

ADMINISTRATIVE POLICY & PROCESS DIVISION

April 16, 2020

STIPULATED SETTLEMENT AGREEMENTS FOR LIQUOR VIOLATION CASES

1. VSR Corporation
Scott Porter, Pres/Sec/Stockholder
Vee Porter, VP/Treas/Stockholder
dba **FIDO'S (F-COM)**
7700 SW Dartmouth St, #110
Tigard, OR 97223

OAR 845-006-0335(1)(a)(b)(c) – On or about May 29, 2019, Licensee's corporate principal Vee Porter 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 III)

Note: Licensee was charged with this violation by Notice dated January 14, 2020. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because the violation was personally committed by 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.
2. Commission staff originally proposed for this violation the standard sanction of a 10-day suspension or a civil penalty of \$1,650.00. Staff added two days of aggravation because the violation was personally committed by a licensee. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty.
3. Licensee will install age verification equipment that meets all the standards identified in OAR 845-009-0140(2) by May 5, 2020, and will utilize the equipment to verify the age of every patron who reasonably appears to be under 26 years of age. All alcohol sales will be run through registers at which age verification equipment is installed. Installation of age verification equipment is done in lieu of 10 days of the suspension or \$1,650.00 of the civil penalty.
4. If age verification equipment that meets all the standards identified in OAR 845-009-0140(2) is in use by May 5, 2020, Licensee will pay a \$330.00 civil penalty before 5:00 PM on May 15, 2020 **or** serve a two-day suspension beginning at 7:00 AM on May 22, 2020 and ending at 7:00 AM on May 24, 2020.
5. If age verification equipment that meets all the standards identified in OAR 845-009-0140(2) is not in use by May 5, 2020, Licensee will pay a \$1,980.00 civil penalty before 5:00 PM on May 15, 2020 **or** serve a 12-day suspension beginning at 7:00 AM on May 20, 2020 and ending at 7:00 AM on June 1, 2020.
6. Notwithstanding paragraphs 4 and 5, Licensee may offset against any suspension the number of days during which its on-premises privileges are preempted by operation of the Governor's Executive Order 20-07, or any successor that extends that order. Therefore, no suspension time will need to be served.

(continue **FIDO'S**)

7. Licensee understands that it is eligible for a violation resolution involving installation of age verification equipment only one time, that the equipment is expected to remain in good order, and that the equipment must be used for as long as Licensee has a liquor license at this premises. Licensee understands that failure to use the equipment, whether by human error or malfunction, in future violations may result in increased penalties and, if applicable, removal from the Responsible Vendor Program.
8. 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 by that licensee.
9. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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. Lu's Buffet, Inc.
Xu Jian Lu, Pres/Sec/Treas/Dir/Stkhldr
dba **LU'S SPORTS BAR AND
LOUNGE (F-COM)**
11530 SW Pacific Hwy
Tigard, OR 97223

OAR 845-006-0345(1) – On or about July 13, 2019, Licensee's employee, agent or representative Nick Hull^[1] drank an alcoholic beverage while on duty at the premises.

(1st Level Category III)

OAR 845-006-0335(3)(b) - On or about July 13, 2019, Licensee and/or Licensee's employee, agent or representative permitted juvenile minors to be on licensed premises prohibited to minors for reasons other than as permitted in ORS 471.430, 471.480, 471.482, OAR 845-006-0340, and OAR 845-006-0335, when Licensee permitted use of the "banquet room," which is part of the licensed premises subject to a #1 minor posting ("No Minors Permitted Anywhere on this Premises," OAR 845-006-0340(5)(a)), for a childrens' birthday party.

(1st Level Category IV)

Note: Licensee was charged with these violations by Notice dated January 14, 2020. The total proposed sanction was a 23-day suspension or a \$3,795.00 civil penalty. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added six days of aggravation to Violation Number Two because it was intentional, it involved more than one patron, and it involved juveniles.

SYNOPSIS: While viewing video relating to other possible compliance issues, OLCC inspectors noticed an employee consuming alcohol while performing security and server duties at the premises. Inspectors also saw a 10-year-old child enter through what appeared to be the back door and use the rest room. Investigation revealed that the premises has a large multipurpose room towards the back of the building that is separated from the rest of the bar area; however, it was included as part of the licensed premises at the time of licensing, and assigned a #1 minor posting. Licensee mistakenly believed he could rent it out for birthday parties and other events involving minors. NOTE: A COVID offset was not included because Licensee has already paid the penalty and agreed to sign the same settlement that was presented in March again for presentation in April.

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 was Licensee's first Category IV violation within two years. Any subsequent Category III or Category IV violation(s) within the same two years will be charged at the second level.
2. The standard sanction for these violations is a 17-day suspension or a \$2,805.00 civil penalty. Staff added six days of aggravation to Violation Number Two because it was intentional, it involved more than one patron, and it involved juveniles. The recommended penalty was a 23-day license suspension, or a \$3,795.00 civil penalty.

