 2022 from about 5:20 PM to about 5:27 PM, Licensee's employee, agent, or representative Michael O'Jones permitted disorderly activities on the licensed premises or in areas Licensee controls that are adjacent to or outside the premises, when O'Jones observed patron Harley Thomason and a male in an orange shirt engaging in an animated confrontation, and O'Jones failed to take reasonable steps to prevent or minimize the disorder, after which the two men proceeded to physically fight and argue for approximately five to seven minutes on the sidewalk and parking area in front of the premises, during which time patron A. Carlucci was pushed to the ground and punched by Thomason, which resulted in physical injury to A. Carlucci.

(1st Level Category III)

Note: Licensee was charged with this violation by Notice dated August 15, 2023. The total proposed sanction was a 14-day suspension or a \$2,310.00 civil penalty. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added four days of aggravation because the violation involved more than one patron and resulted in injury.

SYNOPSIS: An animated verbal altercation between two men began outside of the premises as one man was leaving and the other was arriving. Licensee's employee witnessed this altercation, initially stepped between the men, but then returned inside the premises. The altercation continued and turned physical, with the two men fighting on the sidewalk/smoking area in front of the premises and in the parking lot. This went on for several minutes during which time another patron was hit and knocked to the ground by one of the fighting men. Licensee's employee was charged separately for this incident.

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 starting 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. Commission staff added four days of aggravation because the violation involved more than one patron and resulted in injury. The total proposed sanction was a 14-day suspension or a \$2,310.00 civil penalty.
3. The Commission will reduce the penalty by three days.
4. Licensee will pay a \$1,815.00 civil penalty before 5:00 PM on October 16, 2023, **or** serve an 11-day license suspension beginning at 7:00

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AM on October 23, 2023, and ending at 7:00 AM on November 3, 2023.

5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on this allegation, that 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 that licensee.
6. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 2023 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.