¹ The Notice erroneously named the employee "Nick Cole." Licensee has since provided the correct name for this employee.

(continue **LU'S SPORTS BAR AND LOUNGE**)

3. The Commission will reduce the sanction by five days. Licensee will pay a \$2,970.00 civil penalty before 5:00 PM on May 5, 2020 **or** serve an 18-day suspension beginning at 7:00 AM on May 22, 2020 and ending at 7:00 AM on June 9, 2020.
4. 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 a license by the licensee.
5. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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. Whole Foods Market Pacific NW, Inc.
 Keith Manbeck, President
 Albert Percival, Secretary
 Whole Foods Market, Inc., Stockholder
 Anthony Gallo, President
 Heather Stern, Vice President/Secretary
 Michael Deal, Director
 Walnut Sub Properties, LLC, Stockholder
 Walnut Sub Enterprises, LLC, Member
 Michael Deal, Manager
 Amazon.com Services, Inc., Member
 Michael Deal, President/Secretary/Treas
 Jeff Van Hove, Vice President
 Amazon.com, Inc., Stockholder
 Attn: Licensing Team
 dba **WHOLE FOODS MARKET (L)**
 12220 SW Scholls Ferry Rd.
 Tigard, OR 97223

ORS 471.360(1)(a) and (b)– From about August 2, 2018 to October 3, 2019, Licensee permitted employee, agent or representative Benjamin Stewart 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 January 28, 2020. 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 the violation occurred for longer than six months.

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.
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 the violation occurred for longer than six months. 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.
4. Licensee will pay a \$1,485.00 civil penalty before 5:00 PM on May 15, 2020, OR serve a nine-day suspension beginning at 7:00 AM on May 22, 2020 and ending at 7:00 AM on May 31, 2020.
5. Licensee may off-set the number of days it was prohibited from exercising its on-premises license privileges pursuant to the Governor’s Executive Order 20-07, or any successor that extends that order, against the nine-day suspension referenced in Paragraph 4.
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 the allegation(s), the licensee agrees to accept a Letter of Reprimand for the violation(s). 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.

(continue **WHOLE FOODS MARKET**)

8. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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, Licensees waive 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. B & E4, LLC
Bobby Ellis, Managing Member
Julie Ellis, Member
dba **WOODBURN MEGA FOODS (O)**
1542 Mt Hood Avenue
Woodburn, OR 97071

OAR 845-006-0335(1)(a)(b)(c) – On or about September 4, 2019, Licensee’s employee Jose Salas failed to verify the age of a minor before allowing her to buy or be served an alcoholic beverage when she reasonably appeared to be under 26 years of age.

(1st Level Category III)

Note: Licensee was charged with this violation by Notice dated February 19, 2020. The total proposed sanction was a 12-day suspension or a \$1,980.00 civil penalty. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because age verification equipment was purchased as an offset to a previous penalty and was not used to prevent the current violation.

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.
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 age verification equipment was purchased as an offset to a previous penalty and was not used to prevent the current 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 May 15, 2020, **OR** serve a nine-day suspension beginning at 7:00 AM on May 22, 2020 and ending at 7:00 AM on May 31, 2020.
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 Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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.

5 Sunshower, Inc.
Joseph Ringo, Pres/Dir/Stockholder
Kathleen Ringo, Sec/Dir/Stkhldr
dba **RINGO'S BAR & GRILL (F-COM)**
12300 SW Broadway St.
Beaverton, OR 97005

OAR 845-006-0345(5)(a) – On or about May 24, 2019, at approximately 8:20 pm, during regular business hours, Licensee's employee, agent or representative Joshua Sisk refused to admit to the licensed premises a police officer who identified himself as such and who wanted to enter the premises to conduct a reasonable search to ensure compliance with alcohol laws, when Sisk refused to admit Washington County Sheriff's Office Deputy Keith Kyler, who was in full uniform and who presented his issued law enforcement identification and requested access to the premises.

(1st Level Category II)

Note: Licensee was charged with this violation by Notice dated November 12, 2019. The standard sanction for this violation is a 30-day suspension. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: Licensee's security employee failed to admit a police officer based on a personal grudge between the parties. The licensee has since sold the business and surrendered the license.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category II violation within two years.
2. The standard sanction for this violation is a 30-day suspension.
3. Licensee surrendered its license on March 12, 2020, and the Commission accepted the surrender. Licensee will accept a Letter of Reprimand for this violation. This reprimand will become a permanent part of each licensee's Commission file and may be considered in any future application for any license by the licensee.
4. Licensee withdraws its Request for Hearing in this matter.
5. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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.